TEXT OF AMENDMENTS

SA 2033. Mr. BROWN (for himself and Mr. SCOTT of South Carolina) submitted an amendment intended to be proposed to amendment SA 1911 proposed by Ms. CANTWELL (for herself, Mr. CRUZ, Ms. DUCKWORTH, and Mr. MORAN) to the bill H.R. 3935, to amend title 49, United States Code, to reauthorize and improve the Federal Aviation Administration and other civil aviation programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. TREATMENT OF CERTAIN LIQUIDATIONS OF NEW MOTOR VEHICLE INVENTORY AS QUALIFIED LIQUIDATIONS OF LIFO INVENTORY.

(a) IN GENERAL.—In the case of any dealer of new motor vehicles which inventories new motor vehicles under the LIFO method for any specified taxable year, the requirements of paragraphs (1)(B) and (2) of section 473(c) of the Internal Revenue Code of 1986 shall be treated as satisfied with respect to such inventory for such taxable year.

(b) ADDITIONAL RELIEF.—

(1) IN GENERAL.—The Secretary shall, not later than the date which is 90 days after the date of the enactment of this Act, prescribe regulations or other guidance under which dealers of new motor vehicles with a qualified liquidation (determined after application of subsection (a)) of new motor vehicles for any specified taxable year may elect—

(A) to not recognize any income in the specified taxable year which is solely attributable to such qualified liquidation, and

(B) to treat the replacement period with respect to such liquidation as being the period beginning with the first taxable year after such specified taxable year and ending with the earlier of—

(i) the first taxable year after such liquidation with respect to which such dealer does not inventory new motor vehicles under the LIFO method, or

(ii) the last taxable year ending before January 1, 2026.

(2) FAILURE TO FULLY REPLACE LIQUIDATED VEHICLES DURING REPLACEMENT PERIOD.—If, as of the close of the replacement period, the taxpayer has failed to replace all liquidated vehicles with respect to a qualified liquidation to which paragraph (1) applies, the taxpayer shall increase gross income for the last taxable year of the replacement period by the sum of—

(A) the aggregate amount of income that would have been required to be recognized in the liquidation year had the taxpayer elected to apply the provisions of section 473 of the Internal Revenue Code of 1986 and not made the election in paragraph (1), plus

(B) interest thereon at the underpayment rate established under section 6621 of such Code.

(3) ELECTIONS.—

(A) IN GENERAL.—Except to the extent provided in subparagraph (B), an election under paragraph (1) with respect to any specified taxable year shall be made by the due date (including extensions) for filing the taxpayer's return of tax for such taxable year and in such manner as the Secretary may prescribe. Once made, any such election shall be irrevocable.

(B) CERTAIN ELECTIONS TREATED AS CHANGE IN METHOD OF ACCOUNTING.—In the case of an election with respect to a specified taxable year for which the return of tax has already been filed before the date of the enactment of this Act, any election under paragraph (1) for such specified taxable year may be made on the return of tax for the first taxable year ending after the date of the enactment of this Act and shall be treated for purposes of section 481 of the Internal Revenue Code of 1986 as a change in method of accounting initiated by the taxpayer and made with the consent of the Secretary.

(c) DEFINITIONS.—For purposes of this section—

(1) SPECIFIED TAXABLE YEAR.—The term ''specified taxable year'' means any liquidation year ending after March 12, 2020, and before January 1, 2022.

(2) NEW MOTOR VEHICLE.—The term ''new motor vehicle'' means a motor vehicle—

(A) which is described in section 163(j)(9)(C)(i) of the Internal Revenue Code of 1986, and

(B) the original use of which has not commenced.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or the Secretary's delegate.

(4) OTHER TERMS.—Except as otherwise provided in this section, terms used in this section which are also used in section 473 of the Internal Revenue Code of 1986 shall have the same meaning as when used in such section 473.

SA 2034. Mr. BROWN (for himself, Mr. BRAUN, Ms. STABENOW, Ms. BALDWIN, Mr. PETERS, and Mr. YOUNG) submitted an amendment intended to be proposed to amendment SA 1911 proposed by Ms. CANTWELL (for herself, Mr. CRUZ, Ms. DUCKWORTH, and Mr. MORAN) to the bill H.R. 3935, to amend title 49, United States Code, to reauthorize and improve the Federal Aviation Administration and other civil aviation programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. GUARANTEED BENEFIT CALCULATION FOR CERTAIN PLANS.

(a) IN GENERAL.—

(1) INCREASE TO FULL VESTED PLAN BENEFIT.—

(A) IN GENERAL.—For purposes of determining what benefits are guaranteed under section 4022 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322) with respect to an eligible participant or beneficiary under a covered plan specified in paragraph (4) in connection with the termination of such plan, the amount of monthly benefits shall be equal to the full vested plan benefit with respect to the participant.

(B) NO EFFECT ON PREVIOUS DETERMINATIONS.—Nothing in this section shall be construed to change the allocation of assets and recoveries under sections 4044(a) and 4022(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1344(a); 1322(c)) as previously determined by the Pension Benefit Guaranty Corporation (referred to in this section as the ''corporation'') for the covered plans specified in paragraph (4), and the corporation's applicable rules, practices, and policies on benefits payable in terminated single-employer plans shall, except as otherwise provided in this section, continue to apply with respect to such covered plans.

(2) RECALCULATION OF CERTAIN BENEFITS.—

(A) IN GENERAL.—In any case in which the amount of monthly benefits with respect to an eligible participant or beneficiary described in paragraph (1) was calculated prior to the date of enactment of this Act, the corporation shall recalculate such amount pursuant to paragraph (1), and shall adjust any subsequent payments of such monthly benefits accordingly, as soon as practicable after such date.

(B) LUMP-SUM PAYMENTS OF PAST-DUE BENEFITS.—Not later than 180 days after the date of enactment of this Act, the corporation, in consultation with the Secretary of the Treasury and the Secretary of Labor, shall make a lump-sum payment to each eligible participant or beneficiary whose guaranteed benefits are recalculated under subparagraph (A) in an amount equal to—

(i) in the case of an eligible participant, the excess of—

(I) the total of the full vested plan benefits of the participant for all months for which such guaranteed benefits were paid prior to such recalculation, over

(II) the sum of any applicable payments made to the eligible participant; and

(ii) in the case of an eligible beneficiary, the sum of—

(I) the amount that would be determined under clause (i) with respect to the participant of which the eligible beneficiary is a beneficiary if such participant were still in pay status; plus

(II) the excess of—

(aa) the total of the full vested plan benefits of the eligible beneficiary for all months for which such guaranteed benefits were paid prior to such recalculation, over

(bb) the sum of any applicable payments made to the eligible beneficiary.

Notwithstanding the previous sentence, the corporation shall increase each lump-sum payment made under this subparagraph to account for foregone interest in an amount determined by the corporation designed to reflect a 6 percent annual interest rate on each past-due amount attributable to the underpayment of guaranteed benefits for each month prior to such recalculation.

(C) ELIGIBLE PARTICIPANTS AND BENEFICIARIES.—

(i) IN GENERAL.—For purposes of this section, an eligible participant or beneficiary is a participant or beneficiary who—

(I) as of the date of the enactment of this Act, is in pay status under a covered plan or is eligible for future payments under such plan;

(II) has received or will receive applicable payments in connection with such plan (within the meaning of clause (ii)) that does not exceed the full vested plan benefits of such participant or beneficiary; and

(III) is not covered by the 1999 agreements between General Motors and various unions providing a top-up benefit to certain hourly employees who were transferred from the General Motors Hourly-Rate Employees Pension Plan to the Delphi Hourly-Rate Employees Pension Plan.

(ii) APPLICABLE PAYMENTS.—For purposes of this paragraph, applicable payments to a participant or beneficiary in connection with a plan consist of the following:

(I) Payments under the plan equal to the normal benefit guarantee of the participant or beneficiary.

(II) Payments to the participant or beneficiary made pursuant to section 4022(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(c)) or otherwise received from the corporation in connection with the termination of the plan.

(3) DEFINITIONS.—For purposes of this subsection—

(A) FULL VESTED PLAN BENEFIT.—The term ''full vested plan benefit'' means the amount of monthly benefits that would be guaranteed under section 4022 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322) as of the date of plan termination with respect to an eligible participant or beneficiary if such section were applied without regard to the phase-in limit under subsection (b)(1) of such section and the

maximum guaranteed benefit limitation under subsection (b)(3) of such section (including the accrued-at-normal limitation).

(B) NORMAL BENEFIT GUARANTEE.—The term ''normal benefit guarantee'' means the amount of monthly benefits guaranteed under section 4022 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322) with respect to an eligible participant or beneficiary without regard to this section.

(4) COVERED PLANS.—The covered plans specified in this paragraph are the following:

(A) The Delphi Hourly-Rate Employees Pension Plan.

(B) The Delphi Retirement Program for Salaried Employees.

(C) The PHI Non-Bargaining Retirement Plan.

(D) The ASEC Manufacturing Retirement Program.

(E) The PHI Bargaining Retirement Plan.

(F) The Delphi Mechatronic Systems Retirement Program.

(5) TREATMENT OF PBGC DETERMINATIONS.—Any determination made by the corporation under this section concerning a recalculation of benefits or lump-sum payment of past-due benefits shall be subject to administrative review by the corporation. Any new determination made by the corporation under this section shall be governed by the same administrative review process as any other benefit determination by the corporation.

(b) TRUST FUND FOR PAYMENT OF INCREASED BENEFITS.—

(1) ESTABLISHMENT.—There is established in the Treasury a trust fund to be known as the ''Delphi Full Vested Plan Benefit Trust Fund'' (referred to in this subsection as the ''Fund''), consisting of such amounts as may be appropriated or credited to the Fund as provided in this section.

(2) FUNDING.—There is appropriated, out of amounts in the Treasury not otherwise appropriated, such amounts as are necessary for the costs of payments of the portions of monthly benefits guaranteed to participants and beneficiaries pursuant to subsection (a) and for necessary administrative and operating expenses of the corporation relating to such payments. The Fund shall be credited with amounts from time to time as the Secretary of the Treasury, in coordination with the Director of the corporation, determines appropriate, out of amounts in the Treasury not otherwise appropriated.

(3) EXPENDITURES FROM FUND.—Amounts in the Fund shall be available for the payment of the portion of monthly benefits guaranteed to a participant or beneficiary pursuant to subsection (a) and for necessary administrative and operating expenses of the corporation relating to such payment.

(c) REGULATIONS.—The corporation, in consultation with the Secretary of the Treasury and the Secretary of Labor, may issue such regulations as necessary to carry out this section.

(d) TAX TREATMENT OF LUMP-SUM PAYMENTS.—

(1) IN GENERAL.—Unless the taxpayer elects (at such time and in such manner as the Secretary may provide) to have this paragraph not apply with respect to any lump-sum payment under subsection (a)(2)(B), the amount of such payment shall be included in the taxpayer's gross income ratably over the 3-taxable-year period beginning with the taxable year in which such payment is received.

(2) SPECIAL RULES RELATED TO DEATH.—

(A) IN GENERAL.—If the taxpayer dies before the end of the 3-taxable-year period described in paragraph (1), any amount to which paragraph (1) applies which has not been included in gross income for a taxable year ending before the taxable year in which such death occurs shall be included in gross income for such taxable year.

(B) SPECIAL ELECTION FOR SURVIVING SPOUSES OF ELIGIBLE PARTICIPANTS.—If—

(i) a taxpayer with respect to whom paragraph (1) applies dies,

(ii) such taxpayer is an eligible participant,

(iii) the surviving spouse of such eligible participant is entitled to a survivor benefit from the corporation with respect to such eligible participant, and

(iv) such surviving spouse elects (at such time and in such manner as the Secretary may provide) the application of this subparagraph,

subparagraph (A) shall not apply and any amount which would have (but for such taxpayer's death) been included in the gross income of such taxpayer under paragraph (1) for any taxable year beginning after the date of such death shall be included in the gross income of such surviving spouse for the taxable year of such surviving spouse ending with or within such taxable year of the taxpayer.

(e) PENSION VARIABLE RATE PREMIUM PAYMENT ACCELERATION.—Notwithstanding section 4007(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1307(a)) and section 4007.11 of title 29, Code of Federal Regulations, any additional premium determined under subparagraph (E) of section 4006(a)(3) of such Act (29 U.S.C. 1306(a)(3)) the due date for which is (but for this section) after September 15, 2033, and before November 1, 2033, shall be due not later than September 15, 2033.

SA 2035. Mr. CORNYN (for himself and Ms. KLOBUCHAR) submitted an amendment intended to be proposed to amendment SA 1911 proposed by Ms. CANTWELL (for herself, Mr. CRUZ, Ms. DUCKWORTH, and Mr. MORAN) to the bill H.R. 3935, to amend title 49, United States Code, to reauthorize and improve the Federal Aviation Administration and other civil aviation programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—FANS FIRST ACT

SEC. ___1. SHORT TITLE.

This title may be cited as the ''Fans First Act''.

SEC. ___2. DEFINITIONS.

In this title:

(1) AFFIRMATIVE EXPRESS CONSENT.—The term ''affirmative express consent'' means an affirmative act by a person that clearly communicates that person's freely given, specific, and unambiguous authorization.

(2) ANCILLARY FEE.—The term ''ancillary fee'' means any additional charge added to the face value of an event ticket, excluding taxes.

(3) ARTIST.—The term ''artist'' means any performer, musician, comedian, producer, ensemble, or production entity of a theatrical production, sports team owner, or similar individual or entity that contracts with an event organizer to put on an event.

(4) CLEARLY AND CONSPICUOUSLY.—The term ''clearly and conspicuously'' means, with respect to a disclosure, that the disclosure is displayed in a manner that is difficult to miss and easily understandable, including in the following ways:

(A) In the case of a visual disclosure, its size, contrast, location, the length of time it appears, and other characteristics, stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.

(B) The disclosure must be unavoidable.

(C) The disclosure must use diction and syntax understandable to ordinary consumers and must appear in each language in which the representation that requires the disclosure appears.

(D) The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.

(5) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(6) EVENT.—

(A) IN GENERAL.—The term ''event'' means a live activity described in subparagraph (B)—

(i) that is taking place in a venue;

(ii) that is open to the general public; and

(iii)(I) that is promoted, advertised, or marketed in interstate commerce; or

(II) for which event tickets are sold or distributed in interstate commerce.

(B) ACTIVITIES DESCRIBED.—The activities described in this subparagraph are any—

(i) live concert,

(ii) theatrical performance;

(iii) sporting event;

(iv) comedy show; or

(v) similarly scheduled activity taking place in a venue.

(C) EXEMPTED EVENTS.—Such term shall not include a live activity described in subparagraph (B) that is—

(i) put on by a religious organization for non-commercial purposes;

(ii) put on by a K-12 school; or

(iii) a non-sports-related event put on by a postsecondary school or not-for-profit entity in which the artists are primarily students.

(7) EVENT ORGANIZER.—The term ''event organizer'' means, with respect to an event, the person (such as the operator of a venue, the sponsor or promoter of an event, a sports team participating in an event or a league whose teams are participating in an event, a theater company, musical group, or similar participant in an event, or an agent for any such person) that—

(A) is primarily responsible for the financial risk associated with the event;

(B) makes event tickets initially available, including by contracting with a primary seller; and

(C)(i) is responsible for organizing, promoting, producing, or presenting an event; or

(ii) in the case of an event for which tickets are sold, holds the rights to present the event.

(8) EVENT TICKET.—The term ''event ticket'' means any manifested physical, electronic, or other form of a certificate, document, voucher, token, or other evidence indicating that a person has—

(A) a license to enter an event venue or occupy a particular seat or area in an event venue with respect to one or more events; or

(B) an entitlement to purchase such a license with respect to one or more future events.

(9) FACE VALUE.—The term ''face value'' means, with respect to an event ticket, the initial or acquisition price for the primary sale of the event ticket, exclusive of any taxes or ancillary fees.

(10) FAN CLUB PROGRAM.—The term ''fan club program'' means a membership-based program, primarily established by venues, artists, or performers to offer pre-sale opportunities offered before public on-sale of tickets.

(11) PRIMARY SALE.—The term ''primary sale'' means, with respect to a particular event ticket, the initial sale of that event ticket by or on behalf of the event organizer,

or the sale of an event ticket that was returned to the primary seller or event organizer after its initial sale and is sold by or on behalf of the event organizer under the same terms as such initial sale.

(12) PRIMARY SELLER.—The term ''primary seller'' means, with respect to an event ticket, any person who has the right to sell the event ticket prior to or at the primary sale of the ticket, including the event organizer, or any person that provides services to conduct or facilitate the primary sale of event tickets by or on behalf of the event organizer.

(13) RESELLER.—The term ''reseller'' means a person who sells or offers for sale, other than through a primary sale, an event ticket. That a reseller is also an event organizer or a primary seller does not exempt the reseller from this definition.

(14) SECONDARY SALE.—The term ''secondary sale'' means any sale of an event ticket other than the primary sale of the event ticket, and does not include the sale of a ticket returned to a primary seller.

(15) SECONDARY TICKETING EXCHANGE.— The term ''secondary ticketing exchange'' means any website, software application, or other digital platform that facilitates or executes the secondary sale of an event ticket. That a secondary ticketing exchange is also an event organizer or a primary seller does not exempt the secondary ticketing exchange from this definition.

(16) SELLER.—The term ''seller'' means any primary seller, secondary ticketing exchange, reseller, or any person that sells or makes available for sale an event ticket to the public.

(17) TOTAL EVENT TICKET PRICE.—The term ''total event ticket price'' means, with respect to an event ticket, the total cost of the event ticket, including the face value price and any ancillary fees but excluding taxes.

(18) URL.—The term ''URL'' means the Uniform Resource Locator associated with an internet website.

(19) VENUE.—The term ''venue'' means a physical space at which an event takes place.

SEC. ___3. ENSURING TICKETING MARKET INTEGRITY.

(a) BAN ON DECEPTIVE URLS AND IMPROPER USE OF INTELLECTUAL PROPERTY.—

(1) IN GENERAL.—It shall be unlawful for a secondary ticketing exchange or reseller, or the operator of any website purporting to sell or offer for sale event tickets that links or redirects to a secondary ticketing exchange or reseller, to—

(A) use any artist name, venue name, or event organizer name, graphic, marketing logo, image or other intellectual property of the artist, venue, or event organizer including any proprietary resemblance of the venue where an event shall occur in promotional materials, social media promotions, or URLs of the secondary ticketing exchange, reseller, or website without the prior authorization of the respective artist, venue, or event organizer under the terms of agreement between the artist, venue, or event organizer and the secondary ticketing exchange, reseller, or website; or

(B) state or imply that the secondary ticketing exchange, reseller, or website is affiliated with or endorsed by a venue, team, or artist, as applicable, including by using words like ''official'' in promotional materials, social media promotions, search engine optimization, paid advertising, URLs, or search engine monetization unless the secondary ticketing exchange, reseller, or website has the express written consent of the venue, team, or artist, as applicable.

(2) PERMITTED USE.—Paragraph (1) shall not prohibit a secondary ticketing exchange or reseller from using text containing the name of an artist, venue, or event organizers to describe an event and identify the location at which the event will occur, or provide information identifying the space within the venue that an event ticket would entitle the bearer to occupy for an event.

(b) SPECULATIVE TICKETING BAN.—

(1) IN GENERAL.—It shall be unlawful for a reseller to sell, offer for sale, or advertise for sale an event ticket unless the seller has actual or constructive possession of the event ticket.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit any person from offering a service to a consumer to obtain an event ticket on behalf of the consumer provided that the person—

(A) does not market or list such service as an event ticket;

(B) lists the price for such service separately from the total event ticket price paid by the service provider for the event ticket in any advertisement, marketing, price list, social media promotion, or other interface that displays a price for such service;

(C) maintains a clear, distinct, and easily discernible separation between such service and event tickets through unavoidable visual demarcation that persists throughout the entire service selection and purchasing process;

(D) clearly and conspicuously discloses prior to selection of the service that such service is not an event ticket and that the purchase of such service does not guarantee a ticket to such event;

(E) shall not obtain tickets through any fan club program;

(F) shall not obtain more tickets in each transaction than the numerical limitations for tickets set by the venue and artist for each respective event; and

(G) in the event the service is unable to obtain the specified event ticket purchased through the service for the consumer, provides the consumer that purchased the service, within a reasonable amount of time—

(i) a full refund for the total cost of the service to obtain an event ticket on behalf of the consumer; or

(ii) subject to availability, a replacement event ticket in the same or a comparable location with the approval of the consumer.

(c) REQUIREMENTS FOR THE SALE OF EVENT TICKETS.—It shall be unlawful for any seller to sell or offer for sale an event ticket in or affecting commerce, unless the seller does the following:

(1) ALL-IN PRICING.—The seller clearly and conspicuously—

(A) displays the total event ticket price in any advertisement, marketing, price list, social media promotion, or other interface that displays a price for the event ticket; and

(B) discloses to any individual who seeks to purchase an event ticket the total event ticket price at the time the ticket is first displayed to the individual and anytime thereafter throughout the ticket purchasing process, including an itemized breakdown of the face value of the event ticket and all applicable taxes and ancillary fees.

(2) TICKET AND REFUND INFORMATION.—The seller discloses to any individual who seeks to purchase an event ticket—

(A) the space within the venue that the event ticket would entitle the bearer to occupy for the event, whether that is general admission or the specific seat or section, at the initial point of ticket selection by the purchaser;

(B) the seller's refund policies and how to obtain a refund from the seller if—

(i) the purchaser receives an event ticket that does not match the description of the ticket provided to the purchaser at the point of purchase;

(ii) the event is canceled or postponed;

(iii) the event ticket does not or would not grant the purchaser admission to the event;

(iv) the event ticket is counterfeit; or

(v) the event ticket was resold in violation of the terms and conditions established by the event organizer or its primary seller;

(C) the date and means of delivery by which the event ticket will be delivered to the purchaser;

(D) any restrictions on resale of the event ticket under the terms and conditions of the event ticket; and

(E) a link to the website created by the Commission under subsection (f)(4) through which individuals may report violations of this section to the Commission.

(3) DISCLOSURE OF TERMS AND CONDITIONS.—The seller discloses or provides a link to the full terms and conditions of the event ticket to any individual who seeks to purchase an event ticket prior to the point of purchase.

(4) PROOF OF PURCHASE.—If the event ticket is an electronic ticket, the seller delivers written proof of purchase to the purchaser as soon as is practicable and no later than 24 hours following the purchase of the event ticket, which shall include—

(A) the date and time of the purchase of the event ticket;

(B) the face value and total purchase price of the event ticket, including all taxes and ancillary fees;

(C) the space within the venue that the event ticket would entitle the bearer to occupy for the event, whether that is general admission or the specific seat or section;

(D) the date on which and the means by which the event ticket will be delivered to the purchaser; and

(E) any restrictions on resale of the event ticket under the terms and conditions of the event ticket.

(5) REFUND REQUIREMENTS.—

(A) IN GENERAL.—In the event of an event cancellation, a seller shall provide a purchaser of an event ticket from that seller, at the option of the purchaser, at a minimum a full refund of the total event ticket price plus any taxes paid by the purchaser.

(B) EXCEPTION.—Subparagraph (A) shall not apply where an event is canceled due to a cause beyond the reasonable control of the event organizer, including a natural disaster, civil disturbance, or otherwise unforeseeable impediment.

(d) ADDITIONAL REQUIREMENTS FOR SECONDARY SALES.—

(1) DISCLOSURES TO ARTIST AND VENUE.—

(A) IN GENERAL.—A secondary ticketing exchange shall, in connection with each secondary sale of an event ticket facilitated or executed by the exchange, provide at a minimum the ticket purchaser the option to opt-in by affirmative express consent to provide the artist and venue the purchaser's name, email address, and phone number for the sole purposes of—

(i) ensuring the safety and security of the artist, venue staff or property, event attendees, or any other individual or property associated with the event; or

(ii) allowing the artist or venue to provide the purchaser with information about event postponements or cancellations.

(B) PROVISION OF INFORMATION.—If a purchaser provides the affirmative express consent described in subparagraph (A) to a secondary ticketing exchange, the exchange shall provide the information described in such subparagraph to the artist and venue.

(C) PROHIBITION ON UNAUTHORIZED USES.—It shall be unlawful for an artist or venue to use information disclosed to the artist or venue in accordance with this paragraph from any purpose other than the purposes described in clauses (i) and (ii) of subparagraph (A), including for promotional purposes.

(D) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to conflict with or preempt existing data privacy laws.

(2) NOTICE OF SECONDARY SALE.—It shall be unlawful for a secondary ticketing exchange to—

(A) facilitate or execute the secondary sale of an event ticket unless the secondary ticketing exchange clearly and conspicuously discloses—

(i) that it is not the primary seller of the event ticket at the top of its website, or at a comparable appropriate place on its software application or other digital platform, and at the point of purchase; or

(ii) if the secondary ticketing exchange also operates as the primary seller with respect to the event ticket, a notice on any page or interface that facilitates the resale of event tickets, that event tickets available on the page or interface are being resold;

(B) receive the exclusive right to use the artist name, venue name, event organizer name, graphic, marketing logo, image or other intellectual property of the artist, venue, or event organizer in promotional materials, social media promotions, search engine optimization, or in any marketing agreement between the artist, venue, or event organizer and the secondary ticketing exchange, if the secondary ticketing exchange is owned by, controlled by, or under common ownership or control with a person that also operates as a primary seller or event organizer; or

(C) advertise or represent that it is the primary seller of an event for which it is not the primary seller.

(e) GAO STUDIES OF TICKETING MARKET PRACTICES.—

(1) IN GENERAL.—One year after the date of enactment of this Act, the Comptroller General of the United States shall release a study on the event ticket market.

(2) CONTENTS OF STUDY.—The study required under paragraph (1) shall include—

(A) an assessment of how professional resellers obtain event tickets that are subsequently offered for resale, including whether those methods violate the BOTS Act (Public Law 114–274);

(B) an assessment of event ticket brokers obtaining tickets through fan club, venue pre sales, or credit card rewards programs;

(C) an assessment of the prevalence of counterfeit or fraudulently sold event tickets and whether incidents of counterfeit or fraudulently sold event tickets are reported to law enforcement agencies by consumers, venues, sellers, or other entities;

(D) an assessment of the incidence of consumers purchasing event tickets on secondary ticketing exchanges who are subsequently denied entry to the event for which they purchased event tickets;

(E) an assessment of the percentage of event tickets to events that are acquired by professional resellers for purposes of resale;

(F) an assessment of the average cost of event tickets in relation to their face value and total event ticket price;

(G) an assessment of the average cost of concert event tickets sold on the secondary market in relation to their face value and total event ticket price;

(H) an assessment of the average cost of event tickets in relation to their face value, ancillary fees and total event ticket price in both the primary and secondary markets;

(I) an assessment of primary and secondary exchange market share, including an estimate of how many tickets are purchased and resold on the same platform and average fees generated in closed-loop ticket resale;

(J) an assessment of the overall size of the resale market, including percentage of tickets resold and the total monetary volume of the resale market;

(K) an assessment of consumer use of the resale market, including how often ordinary consumers who intended to go to an event had to resell event tickets and what percentage of face value their event tickets sold for;

(L) an assessment of the prevalence of exclusive contracts between a primary seller and any venue or artist, including the effect of such exclusive contracts on the market for primary seller services, taking into account averages for events of various types (including but not limited to sports, concerts, fine arts performances) and venues (including but not limited to stadiums, amphitheaters, concert halls, clubs);

(M) an assessment of event ticket allocation by primary sellers, including the effect of event ticket allocation on event ticket prices, taking into account averages for events of various types (including but not limited to sports, concerts, fine arts performances) and venues (including but not limited to stadiums, amphitheaters, concert halls, clubs);

(N) an assessment of secondary ticketing exchanges and event ticket brokers offering services to a consumer to obtain an event ticket on behalf of the consumer, including but not limited to whether the platforms and brokers are deploying unfair, unethical, or illegal tactics to acquire such tickets and prevent fans from accessing them at face value;

(O) an assessment of market manipulation techniques employed by professional resellers, including but not limited to ''buy and hold'' strategies where event tickets purchased for resale are not listed for sale to affect secondary event ticket prices; and

(P) an assessment of the prevalence of exclusive national touring arrangements between promoters and artists and an assessment of artists represented by managers under shared ownership with promoters and ticketing companies, including how often those artists utilize the services of companies under shared ownership, including ticketing, event organizing, merchandising and venue rental.

(f) ENFORCEMENT BY THE COMMISSION.—

(1) FTC ACT VIOLATION.—Any person who violates this section shall be liable for engaging in an unfair or deceptive act or practice under section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)).

(2) CIVIL ACTION.—If the Commission has reason to believe that any person has violated this section, the Commission may bring a civil action in an appropriate district court of the United States to—

(A) recover a civil penalty under paragraph (3); and

(B) seek other appropriate relief, including injunctive relief.

(3) CIVIL PENALTY.—

(A) IN GENERAL.—Any person who violates this section shall be liable for—

(i) a civil penalty of at least $15,000 for each day during which the violation occurs or continues to occur; and

(ii) an additional civil penalty equal to the greater of—

(I) $1,000 per event ticket advertised, listed, sold, or resold in violation of this section; or

(II) an amount equal to the sum of the total event ticket prices for each event ticket listed or sold in violation of this section, multiplied by 5.

(B) ENHANCED CIVIL PENALTY FOR INTENTIONAL VIOLATIONS.—In addition to the civil penalty under subparagraph (A), a person that intentionally violates this section shall be liable for a civil penalty of at least $10,000 per event ticket sold or resold in violation of this section.

(4) COMPLAINT WEBSITE.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commission shall create a publicly available website where individuals may report violations of this section.

(B) COOPERATION WITH STATE AGS.—As appropriate, the Commission shall share reports received through the website created under subparagraph (A) with State attorneys general.

(5) FTC REPORT.—The Commission shall report annually to Congress on enforcement metrics, activity, and effectiveness under this section.

(g) ENFORCEMENT BY STATES.—

(1) IN GENERAL.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of the State has been or is threatened or adversely affected by the engagement of any person in a practice that violates this section, the attorney general of the State may, as parens patriae, bring a civil action on behalf of the residents of the State in an appropriate district court of the United States—

(A) to enjoin further violation of such provision by such person;

(B) to compel compliance with such provision; and

(C) to obtain damages, restitution, or other compensation on behalf of such residents.

(2) INVESTIGATORY POWERS.—Nothing in this section may be construed to prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of the State to conduct investigations, to administer oaths or affirmations, or to compel the attendance of witnesses or the production of documentary or other evidence.

(3) VENUE; SERVICE OF PROCESS.—

(A) VENUE.—Any action brought under paragraph (1) may be brought in—

(i) the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code; or

(ii) another court of competent jurisdiction.

(B) SERVICE OF PROCESS.—In an action brought under paragraph (1), process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) may be found.

(4) ACTIONS BY OTHER STATE OFFICIALS.—

(A) IN GENERAL.—In addition to civil actions brought by attorneys general under paragraph (1), any other consumer protection officer of a State who is authorized by the State to do so may bring a civil action under paragraph (1), subject to the same requirements and limitations that apply under this subsection to civil actions brought by attorneys general.

(B) SAVINGS PROVISION.—Nothing in this section may be construed to prohibit an authorized official of a State from initiating or continuing any proceeding in a court of the State for a violation of any civil or criminal law of the State.

SEC. ___4. STRENGTHENING THE BOTS ACT.

(a) IN GENERAL.—Section 2 of the Better Online Ticket Sales Act of 2016 (15 U.S.C. 45c) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A), by striking ''; or'' and inserting a semicolon;

(B) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following new subparagraph:

''(C) to use or cause to be used an application that performs automated tasks to purchase event tickets from an Internet website or online service in circumvention of posted online ticket purchasing order rules of the Internet website or online service, including a software application that circumvents an

access control system, security measure, or other technological control or measure.'';

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(3) by inserting after subsection (a) the following new subsection:

''(b) REQUIRING ONLINE TICKET ISSUERS TO PUT IN PLACE SITE POLICIES AND ESTABLISH SAFEGUARDS TO PROTECT SITE SECURITY.—

''(1) REQUIREMENT TO ENFORCE SITE POLICIES.—Each ticket issuer that owns or operates an Internet website or online service that facilitates or executes the sale of event tickets shall ensure that such website or service has in place an access control system, security measure, or other technological control or measure to enforce posted event ticket purchasing limits.

''(2) REQUIREMENT TO ESTABLISH SITE SECURITY SAFEGUARDS.—

''(A) IN GENERAL.—Each ticket issuer that owns or operates an Internet website or online service that facilitates or executes the sale of event tickets shall establish, implement, and maintain reasonable administrative, technical, and physical safeguards to protect the security, confidentiality, integrity, or availability of the website or service.

''(B) CONSIDERATIONS.—In establishing the safeguards described in subparagraph (A), each ticket issuer described in such paragraph shall consider—

''(i) the administrative, technical, and physical safeguards that are appropriate to the size and complexity of the ticket issuer;

''(ii) the nature and scope of the activities of the ticket issuer;

''(iii) the sensitivity of any customer information at issue; and

''(iv) the range of security risks and vulnerabilities that are reasonably foreseeable or known to the ticket issuer.

''(C) THIRD PARTIES AND SERVICE PROVIDERS.—

''(i) IN GENERAL.—Where applicable, a ticket issuer that owns or operates an Internet website or online service that facilitates or executes the sale of event tickets shall implement and maintain procedures to require that any third party or service provider that performs services with respect to the sale of event tickets or has access to data regarding event ticket purchasing on the website or service maintains reasonable administrative, technical, and physical safeguards to protect the security and integrity of the website or service and that data.

''(ii) OVERSIGHT PROCEDURE REQUIREMENTS.—The procedures implemented and maintained by a ticket issuer in accordance with clause (i) shall include the following:

''(I) Taking reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the customer information at issue.

''(II) Requiring service providers by contract to implement and maintain adequate safeguards.

''(III) Periodically assessing service providers based on the risk they present and the continued adequacy of their safeguards.

''(D) UPDATES.—A ticket issuer that owns or operates an Internet website or online service that facilitates or executes the sale of event tickets shall regularly evaluate and make adjustments to the safeguards described in subparagraph (A) in light of any material changes in technology, internal or external threats to system security, confidentiality, integrity, and availability, and the changing business arrangements or operations of the ticket issuer.

''(3) REQUIREMENT TO REPORT INCIDENTS OF CIRCUMVENTION; CONSUMER COMPLAINTS.—

''(A) IN GENERAL.—A ticket issuer that owns or operates an Internet website or online service that facilitates or executes the sale of event tickets shall report to the Commission any incidents of circumvention of which the ticket issuer has actual knowledge.

''(B) CONSUMER COMPLAINT WEBSITE.—Not later than 180 days after the date of enactment of the Fans First Act, the Commission shall create a publicly available website (or modify an existing publicly available website of the Commission) to allow individuals to report violations of this subsection to the Commission.

''(C) REPORTING TIMELINE AND PROCESS.—

''(i) TIMELINE.—A ticket issuer shall report known incidents of circumvention within a reasonable period of time after the incident of circumvention is discovered by the ticket issuer, and in no case later than 30 days after an incident of circumvention is discovered by the ticket issuer.

''(ii) AUTOMATED SUBMISSION.—The Commission may establish a reporting mechanism to provide for the automatic submission of reports required under this subsection.

''(iii) COORDINATION WITH STATE ATTORNEYS GENERAL.—The Commission shall—

''(I) share reports received from ticket issuers under subparagraph (A) with State attorneys general as appropriate; and

''(II) share consumer complaints submitted through the website established under subparagraph (B) with State attorneys general as appropriate.

''(4) DUTY TO ADDRESS CAUSES OF CIRCUMVENTION.—A ticket issuer that owns or operates an Internet website or online service that facilitates or executes the sale of event tickets must take reasonable steps to improve its access control systems, security measures, and other technological controls or measures to address any incidents of circumvention of which the ticket issuer has actual knowledge.

''(5) FTC GUIDANCE.—Not later than 1 year after the date of enactment of the Fans First Act, the Commission shall publish guidance for ticket issuers on compliance with the requirements of this subsection.'';

(4) in subsection (c), as redesignated by paragraph (1) of this subsection—

(A) by striking ''subsection (a)'' each place it appears and inserting ''subsection (a) or (b)'';

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ''The Commission'' and inserting ''Except as provided in paragraph (3), the Commission''; and

(ii) in subparagraph (B), by striking ''Any person'' and inserting ''Subject to paragraph (3), any person''; and

(C) by adding at the end the following new paragraphs:

''(3) CIVIL ACTION.—

''(A) IN GENERAL.—If the Commission has reason to believe that any person has committed a violation of subsection (a) or (b), the Commission may bring a civil action in an appropriate district court of the United States to—

''(i) recover a civil penalty under paragraph (4); and

''(ii) seek other appropriate relief, including injunctive relief and other equitable relief.

''(B) LITIGATION AUTHORITY.—Except as otherwise provided in section 16(a)(3) of the Federal Trade Commission Act (15 U.S.C. 56(a)(3)), the Commission shall have exclusive authority to commence or defend, and supervise the litigation of, any civil action authorized under this paragraph and any appeal of such action in its own name by any of its attorneys designated by it for such purpose, unless the Commission authorizes the Attorney General to do so. The Commission shall inform the Attorney General of the exercise of such authority and such exercise shall not preclude the Attorney General from intervening on behalf of the United States in such action and any appeal of such action as may be otherwise provided by law.

''(C) RULE OF CONSTRUCTION.—Any civil penalty or relief sought through a civil action under this paragraph shall be in addition to other penalties and relief as may be prescribed by law.

''(4) CIVIL PENALTIES.—

''(A) IN GENERAL.—Any person who violates subsection (a) or (b) shall be liable for—

''(i) a civil penalty of not less than $10,000 for each day during which the violation occurs or continues to occur; and

''(ii) an additional civil penalty of not less than $1,000 per violation.

''(B) ENHANCED CIVIL PENALTY FOR INTENTIONAL VIOLATIONS.—In addition to the civil penalties under subparagraph (A), a person that intentionally violates subsection (a) or (b) shall be liable for a civil penalty of not less than $10,000 per violation.'';

(5) in subsection (d), as redesignated by paragraph (1) of this subsection, by striking ''subsection (a)'' each place it appears and inserting ''subsection (a) or (b)''; and

(6) by adding at the end the following new subsections:

''(e) LAW ENFORCEMENT COORDINATION.—

''(1) IN GENERAL.—The Federal Bureau of Investigation, the Department of Justice, and other relevant State or local law enforcement officials shall coordinate as appropriate with the Commission to share information about known instances of cyberattacks on security measures, access control systems, or other technological controls or measures on an Internet website or online service that are used by ticket issuers to enforce posted event ticket purchasing limits or to maintain the integrity of posted online ticket purchasing order rules. Such coordination may include providing information about ongoing investigations but may exclude classified information or information that could compromise a law enforcement or national security effort, as appropriate.

''(2) CYBERATTACK DEFINED.—In this paragraph, the term 'cyberattack' means an attack, via cyberspace, targeting an enterprise's use of cyberspace for the purpose of—

''(A) disrupting, disabling, destroying, or maliciously controlling a computing environment or computing infrastructure; or

''(B) destroying the integrity of data or stealing controlled information.

''(f) CONGRESSIONAL REPORT.—Not later than 1 year after the date of enactment of this paragraph, the Commission shall report to Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives on the status of enforcement actions taken pursuant to this Act, as well as any identified limitations to the Commission's ability to pursue incidents of circumvention described in subsection (a)(1)(A).''.

(b) ADDITIONAL DEFINITION.—Section 3 of the Better Online Ticket Sales Act of 2016 (15 U.S.C. 45c note) is amended by adding at the end the following new paragraph:

''(4) CIRCUMVENTION.—The term 'circumvention' means the act of avoiding, bypassing, removing, deactivating, or otherwise impairing an access control system, security measure, safeguard, or other technological control or measure described in section 2(b)(1).''.

SEC. ____5. SEVERABILITY.

If any provision of this title, or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this title and of the amendments made by this title, and the application of the remaining provisions of this title and

amendments to any person or circumstance, shall not be affected.

SA 2036. Mr. PADILLA (for himself and Ms. BUTLER) submitted an amendment intended to be proposed to amendment SA 1911 proposed by Ms. CANTWELL (for herself, Mr. CRUZ, Ms. DUCKWORTH, and Mr. MORAN) to the bill H.R. 3935, to amend title 49, United States Code, to reauthorize and improve the Federal Aviation Administration and other civil aviation programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. AVIATION EXCISE FUEL TAXES.

(a) IN GENERAL.—Section 47107(b) of title 49, United States Code, is amended—

(1) in each of paragraphs (1) and (2) by striking ''local taxes'' and inserting ''local excise taxes'';

(2) in paragraph (3) by striking ''State tax'' and inserting ''State excise tax''; and

(3) by adding at the end the following:

''(4) This subsection does not apply to State or local general sales taxes nor to State or local generally applicable sales taxes.''.

(b) CONFORMING AMENDMENTS.—Section 47133 of title 49, United States Code, is amended—

(1) in subsection (a) in the matter preceding paragraph (1) by striking ''Local taxes'' and inserting ''Local excise taxes'';

(2) in subsection (b), by striking ''local taxes'' and inserting ''local excise taxes'';

(3) in subsection (c) by striking ''State tax'' and inserting ''State excise tax''; and

(4) by adding at the end the following:

''(d) LIMITATION ON APPLICABILITY.—This subsection shall not apply to—

''(1) State or local general sales taxes; or

''(2) State or local generally applicable sales taxes.''.

SA 2037. Mr. CARPER (for himself and Mr. LANKFORD) submitted an amendment intended to be proposed by him to the bill H.R. 3935, to amend title 49, United States Code, to reauthorize and improve the Federal Aviation Administration and other civil aviation programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. EXTENSION OF CHEMICAL FACILITY ANTI-TERRORISM STANDARDS PROGRAM OF THE DEPARTMENT OF HOMELAND SECURITY.

Section 5 of the Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2014 (6 U.S.C. 621 note) is amended by striking ''July 27, 2023'' and inserting ''October 1, 2026''.

SA 2038. Mrs. SHAHEEN submitted an amendment intended to be proposed to amendment SA 1911 proposed by Ms. CANTWELL (for herself, Mr. CRUZ, Ms. DUCKWORTH, and Mr. MORAN) to the bill H.R. 3935, to amend title 49, United States Code, to reauthorize and improve the Federal Aviation Administration and other civil aviation programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. AIR TRAFFIC CONTROLLER FATIGUE.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Administrator shall promulgate and implement a rule to require an air traffic controller to have a break of not fewer than—

(1) 10 hours prior to the start of any shift; and

(2) 12 hours prior to the start of any midshift.

(b) MIDSHIFT DEFINED.—For purposes of subsection (a), the term ''midshift'' means a shift where the majority of hours of such shift fall between the hours of 10:30 p.m. and 6:30 a.m.

SA 2039. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3935, to amend title 49, United States Code, to reauthorize and improve the Federal Aviation Administration and other civil aviation programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, line 3, strike ''1 day'' and insert ''2 days''.

SA 2040. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3935, to amend title 49, United States Code, to reauthorize and improve the Federal Aviation Administration and other civil aviation programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. EFFECTIVE DATE.

This Act shall take effect on the date that is 7 days after the date of enactment of this Act.

SA 2041. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3935, to amend title 49, United States Code, to reauthorize and improve the Federal Aviation Administration and other civil aviation programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, line 3, strike ''7 days'' and insert ''8 days''.

SA 2042. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3935, to amend title 49, United States Code, to reauthorize and improve the Federal Aviation Administration and other civil aviation programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. EFFECTIVE DATE.

This Act shall take effect on the date that is 9 days after the date of enactment of this Act.

SA 2043. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3935, to amend title 49, United States Code, to reauthorize and improve the Federal Aviation Administration and other civil aviation programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, line 3, strike ''9 days'' and insert ''10 days''.

SA 2044. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3935, to amend title 49, United States Code, to reauthorize and improve the Federal Aviation Administration and other civil aviation programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, line 1, strike ''10 days'' and insert ''11 days''.

SA 2045. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3935, to amend title 49, United States Code, to reauthorize and improve the Federal Aviation Administration and other civil aviation programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. EFFECTIVE DATE.

This Act shall take effect on the date that is 12 days after the date of enactment of this Act.

SA 2046. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3935, to amend title 49, United States Code, to reauthorize and improve the Federal Aviation Administration and other civil aviation programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, line 3, strike ''12 days'' and insert ''13 days''.

SA 2047. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3935, to amend title 49, United States Code, to reauthorize and improve the Federal Aviation Administration and other civil aviation programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. EFFECTIVE DATE.

This Act shall take effect on the date that is 14 days after the date of enactment of this Act.

SA 2048. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3935, to amend title 49, United States Code, to reauthorize and improve the Federal Aviation Administration and other civil aviation programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, line 3, strike ''14 days'' and insert ''15 days''.

SA 2049. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3935, to amend title 49, United States Code, to reauthorize and improve the Federal Aviation Administration and other civil aviation programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, line 1, strike ''15 days'' and insert ''16 days''.

SA 2050. Mr. SCHUMER submitted an amendment intended to be proposed by

him to the bill H.R. 3935, to amend title 49, United States Code, to reauthorize and improve the Federal Aviation Administration and other civil aviation programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. EFFECTIVE DATE.

This Act shall take effect on the date that is 17 days after the date of enactment of this Act.

SA 2051. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3935, to amend title 49, United States Code, to reauthorize and improve the Federal Aviation Administration and other civil aviation programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, line 3, strike ''17 days'' and insert ''18 days''.

SA 2052. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill H.R. 3935, to amend title 49, United States Code, to reauthorize and improve the Federal Aviation Administration and other civil aviation programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

DIVISION B—TAX RELIEF

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; ETC.

(a) SHORT TITLE.—This division may be cited as the ''Tax Relief for American Families and Workers Act of 2024''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents of this division is as follows:

TITLE I—TAX RELIEF FOR WORKING FAMILIES

SEC. 101. PER-CHILD CALCULATION OF REFUNDABLE PORTION OF CHILD TAX CREDIT.

(a) IN GENERAL.—Subparagraph (A) of section 24(h)(5) is amended to read as follows:

''(A) IN GENERAL.—In applying subsection (d)—

''(i) the amount determined under paragraph (1)(A) of such subsection with respect to any qualifying child shall not exceed $1,400, and such paragraph shall be applied without regard to paragraph (4) of this subsection, and

''(ii) paragraph (1)(B) of such subsection shall be applied by multiplying each of—

''(I) the amount determined under clause (i) thereof, and

''(II) the excess determined under clause (ii) thereof,

by the number of qualifying children of the taxpayer.''.

(b) CONFORMING AMENDMENT.—The heading of paragraph (5) of section 24(h) is amended by striking ''MAXIMUM AMOUNT OF'' and inserting ''SPECIAL RULES FOR''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2022.

SEC. 102. INCREASE IN REFUNDABLE PORTION.

(a) IN GENERAL.—Paragraph (5) of section 24(h) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) AMOUNTS FOR 2023, 2024, AND 2025.—In the case of a taxable year beginning after 2022, subparagraph (A) shall be applied by substituting for '$1,400'—

''(i) in the case of taxable year 2023, '$1,800',

''(ii) in the case of taxable year 2024, '$1,900', and

''(iii) in the case of taxable year 2025, '$2,000'.''.

(b) CONFORMING AMENDMENT.—Subparagraph (C) of section 24(h)(5), as redesignated by subsection (a), is amended by inserting ''and before 2023'' after ''2018''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2022.

SEC. 103. INFLATION OF CREDIT AMOUNT.

(a) IN GENERAL.—Paragraph (2) of section 24(h) is amended—

(1) by striking ''AMOUNT.—Subsection'' and inserting ''AMOUNT.—

''(A) IN GENERAL.—Subsection'', and

(2) by adding at the end the following new subparagraph:

''(B) ADJUSTMENT FOR INFLATION.—In the case of a taxable year beginning after 2023, the $2,000 amounts in subparagraph (A) and paragraph (5)(B)(iii) shall each be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting '2022' for '2016' in subparagraph (A)(ii) thereof.

If any increase under this subparagraph is not a multiple of $100, such increase shall be rounded to the next lowest multiple of $100.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2023.

SEC. 104. RULE FOR DETERMINATION OF EARNED INCOME.

(a) IN GENERAL.—Paragraph (6) of section 24(h) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''CREDIT.—Subsection'' and inserting ''CREDIT.—

''(A) IN GENERAL.—Subsection'', and

(2) by adding at the end the following new subparagraphs

''(B) RULE FOR DETERMINATION OF EARNED INCOME.—

''(i) IN GENERAL.—In the case of a taxable year beginning after 2023, if the earned income of the taxpayer for such taxable year is less than the earned income of the taxpayer for the preceding taxable year, subsection (d)(1)(B)(i) may, at the election of the taxpayer, be applied by substituting—

''(I) the earned income for such preceding taxable year, for

''(II) the earned income for the current taxable year.

''(ii) APPLICATION TO JOINT RETURNS.—For purposes of clause (i), in the case of a joint return, the earned income of the taxpayer for the preceding taxable year shall be the sum of the earned income of each spouse for such preceding taxable year.''.

(b) ERRORS TREATED AS MATHEMATICAL ERRORS.—Paragraph (2) of section 6213(g) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of subparagraph (U), by striking the period at the end of subparagraph (V) and inserting '', and'', and by inserting after subparagraph (V) the following new subparagraph:

''(W) in the case of a taxpayer electing the application of section 24(h)(6)(B) for any taxable year, an entry on a return of earned income pursuant to such section which is inconsistent with the amount of such earned income determined by the Secretary for the preceding taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2023.

SEC. 105. SPECIAL RULE FOR CERTAIN EARLY-FILED 2023 RETURNS.

In the case of an individual who claims, on the taxpayer's return of tax for the first taxable year beginning after December 31, 2022, a credit under section 24 of the Internal Revenue Code of 1986 which is determined without regard to the amendments made by sections 101 and 102 of this division, the Secretary of the Treasury (or the Secretary's delegate) shall, to the maximum extent practicable—

(1) redetermine the amount of such credit (after taking into account such amendments) on the basis of the information provided by the taxpayer on such return, and

(2) to the extent that such redetermination results in an overpayment of tax, credit or refund such overpayment as expeditiously as possible.

TITLE II—AMERICAN INNOVATION AND GROWTH

SEC. 201. DEDUCTION FOR DOMESTIC RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) DELAY OF AMORTIZATION OF DOMESTIC RESEARCH AND EXPERIMENTAL EXPENDITURES.—Section 174 is amended by adding at the end the following new subsection:

''(e) SUSPENSION OF APPLICATION OF SECTION TO DOMESTIC RESEARCH AND EXPERIMENTAL EXPENDITURES.—In the case of any domestic research or experimental expenditures (as defined in section 174A(b)), this section—

''(1) shall apply to such expenditures paid or incurred in taxable years beginning after December 31, 2025, and

''(2) shall not apply to such expenditures paid or incurred in taxable years beginning on or before such date.''.

(b) REINSTATEMENT OF EXPENSING FOR DOMESTIC RESEARCH AND EXPERIMENTAL EXPENDITURES.—Part VI of subchapter B of chapter 1 is amended by inserting after section 174 the following new section:

''SEC. 174A. TEMPORARY RULES FOR DOMESTIC RESEARCH AND EXPERIMENTAL EXPENDITURES.

''(a) TREATMENT AS EXPENSES.—Notwithstanding section 263, there shall be allowed as a deduction any domestic research or experimental expenditures which are paid or incurred by the taxpayer during the taxable year.

''(b) DOMESTIC RESEARCH OR EXPERIMENTAL EXPENDITURES.—For purposes of this section, the term 'domestic research or experimental expenditures' means research or experimental expenditures paid or incurred by the taxpayer in connection with the taxpayer's trade or business other than such expenditures which are attributable to foreign research (within the meaning of section 41(d)(4)(F)).

''(c) AMORTIZATION OF CERTAIN DOMESTIC RESEARCH AND EXPERIMENTAL EXPENDITURES.—

''(1) IN GENERAL.—At the election of the taxpayer, made in accordance with regulations or other guidance provided by the Secretary, in the case of domestic research or experimental expenditures which would (but for subsection (a)) be chargeable to capital account but not chargeable to property of a character which is subject to the allowance under section 167 (relating to allowance for depreciation, etc.) or section 611 (relating to allowance for depletion), subsection (a) shall not apply and the taxpayer shall—

''(A) charge such expenditures to capital account, and

''(B) be allowed an amortization deduction of such expenditures ratably over such period of not less than 60 months as may be selected by the taxpayer (beginning with the month in which the taxpayer first realizes benefits from such expenditures).

''(2) TIME FOR AND SCOPE OF ELECTION.—The election provided by paragraph (1) may be made for any taxable year, but only if made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). The method so elected, and the period selected by the taxpayer, shall be adhered to in computing taxable income for the taxable year for which the election is made and for all subsequent taxable years unless, with the approval of the Secretary, a change to a different method (or to a different period) is authorized with respect to part or all of such expenditures. The election shall not apply to any expenditure paid or incurred during any taxable year before the taxable year for which the taxpayer makes the election.

''(d) ELECTION TO CAPITALIZE EXPENSES.—In the case of a taxpayer which elects (at such time and in such manner as the Secretary may provide) the application of this subsection, subsections (a) and (c) shall not apply and domestic research or experimental expenditures shall be chargeable to capital account. Such election shall not apply to any expenditure paid or incurred during any taxable year before the taxable year for which the taxpayer makes the election and may be made with respect to part of the expenditures paid or incurred during any taxable year only with the approval of the Secretary.

''(e) SPECIAL RULES.—

''(1) LAND AND OTHER PROPERTY.—This section shall not apply to any expenditure for the acquisition or improvement of land, or for the acquisition or improvement of property to be used in connection with the research or experimentation and of a character which is subject to the allowance under section 167 (relating to allowance for depreciation, etc.) or section 611 (relating to allowance for depletion); but for purposes of this section allowances under section 167, and allowances under section 611, shall be considered as expenditures.

''(2) EXPLORATION EXPENDITURES.—This section shall not apply to any expenditure paid or incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (including oil and gas).

''(3) SOFTWARE DEVELOPMENT.—For purposes of this section, any amount paid or incurred in connection with the development of any software shall be treated as a research or experimental expenditure.

''(f) TERMINATION.—

''(1) IN GENERAL.—This section shall not apply to amounts paid or incurred in taxable years beginning after December 31, 2025.

''(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of a taxpayer's first taxable year beginning after December 31, 2025, paragraph (1) (and the corresponding application of section 174) shall be treated as a change in method of accounting for purposes of section 481 and—

''(A) such change shall be treated as initiated by the taxpayer,

''(B) such change shall be treated as made with the consent of the Secretary, and

''(C) such change shall be applied only on a cut-off basis for any domestic research or experimental expenditures paid or incurred in taxable years beginning after December 31, 2025, and no adjustment under section 481(a) shall be made.''.

(c) COORDINATION WITH CERTAIN OTHER PROVISIONS.—

(1) RESEARCH CREDIT.—

(A) Section 41(d)(1)(A) is amended by inserting ''or domestic research or experimental expenditures under section 174A'' after ''section 174''.

(B) Section 280C(c)(1) is amended to read as follows:

''(1) IN GENERAL.—The domestic research or experimental expenditures otherwise taken into account under section 174 or 174A (as the case may be) shall be reduced by the amount of the credit allowed under section 41(a).''.

(2) AMT ADJUSTMENT.—Section 56(b)(2) is amended by striking ''174(a)'' each place it appears and inserting ''174A(a)''.

(3) OPTIONAL 10-YEAR WRITEOFF.—Section 59(e)(2)(B) is amended by striking ''section 174(a) (relating to research and experimental expenditures)'' and inserting ''section 174A(a) (relating to temporary rules for domestic research and experimental expenditures)''.

(4) QUALIFIED SMALL ISSUE BONDS.—Section 144(a)(4)(C)(iv) is amended by striking ''174(a)'' and inserting ''174A(a)''.

(5) START-UP EXPENDITURES.—Section 195(c)(1) is amended by striking ''or 174'' in the last sentence and inserting ''174, or 174A''.

(6) CAPITAL EXPENDITURES.—

(A) Section 263(a)(1)(B) is amended by inserting '' or 174A'' after ''174''.

(B) Section 263A(c)(2) is amended by inserting ''or 174A'' after ''174''.

(7) ACTIVE BUSINESS COMPUTER SOFTWARE ROYALTIES.—Section 543(d)(4)(A)(i) is amended by inserting ''174A,'' after ''174,''.

(8) SOURCE RULES.—Section 864(g)(2) is amended in the last sentence—

(A) by striking ''treated as deferred expenses under subsection (b) of section 174'' and inserting ''allowed as an amortization deduction under section 174(a) or section 174A(c),'', and

(B) by striking ''such subsection'' and inserting ''such section (as the case may be)''.

(9) BASIS ADJUSTMENT.—Section 1016(a)(14) is amended by striking ''deductions as deferred expenses under section 174(b)(1) (relating to research and experimental expenditures)'' and inserting ''deductions under section 174 or 174A''.

(10) SMALL BUSINESS STOCK.—Section 1202(e)(2)(B) is amended by striking ''research and experimental expenditures under section 174'' and inserting ''specified research or experimental expenditures under section 174 or domestic research or experimental expenditures under section 174A''.

(d) CONFORMING AMENDMENTS.—

(1) Section 13206 of Public Law 115–97 is amended by striking subsection (b) (relating to change in method of accounting).

(2) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 174 the following new item:

''Sec. 174A. Temporary rules for domestic research and experimental expenditures.''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2021.

(2) COORDINATION WITH RESEARCH CREDIT.—The amendment made by subsection (c)(1)(B) shall apply to taxable years beginning after December 31, 2022.

(3) REPEAL OF SUPERCEDED CHANGE IN METHOD OF ACCOUNTING RULES.—The amendment made by subsection (d)(1) shall take effect as if included in Public Law 115–97.

(4) NO INFERENCE WITH RESPECT TO COORDINATION WITH RESEARCH CREDIT FOR PRIOR PERIODS.—The amendment made by subsection (c)(1)(B) shall not be construed to create any inference with respect to the proper application of section 280C(c) of the Internal Revenue Code of 1986 with respect to taxable years beginning before January 1, 2023.

(f) TRANSITION RULES.—

(1) IN GENERAL.—Except as otherwise provided by the Secretary, an election made

under subsection (c) or (d) of section 174A of the Internal Revenue Code of 1986 (as added by this section) for the taxpayer's first taxable year beginning after December 31, 2021, shall not fail to be treated as timely made (or as made on the return) if made during the 1-year period beginning on the date of the enactment of this Act on an amended return for the taxpayer's first taxable year beginning after December 31, 2021, or in such other manner as the Secretary may provide.

(2) ELECTION REGARDING TREATMENT AS CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer which (as of the date of the enactment of this Act) had adopted a method of accounting provided by section 174 of the Internal Revenue Code of 1986 (as in effect prior to the amendments made by this section) for the taxpayer's first taxable year beginning after December 31, 2021, and elects the application of this paragraph—

(A) the amendments made by this section shall be treated as a change in method of accounting for purposes of section 481 of such Code,

(B) such change shall be treated as initiated by the taxpayer for the taxpayer's immediately succeeding taxable year,

(C) such change shall be treated as made with the consent of the Secretary,

(D) such change shall be applied on a modified cut-off basis, taking into account for purposes of section 481(a) of such Code only the domestic research or experimental expenditures (as defined in section 174A(b) of such Code (as added by this section) and determined by applying the rules of section 174A(e) of such Code) paid or incurred in the taxpayer's first taxable year beginning after December 31, 2021, and not allowed as a deduction in such taxable year, and

(E) in the case of a taxpayer which elects the application of this subparagraph, the amount of such change (as determined under subparagraph (D)) shall be taken into account ratably over the 2-taxable-year period beginning with the taxable year referred to in subparagraph (B).

(3) ELECTION REGARDING 10-YEAR WRITE-OFF.—

(A) IN GENERAL.—Except as otherwise provided by the Secretary, an eligible taxpayer which files, during the 1-year period beginning on the date of the enactment of this Act, an amended income tax return for the taxable year described in subparagraph (B)(ii) may elect the application of section 59(e) of the Internal Revenue Code of 1986 with respect to qualified expenditures described in section 59(e)(2)(B) of such Code (as amended by subsection (c)(3)) with respect to such taxable year. Such election shall be filed with such amended income tax return and shall be effective only to the extent that such election would have been effective if filed with the original income tax return for such taxable year (determined after taking into account the amendment made by subsection (c)(3)).

(B) ELIGIBLE TAXPAYER.—For purposes of subparagraph (A), the term ''eligible taxpayer'' means any taxpayer which—

(i) does not elect the application of paragraph (2), and

(ii) filed an income tax return for such taxpayer's first taxable year beginning after December 31, 2021, before the earlier of—

(I) the due date for such return, and

(II) the date of the enactment of this Act.

(4) ELECTION REGARDING COORDINATION WITH RESEARCH CREDIT.—Except as otherwise provided by the Secretary, an eligible taxpayer (as defined in paragraph (3)(B) without regard to clause (i) thereof) which files, during the 1-year period beginning on the date of the enactment of this Act, an amended income tax return for the taxpayer's first taxable year beginning after December 31, 2021, may, notwithstanding subparagraph (C) of section 280C(c)(2) of the Internal Revenue Code of 1986 make, or revoke, on such amended return the election under such section for such taxable year.

SEC. 202. EXTENSION OF ALLOWANCE FOR DEPRECIATION, AMORTIZATION, OR DEPLETION IN DETERMINING THE LIMITATION ON BUSINESS INTEREST.

(a) IN GENERAL.—Section 163(j)(8)(A)(v) is amended by striking ''January 1, 2022'' and inserting ''January 1, 2026''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendment made by this section shall apply to taxable years beginning after December 31, 2023.

(2) ELECTION TO APPLY EXTENSION RETROACTIVELY.—In the case of a taxpayer which elects (at such time and in such manner as the Secretary may provide) the application of this paragraph, paragraph (1) shall be applied by substituting ''December 31, 2021'' for ''December 31, 2023''.

SEC. 203. EXTENSION OF 100 PERCENT BONUS DEPRECIATION.

(a) IN GENERAL.—Section 168(k)(6)(A) is amended—

(1) in clause (i)—

(A) by striking ''2023'' and inserting ''2026'', and

(B) by adding ''and'' at the end, and

(2) by striking clauses (ii), (iii), and (iv), and redesignating clause (v) as clause (ii).

(b) PROPERTY WITH LONGER PRODUCTION PERIODS.—Section 168(k)(6)(B) is amended—

(1) in clause (i)—

(A) by striking ''2024'' and inserting ''2027'', and

(B) by adding ''and'' at the end, and

(2) by striking clauses (ii), (iii), and (iv), and redesignating clause (v) as clause (ii).

(c) PLANTS BEARING FRUITS AND NUTS.—Section 168(k)(6)(C) is amended—

(1) in clause (i)—

(A) by striking ''2023'' and inserting ''2026'', and

(B) by adding ''and'' at the end, and

(2) by striking clauses (ii), (iii), and (iv), and redesignating clause (v) as clause (ii).

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to property placed in service after December 31, 2022.

(2) PLANTS BEARING FRUITS AND NUTS.—The amendments made by subsection (c) shall apply to specified plants planted or grafted after December 31, 2022.

SEC. 204. INCREASE IN LIMITATIONS ON EXPENSING OF DEPRECIABLE BUSINESS ASSETS.

(a) IN GENERAL.—Section 179(b) is amended—

(1) by striking ''$1,000,000'' in paragraph (1) and inserting ''$1,290,000'', and

(2) by striking ''$2,500,000'' in paragraph (2) and inserting ''$3,220,000''.

(b) INFLATION ADJUSTMENT.—Section 179(b)(6) is amended—

(1) by striking ''2018'' and inserting ''2024 (2018 in the case of the dollar amount in paragraph (5)(A))'', and

(2) by striking '' 'calendar year 2017'' and inserting '' 'calendar year 2024' ('calendar year 2017' in the case of the dollar amount in paragraph (5)(A))''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service in taxable years beginning after December 31, 2023.

TITLE III—INCREASING GLOBAL COMPETITIVENESS

Subtitle A—United States-Taiwan Expedited Double-Tax Relief Act

SEC. 301. SHORT TITLE.

This subtitle may be cited as the ''United States-Taiwan Expedited Double-Tax Relief Act''.

SEC. 302. SPECIAL RULES FOR TAXATION OF CERTAIN RESIDENTS OF TAIWAN.

(a) IN GENERAL.—Subpart D of part II of subchapter N of chapter 1 is amended by inserting after section 894 the following new section:

''SEC. 894A. SPECIAL RULES FOR QUALIFIED RESIDENTS OF TAIWAN.

''(a) CERTAIN INCOME FROM UNITED STATES SOURCES.—

''(1) INTEREST, DIVIDENDS, AND ROYALTIES, ETC.—

''(A) IN GENERAL.—In the case of interest (other than original issue discount), dividends, royalties, amounts described in section 871(a)(1)(C), and gains described in section 871(a)(1)(D) received by or paid to a qualified resident of Taiwan—

''(i) sections 871(a), 881(a), 1441(a), 1441(c)(5), and 1442(a) shall each be applied by substituting 'the applicable percentage (as defined in section 894A(a)(1)(C))' for '30 percent' each place it appears, and

''(ii) sections 871(a), 881(a), and 1441(c)(1) shall each be applied by substituting 'a United States permanent establishment of a qualified resident of Taiwan' for 'a trade or business within the United States' each place it appears.

''(B) EXCEPTIONS.—

''(i) IN GENERAL.—Subparagraph (A) shall not apply to—

''(I) any dividend received from or paid by a real estate investment trust which is not a qualified REIT dividend,

''(II) any amount subject to section 897,

''(III) any amount received from or paid by an expatriated entity (as defined in section 7874(a)(2)) to a foreign related person (as defined in section 7874(d)(3)), and

''(IV) any amount which is included in income under section 860C to the extent that such amount does not exceed an excess inclusion with respect to a REMIC.

''(ii) QUALIFIED REIT DIVIDEND.—For purposes of clause (i)(I), the term 'qualified REIT dividend' means any dividend received from or paid by a real estate investment trust if such dividend is paid with respect to a class of shares that is publicly traded and the recipient of the dividend is a person who holds an interest in any class of shares of the real estate investment trust of not more than 5 percent.

''(C) APPLICABLE PERCENTAGE.—For purposes of applying subparagraph (A)(i)—

''(i) IN GENERAL.—Except as provided in clause (ii), the term 'applicable percentage' means 10 percent.

''(ii) SPECIAL RULES FOR DIVIDENDS.— In the case of any dividend in respect of stock received by or paid to a qualified resident of Taiwan, the applicable percentage shall be 15 percent (10 percent in the case of a dividend which meets the requirements of subparagraph (D) and is received by or paid to an entity taxed as a corporation in Taiwan).

''(D) REQUIREMENTS FOR LOWER DIVIDEND RATE.—

''(i) IN GENERAL.—The requirements of this subparagraph are met with respect to any dividend in respect of stock in a corporation if, at all times during the 12-month period ending on the date such stock becomes ex-dividend with respect to such dividend—

''(I) the dividend is derived by a qualified resident of Taiwan, and

''(II) such qualified resident of Taiwan has held directly at least 10 percent (by vote and

value) of the total outstanding shares of stock in such corporation.

For purposes of subclause (II), a person shall be treated as directly holding a share of stock during any period described in the preceding sentence if the share was held by a corporation from which such person later acquired that share and such corporation was, at the time the share was acquired, both a connected person to such person and a qualified resident of Taiwan.

''(ii) EXCEPTION FOR RICS AND REITS.—Notwithstanding clause (i), the requirements of this subparagraph shall not be treated as met with respect to any dividend paid by a regulated investment company or a real estate investment trust.

''(2) QUALIFIED WAGES.—

''(A) IN GENERAL.—No tax shall be imposed under this chapter (and no amount shall be withheld under section 1441(a) or chapter 24) with respect to qualified wages paid to a qualified resident of Taiwan who—

''(i) is not a resident of the United States (determined without regard to subsection (c)(3)(E)), or

''(ii) is employed as a member of the regular component of a ship or aircraft operated in international traffic.

''(B) QUALIFIED WAGES.—

''(i) IN GENERAL.—The term 'qualified wages' means wages, salaries, or similar remunerations with respect to employment involving the performance of personal services within the United States which—

''(I) are paid by (or on behalf of) any employer other than a United States person, and

''(II) are not borne by a United States permanent establishment of any person other than a United States person.

''(ii) EXCEPTIONS.—Such term shall not include directors' fees, income derived as an entertainer or athlete, income derived as a student or trainee, pensions, amounts paid with respect to employment with the United States, any State (or political subdivision thereof), or any possession of the United States (or any political subdivision thereof), or other amounts specified in regulations or guidance under subsection (f)(1)(F).

''(3) INCOME DERIVED FROM ENTERTAINMENT OR ATHLETIC ACTIVITIES.—

''(A) IN GENERAL.—No tax shall be imposed under this chapter (and no amount shall be withheld under section 1441(a) or chapter 24) with respect to income derived by an entertainer or athlete who is a qualified resident of Taiwan from personal activities as such performed in the United States if the aggregate amount of gross receipts from such activities for the taxable year do not exceed $30,000.

''(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to—

''(i) income which is qualified wages (as defined in paragraph (2)(B), determined without regard to clause (ii) thereof), or

''(ii) income which is effectively connected with a United States permanent establishment.

''(b) INCOME CONNECTED WITH A UNITED STATES PERMANENT ESTABLISHMENT OF A QUALIFIED RESIDENT OF TAIWAN.—

''(1) IN GENERAL.—

''(A) IN GENERAL.—In lieu of applying sections 871(b) and 882, a qualified resident of Taiwan that carries on a trade or business within the United States through a United States permanent establishment shall be taxable as provided in section 1, 11, 55, or 59A, on its taxable income which is effectively connected with such permanent establishment.

''(B) DETERMINATION OF TAXABLE INCOME.—In determining taxable income for purposes of paragraph (1), gross income includes only gross income which is effectively connected with the permanent establishment.

''(2) TREATMENT OF DISPOSITIONS OF UNITED STATES REAL PROPERTY.—In the case of a qualified resident of Taiwan, section 897(a) shall be applied—

''(A) by substituting 'carried on a trade or business within the United States through a United States permanent establishment' for 'were engaged in a trade or business within the United States', and

''(B) by substituting 'such United States permanent establishment' for 'such trade or business'.

''(3) TREATMENT OF BRANCH PROFITS TAXES.—In the case of any corporation which is a qualified resident of Taiwan, section 884 shall be applied—

''(A) by substituting '10 percent' for '30 percent ' in subsection (a) thereof, and

''(B) by substituting 'a United States permanent establishment of a qualified resident of Taiwan' for 'the conduct of a trade or business within the United States' in subsection (d)(1) thereof.

''(4) SPECIAL RULE WITH RESPECT TO INCOME DERIVED FROM CERTAIN ENTERTAINMENT OR ATHLETIC ACTIVITIES.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to the extent that the income is derived—

''(i) in respect of entertainment or athletic activities performed in the United States, and

''(ii) by a qualified resident of Taiwan who is not the entertainer or athlete performing such activities.

''(B) EXCEPTION.—Subparagraph (A) shall not apply if the person described in subparagraph (A)(ii) is contractually authorized to designate the individual who is to perform such activities.

''(5) SPECIAL RULE WITH RESPECT TO CERTAIN AMOUNTS.—Paragraph (1) shall not apply to any income which is wages, salaries, or similar remuneration with respect to employment or with respect to any amount which is described in subsection (a)(2)(B)(ii).

''(c) QUALIFIED RESIDENT OF TAIWAN.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified resident of Taiwan' means any person who—

''(A) is liable to tax under the laws of Taiwan by reason of such person's domicile, residence, place of management, place of incorporation, or any similar criterion,

''(B) is not a United States person (determined without regard to paragraph (3)(E)), and

''(C) in the case of an entity taxed as a corporation in Taiwan, meets the requirements of paragraph (2).

''(2) LIMITATION ON BENEFITS FOR CORPORATE ENTITIES OF TAIWAN.—

''(A) IN GENERAL.—Subject to subparagraphs (E) and (F), an entity meets the requirements of this paragraph only if it—

''(i) meets the ownership and income requirements of subparagraph (B),

''(ii) meets the publicly traded requirements of subparagraph (C), or

''(iii) meets the qualified subsidiary requirements of subparagraph (D).

''(B) OWNERSHIP AND INCOME REQUIREMENTS.—The requirements of this subparagraph are met for an entity if—

''(i) at least 50 percent (by vote and value) of the total outstanding shares of stock in such entity are owned directly or indirectly by qualified residents of Taiwan, and

''(ii) less than 50 percent of such entity's gross income (and in the case of an entity that is a member of a tested group, less than 50 percent of the tested group's gross income) is paid or accrued, directly or indirectly, in the form of payments that are deductible for purposes of the income taxes imposed by Taiwan, to persons who are not—

''(I) qualified residents of Taiwan, or

''(II) United States persons who meet such requirements with respect to the United States as determined by the Secretary to be equivalent to the requirements of this subsection (determined without regard to paragraph (1)(B)) with respect to residents of Taiwan.

''(C) PUBLICLY TRADED REQUIREMENTS.—An entity meets the requirements of this subparagraph if—

''(i) the principal class of its shares (and any disproportionate class of shares) of such entity are primarily and regularly traded on an established securities market in Taiwan, or

''(ii) the primary place of management and control of the entity is in Taiwan and all classes of its outstanding shares described in clause (i) are regularly traded on an established securities market in Taiwan.

''(D) QUALIFIED SUBSIDIARY REQUIREMENTS.—An entity meets the requirement of this subparagraph if—

''(i) at least 50 percent (by vote and value) of the total outstanding shares of the stock of such entity are owned directly or indirectly by 5 or fewer entities—

''(I) which meet the requirements of subparagraph (C), or

''(II) which are United States persons the principal class of the shares (and any disproportionate class of shares) of which are primarily and regularly traded on an established securities market in the United States, and

''(ii) the entity meets the requirements of clause (ii) of subparagraph (B).

''(E) ONLY INDIRECT OWNERSHIP THROUGH QUALIFYING INTERMEDIARIES COUNTED.—

''(i) IN GENERAL.—Stock in an entity owned by a person indirectly through 1 or more other persons shall not be treated as owned by such person in determining whether the person meets the requirements of subparagraph (B)(i) or (D)(i) unless all such other persons are qualifying intermediate owners.

''(ii) QUALIFYING INTERMEDIATE OWNERS.—The term 'qualifying intermediate owner' means a person that is—

''(I) a qualified resident of Taiwan, or

''(II) a resident of any other foreign country (other than a foreign country that is a foreign country of concern) that has in effect a comprehensive convention with the United States for the avoidance of double taxation.

''(iii) SPECIAL RULE FOR QUALIFIED SUBSIDIARIES.—For purposes of applying subparagraph (D)(i), the term 'qualifying intermediate owner' shall include any person who is a United States person who meets such requirements with respect to the United States as determined by the Secretary to be equivalent to the requirements of this subsection (determined without regard to paragraph (1)(B)) with respect to residents of Taiwan.

''(F) CERTAIN PAYMENTS NOT INCLUDED.—In determining whether the requirements of subparagraph (B)(ii) or (D)(ii) are met with respect to an entity, the following payments shall not be taken into account:

''(i) Arm's-length payments by the entity in the ordinary course of business for services or tangible property.

''(ii) In the case of a tested group, intragroup transactions.

''(3) DUAL RESIDENTS.—

''(A) RULES FOR DETERMINATION OF STATUS.—

''(i) IN GENERAL.—An individual who is an applicable dual resident and who is described in subparagraph (B), (C), or (D) shall be treated as a qualified resident of Taiwan.

''(ii) APPLICABLE DUAL RESIDENT.—For purposes of this paragraph, the term 'applicable dual resident' means an individual who—

''(I) is not a United States citizen,

''(II) is a resident of the United States (determined without regard to subparagraph (E)), and

''(III) would be a qualified resident of Taiwan but for paragraph (1)(B).

''(B) PERMANENT HOME.—An individual is described in this subparagraph if such individual—

''(i) has a permanent home available to such individual in Taiwan, and

''(ii) does not have a permanent home available to such individual in the United States.

''(C) CENTER OF VITAL INTERESTS.—An individual is described in this subparagraph if—

''(i) such individual has a permanent home available to such individual in both Taiwan and the United States, and

''(ii) such individual's personal and economic relations (center of vital interests) are closer to Taiwan than to the United States.

''(D) HABITUAL ABODE.—An individual is described in this subparagraph if—

''(i) such individual—

''(I) does not have a permanent home available to such individual in either Taiwan or the United States, or

''(II) has a permanent home available to such individual in both Taiwan and the United States but such individual's center of vital interests under subparagraph (C)(ii) cannot be determined, and

''(ii) such individual has a habitual abode in Taiwan and not the United States.

''(E) UNITED STATES TAX TREATMENT OF QUALIFIED RESIDENT OF TAIWAN.—Notwithstanding section 7701, an individual who is treated as a qualified resident of Taiwan by reason of this paragraph for all or any portion of a taxable year shall not be treated as a resident of the United States for purposes of computing such individual's United States income tax liability for such taxable year or portion thereof.

''(4) RULES OF SPECIAL APPLICATION.—

''(A) DIVIDENDS.—For purposes of applying this section to any dividend, paragraph (2)(D) shall be applied without regard to clause (ii) thereof.

''(B) ITEMS OF INCOME EMANATING FROM AN ACTIVE TRADE OR BUSINESS IN TAIWAN.—For purposes of this section—

''(i) IN GENERAL.—Notwithstanding the preceding paragraphs of this subsection, if an entity taxed as a corporation in Taiwan is not a qualified resident of Taiwan but meets the requirements of subparagraphs (A) and (B) of paragraph (1), any qualified item of income such entity derived from the United States shall be treated as income of a qualified resident of Taiwan.

''(ii) QUALIFIED ITEMS OF INCOME.—

''(I) IN GENERAL.—The term 'qualified item of income' means any item of income which emanates from, or is incidental to, the conduct of an active trade or business in Taiwan (other than operating as a holding company, providing overall supervision or administration of a group of companies, providing group financing, or making or managing investments (unless such making or managing investments is carried on by a bank, insurance company, or registered securities dealer in the ordinary course of its business as such)).

''(II) SUBSTANTIAL ACTIVITY REQUIREMENT.—An item of income which is derived from a trade or business conducted in the United States or from a connected person shall be a qualified item of income only if the trade or business activity conducted in Taiwan to which the item is related is substantial in relation to the same or a complementary trade or business activity carried on in the United States. For purposes of applying this subclause, activities conducted by persons that are connected to the entity described in clause (i) shall be deemed to be conducted by such entity.

''(iii) EXCEPTION.—This subparagraph shall not apply to any item of income derived by an entity if at least 50 percent (by vote or value) of such entity is owned (directly or indirectly) or controlled by residents of a foreign country of concern.

''(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) UNITED STATES PERMANENT ESTABLISHMENT.—

''(A) IN GENERAL.—The term 'United States permanent establishment' means, with respect to a qualified resident of Taiwan, a permanent establishment of such resident which is within the United States.

''(B) SPECIAL RULE.—The determination of whether there is a permanent establishment of a qualified resident of Taiwan within the United States shall be made without regard to whether an entity which is taxed as a corporation in Taiwan and which is a qualified resident of Taiwan controls or is controlled by—

''(i) a domestic corporation, or

''(ii) any other person that carries on business in the United States (whether through a permanent establishment or otherwise).

''(2) PERMANENT ESTABLISHMENT.—

''(A) IN GENERAL.—The term 'permanent establishment' means a fixed place of business through which a trade or business is wholly or partly carried on. Such term shall include—

''(i) a place of management,

''(ii) a branch,

''(iii) an office,

''(iv) a factory,

''(v) a workshop, and

''(vi) a mine, an oil or gas well, a quarry, or any other place of extraction of natural resources.

''(B) SPECIAL RULES FOR CERTAIN TEMPORARY PROJECTS.—

''(i) IN GENERAL.—A building site or construction or installation project, or an installation or drilling rig or ship used for the exploration or exploitation of the sea bed and its subsoil and their natural resources, constitutes a permanent establishment only if it lasts, or the activities of the rig or ship lasts, for more than 12 months.

''(ii) DETERMINATION OF 12-MONTH PERIOD.—For purposes of clause (i), the period over which a building site or construction or installation project of a person lasts shall include any period of more than 30 days during which such person does not carry on activities at such building site or construction or installation project but connected activities are carried on at such building site or construction or installation project by one or more connected persons.

''(C) HABITUAL EXERCISE OF CONTRACT AUTHORITY TREATED AS PERMANENT ESTABLISHMENT.—Notwithstanding subparagraphs (A) and (B), where a person (other than an agent of an independent status to whom subparagraph (D)(ii) applies) is acting on behalf of a trade or business of a qualified resident of Taiwan and has and habitually exercises an authority to conclude contracts that are binding on the trade or business, that trade or business shall be deemed to have a permanent establishment in the country in which such authority is exercised in respect of any activities that the person undertakes for the trade or business, unless the activities of such person are limited to those described in subparagraph (D)(i) that, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that subparagraph.

''(D) EXCLUSIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraphs (A) and (B), the term 'permanent establishment' shall not include—

''(I) the use of facilities solely for the purpose of storage, display, or delivery of goods or merchandise belonging to the trade or business,

''(II) the maintenance of a stock of goods or merchandise belonging to the trade or business solely for the purpose of storage, display, or delivery,

''(III) the maintenance of a stock of goods or merchandise belonging to the trade or business solely for the purpose of processing by another trade or business,

''(IV) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the trade or business,

''(V) the maintenance of a fixed place of business solely for the purpose of carrying on, for the trade or business, any other activity of a preparatory or auxiliary character, or

''(VI) the maintenance of a fixed place of business solely for any combination of the activities mentioned in subclauses (I) through (V), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

''(ii) BROKERS AND OTHER INDEPENDENT AGENTS.—A trade or business shall not be considered to have a permanent establishment in a country merely because it carries on business in such country through a broker, general commission agent, or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business as independent agents.

''(3) TESTED GROUP.—The term 'tested group' includes, with respect to any entity taxed as a corporation in Taiwan, such entity and any other entity taxed as a corporation in Taiwan that—

''(A) participates as a member with such entity in a tax consolidation, fiscal unity, or similar regime that requires members of the group to share profits or losses, or

''(B) shares losses with such entity pursuant to a group relief or other loss sharing regime.

''(4) CONNECTED PERSON.—Two persons shall be 'connected persons' if one owns, directly or indirectly, at least 50 percent of the interests in the other (or, in the case of a corporation, at least 50 percent of the aggregate vote and value of the corporation's shares) or another person owns, directly or indirectly, at least 50 percent of the interests (or, in the case of a corporation, at least 50 percent of the aggregate vote and value of the corporation's shares) in each person. In any case, a person shall be connected to another if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same person or persons.

''(5) FOREIGN COUNTRY OF CONCERN.—The term 'foreign country of concern' has the meaning given such term under paragraph (7) of section 9901 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (15 U.S.C. 4651(7)), as added by section 103(a)(4) of the CHIPS Act of 2022).

''(6) PARTNERSHIPS; BENEFICIARIES OF ESTATES AND TRUSTS.—For purposes of this section—

''(A) a qualified resident of Taiwan which is a partner of a partnership which carries on a trade or business within the United States through a United States permanent establishment shall be treated as carrying on such trade or business through such permanent establishment, and

''(B) a qualified resident of Taiwan which is a beneficiary of an estate or trust which carries on a trade or business within the United States through a United States permanent establishment shall be treated as carrying on such trade or business through such permanent establishment.

''(7) DENIAL OF BENEFITS FOR CERTAIN PAYMENTS THROUGH HYBRID ENTITIES.—For purposes of this section, rules similar to the rules of section 894(c) shall apply.

''(e) APPLICATION.—

''(1) IN GENERAL.—This section shall not apply to any period unless the Secretary has determined that Taiwan has provided benefits to United States persons for such period that are reciprocal to the benefits provided to qualified residents of Taiwan under this section.

''(2) PROVISION OF RECIPROCITY.—The President or his designee is authorized to exchange letters, enter into an agreement, or take other necessary and appropriate steps relative to Taiwan for the reciprocal provision of the benefits described in this section.

''(f) REGULATIONS OR OTHER GUIDANCE.—

''(1) IN GENERAL.—The Secretary shall issue such regulations or other guidance as may be necessary or appropriate to carry out the provisions of this section, including such regulations or guidance for—

''(A) determining—

''(i) what constitutes a United States permanent establishment of a qualified resident of Taiwan, and

''(ii) income that is effectively connected with such a permanent establishment,

''(B) preventing the abuse of the provisions of this section by persons who are not (or who should not be treated as) qualified residents of Taiwan,

''(C) requirements for record keeping and reporting,

''(D) rules to assist withholding agents or employers in determining whether a foreign person is a qualified resident of Taiwan for purposes of determining whether withholding or reporting is required for a payment (and, if withholding is required, whether it should be applied at a reduced rate),

''(E) the application of subsection (a)(1)(D)(i) to stock held by predecessor owners,

''(F) determining what amounts are to be treated as qualified wages for purposes of subsection (a)(2),

''(G) determining the amounts to which subsection (a)(3) applies,

''(H) defining established securities market for purposes of subsection (c),

''(I) the application of the rules of subsection (c)(4)(B),

''(J) the application of subsection (d)(6) and section 1446,

''(K) determining ownership interests held by residents of a foreign country of concern, and

''(L) determining the starting and ending dates for periods with respect to the application of this section under subsection (e), which may be separate dates for taxes withheld at the source and other taxes.

''(2) REGULATIONS TO BE CONSISTENT WITH MODEL TREATY.—Any regulations or other guidance issued under this section shall, to the extent practical, be consistent with the provisions of the United States model income tax convention dated February 7, 2016.''.

(b) CONFORMING AMENDMENT TO WITHHOLDING TAX.—Subchapter A of chapter 3 is amended by adding at the end the following new section:

''SEC. 1447. WITHHOLDING FOR QUALIFIED RESIDENTS OF TAIWAN.

''For reduced rates of withholding for certain residents of Taiwan, see section 894A.''.

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart D of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 894 the following new item:

''Sec. 894A. Special rules for qualified residents of Taiwan.''.

(2) The table of sections for subchapter A of chapter 3 is amended by adding at the end the following new item:

''Sec. 1447. Withholding for qualified residents of Taiwan.''.

Subtitle B—United States-Taiwan Tax Agreement Authorization Act

SEC. 311. SHORT TITLE.

This subtitle may be cited as the ''United States-Taiwan Tax Agreement Authorization Act''.

SEC. 312. DEFINITIONS.

In this subtitle:

(1) AGREEMENT.—The term ''Agreement'' means the tax agreement authorized by section 313(a).

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Foreign Relations and the Committee on Finance of the Senate; and

(B) the Committee on Ways and Means of the House of Representatives.

(3) APPROVAL LEGISLATION.—The term ''approval legislation'' means legislation that approves the Agreement.

(4) IMPLEMENTING LEGISLATION.—The term ''implementing legislation'' means legislation that makes any changes to the Internal Revenue Code of 1986 necessary to implement the Agreement.

SEC. 313. AUTHORIZATION TO NEGOTIATE AND ENTER INTO AGREEMENT.

(a) IN GENERAL.—Subsequent to a determination under section 894A(e)(1) of the Internal Revenue Code of 1986 (as added by the United States-Taiwan Expedited Double-Tax Relief Act), the President is authorized to negotiate and enter into a tax agreement relative to Taiwan.

(b) ELEMENTS OF AGREEMENT.—

(1) CONFORMITY WITH BILATERAL INCOME TAX CONVENTIONS.—The President shall ensure that—

(A) any provisions included in the Agreement conform with provisions customarily contained in United States bilateral income tax conventions, as exemplified by the 2016 United States Model Income Tax Convention; and

(B) the Agreement does not include elements outside the scope of the 2016 United States Model Income Tax Convention.

(2) INCORPORATION OF TAX AGREEMENTS AND LAWS.—Notwithstanding paragraph (1), the Agreement may incorporate and restate provisions of any agreement, or existing United States law, addressing double taxation for residents of the United States and Taiwan.

(3) AUTHORITY.—The Agreement shall include the following statement: ''The Agreement is entered into pursuant to the United States-Taiwan Tax Agreement Authorization Act.''

(4) ENTRY INTO FORCE.—The Agreement shall include a provision conditioning entry into force upon—

(A) enactment of approval legislation and implementing legislation pursuant to section 317; and

(B) confirmation by the Secretary of the Treasury that the relevant authority in Taiwan has approved and taken appropriate steps required to implement the Agreement.

SEC. 314. CONSULTATIONS WITH CONGRESS.

(a) NOTIFICATION UPON COMMENCEMENT OF NEGOTIATIONS.—The President shall provide written notification to the appropriate congressional committees of the commencement of negotiations between the United States and Taiwan on the Agreement at least 15 calendar days before commencing such negotiations.

(b) CONSULTATIONS DURING NEGOTIATIONS.—

(1) BRIEFINGS.—Not later than 90 days after commencement of negotiations with respect to the Agreement, and every 180 days thereafter until the President enters into the Agreement, the President shall provide a briefing to the appropriate congressional committees on the status of the negotiations, including a description of elements under negotiation.

(2) MEETINGS AND OTHER CONSULTATIONS.—

(A) IN GENERAL.—In the course of negotiations with respect to the Agreement, the Secretary of the Treasury, in coordination with the Secretary of State, shall—

(i) meet, upon request, with the chairman or ranking member of any of the appropriate congressional committees regarding negotiating objectives and the status of negotiations in progress; and

(ii) consult closely and on a timely basis with, and keep fully apprised of the negotiations, the appropriate congressional committees.

(B) ELEMENTS OF CONSULTATIONS.—The consultations described in subparagraph (A) shall include consultations with respect to—

(i) the nature of the contemplated Agreement;

(ii) how and to what extent the contemplated Agreement is consistent with the elements set forth in section 313(b); and

(iii) the implementation of the contemplated Agreement, including—

(I) the general effect of the contemplated Agreement on existing laws;

(II) proposed changes to any existing laws to implement the contemplated Agreement; and

(III) proposed administrative actions to implement the contemplated Agreement.

SEC. 315. APPROVAL AND IMPLEMENTATION OF AGREEMENT.

(a) IN GENERAL.—The Agreement may not enter into force unless—

(1) the President, at least 60 days before the day on which the President enters into the Agreement, publishes the text of the contemplated Agreement on a publicly available website of the Department of the Treasury; and

(2) there is enacted into law, with respect to the Agreement, approval legislation and implementing legislation pursuant to section 317.

(b) ENTRY INTO FORCE.—The President may provide for the Agreement to enter into force upon—

(1) enactment of approval legislation and implementing legislation pursuant to section 317; and

(2) confirmation by the Secretary of the Treasury that the relevant authority in Taiwan has approved and taken appropriate steps required to implement the Agreement.

SEC. 316. SUBMISSION TO CONGRESS OF AGREEMENT AND IMPLEMENTATION POLICY.

(a) SUBMISSION OF AGREEMENT.—Not later than 270 days after the President enters into the Agreement, the President or the President's designee shall submit to Congress—

(1) the final text of the Agreement; and

(2) a technical explanation of the Agreement.

(b) SUBMISSION OF IMPLEMENTATION POLICY.—Not later than 270 days after the President enters into the Agreement, the Secretary of the Treasury shall submit to Congress—

(1) a description of those changes to existing laws that the President considers would be required in order to ensure that the United States acts in a manner consistent with the Agreement; and

(2) a statement of anticipated administrative action proposed to implement the Agreement.

SEC. 317. CONSIDERATION OF APPROVAL LEGISLATION AND IMPLEMENTING LEGISLATION.

(a) IN GENERAL.—The approval legislation with respect to the Agreement shall include the following: ''Congress approves the Agreement submitted to Congress pursuant to section 316 of the United States-Taiwan Tax Agreement Authorization Act on _____.'', with the blank space being filled with the appropriate date.

(b) APPROVAL LEGISLATION COMMITTEE REFERRAL.—The approval legislation shall—

(1) in the Senate, be referred to the Committee on Foreign Relations; and

(2) in the House of Representatives, be referred to the Committee on Ways and Means.

(c) IMPLEMENTING LEGISLATION COMMITTEE REFERRAL.—The implementing legislation shall—

(1) in the Senate, be referred to the Committee on Finance; and

(2) in the House of Representatives, be referred to the Committee on Ways and Means.

SEC. 318. RELATIONSHIP OF AGREEMENT TO INTERNAL REVENUE CODE OF 1986.

(a) INTERNAL REVENUE CODE OF 1986 TO CONTROL.—No provision of the Agreement or approval legislation, nor the application of any such provision to any person or circumstance, which is inconsistent with any provision of the Internal Revenue Code of 1986, shall have effect.

(b) CONSTRUCTION.—Nothing in this subtitle shall be construed—

(1) to amend or modify any law of the United States; or

(2) to limit any authority conferred under any law of the United States,

unless specifically provided for in this subtitle.

SEC. 319. AUTHORIZATION OF SUBSEQUENT TAX AGREEMENTS RELATIVE TO TAIWAN.

(a) IN GENERAL.—Subsequent to the enactment of approval legislation and implementing legislation pursuant to section 317—

(1) the term ''tax agreement'' in section 313(a) shall be treated as including any tax agreement relative to Taiwan which supplements or supersedes the Agreement to which such approval legislation and implementing legislation relates, and

(2) the term ''Agreement'' shall be treated as including such tax agreement.

(b) REQUIREMENTS, ETC., TO APPLY SEPARATELY.—The provisions of this subtitle (including section 314) shall be applied separately with respect to each tax agreement referred to in subsection (a).

SEC. 320. UNITED STATES TREATMENT OF DOUBLE TAXATION MATTERS WITH RESPECT TO TAIWAN.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States addresses issues with respect to double taxation with foreign countries by entering into bilateral income tax conventions (known as tax treaties) with such countries, subject to the advice and consent of the Senate to ratification pursuant to article II of the Constitution.

(2) The United States has entered into more than sixty such tax treaties, which facilitate economic activity, strengthen bilateral cooperation, and benefit United States workers, businesses, and other United States taxpayers.

(3) Due to Taiwan's unique status, the United States is unable to enter into an article II tax treaty with Taiwan, necessitating an agreement to address issues with respect to double taxation.

(b) STATEMENT OF POLICY.—It is the policy of the United States to—

(1) provide for additional bilateral tax relief with respect to Taiwan, beyond that provided for in section 894A of the Internal Revenue Code of 1986 (as added by the United States-Taiwan Expedited Double-Tax Relief Act), only after entry into force of an Agreement, as provided for in section 315, and only in a manner consistent with such Agreement; and

(2) continue to provide for bilateral tax relief with sovereign states to address double taxation and other related matters through entering into bilateral income tax conventions, subject to the Senate's advice and consent to ratification pursuant to article II of the Constitution.

TITLE IV—ASSISTANCE FOR DISASTER-IMPACTED COMMUNITIES

SEC. 401. SHORT TITLE.

This title may be cited as the ''Federal Disaster Tax Relief Act of 2024''.

SEC. 402. EXTENSION OF RULES FOR TREATMENT OF CERTAIN DISASTER-RELATED PERSONAL CASUALTY LOSSES.

For purposes of applying section 304(b) of the Taxpayer Certainty and Disaster Tax Relief Act of 2020, section 301 of such Act shall be applied by substituting ''the Federal Disaster Tax Relief Act of 2024'' for ''this Act'' each place it appears.

SEC. 403. EXCLUSION FROM GROSS INCOME FOR COMPENSATION FOR LOSSES OR DAMAGES RESULTING FROM CERTAIN WILDFIRES.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, gross income shall not include any amount received by an individual as a qualified wildfire relief payment.

(b) QUALIFIED WILDFIRE RELIEF PAYMENT.—For purposes of this section—

(1) IN GENERAL.—The term ''qualified wildfire relief payment'' means any amount received by or on behalf of an individual as compensation for losses, expenses, or damages (including compensation for additional living expenses, lost wages (other than compensation for lost wages paid by the employer which would have otherwise paid such wages), personal injury, death, or emotional distress) incurred as a result of a qualified wildfire disaster, but only to the extent the losses, expenses, or damages compensated by such payment are not compensated for by insurance or otherwise.

(2) QUALIFIED WILDFIRE DISASTER.—The term ''qualified wildfire disaster'' means any federally declared disaster (as defined in section 165(i)(5)(A) of the Internal Revenue Code of 1986) declared, after December 31, 2014, as a result of any forest or range fire.

(c) DENIAL OF DOUBLE BENEFIT.—Notwithstanding any other provision of the Internal Revenue Code of 1986—

(1) no deduction or credit shall be allowed (to the person for whose benefit a qualified wildfire relief payment is made) for, or by reason of, any expenditure to the extent of the amount excluded under this section with respect to such expenditure, and

(2) no increase in the basis or adjusted basis of any property shall result from any amount excluded under this subsection with respect to such property.

(d) LIMITATION ON APPLICATION.—This section shall only apply to qualified wildfire relief payments received by the individual during taxable years beginning after December 31, 2019, and before January 1, 2026.

SEC. 404. EAST PALESTINE DISASTER RELIEF PAYMENTS.

(a) DISASTER RELIEF PAYMENTS TO VICTIMS OF EAST PALESTINE TRAIN DERAILMENT.—East Palestine train derailment payments shall be treated as qualified disaster relief payments for purposes of section 139(b) of the Internal Revenue Code of 1986.

(b) EAST PALESTINE TRAIN DERAILMENT PAYMENTS.—For purposes of this section, the term ''East Palestine train derailment payment'' means any amount received by or on behalf of an individual as compensation for loss, damages, expenses, loss in real property value, closing costs with respect to real property (including realtor commissions), or inconvenience (including access to real property) resulting from the East Palestine train derailment if such amount was provided by—

(1) a Federal, State, or local government agency,

(2) Norfolk Southern Railway, or

(3) any subsidiary, insurer, or agent of Norfolk Southern Railway or any related person.

(c) TRAIN DERAILMENT.—For purposes of this section, the term ''East Palestine train derailment'' means the derailment of a train in East Palestine, Ohio, on February 3, 2023.

(d) EFFECTIVE DATE.—This section shall apply to amounts received on or after February 3, 2023.

TITLE V—MORE AFFORDABLE HOUSING

SEC. 501. STATE HOUSING CREDIT CEILING INCREASE FOR LOW-INCOME HOUSING CREDIT.

(a) IN GENERAL.—Section 42(h)(3)(I) is amended—

(1) by striking ''and 2021,'' and inserting ''2021, 2023, 2024, and 2025,'', and

(2) by striking ''2018, 2019, 2020, AND 2021'' in the heading and inserting ''CERTAIN CALENDAR YEARS''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years after 2022.

SEC. 502. TAX-EXEMPT BOND FINANCING REQUIREMENT.

(a) IN GENERAL.—Section 42(h)(4) is amended by striking subparagraph (B) and inserting the following:

''(B) SPECIAL RULE WHERE MINIMUM PERCENT OF BUILDINGS IS FINANCED WITH TAX-EXEMPT BONDS SUBJECT TO VOLUME CAP.—For purposes of subparagraph (A), paragraph (1) shall not apply to any portion of the credit allowable under subsection (a) with respect to a building if—

''(i) 50 percent or more of the aggregate basis of such building and the land on which the building is located is financed by 1 or more obligations described in subparagraph (A), or

''(ii)(I) 30 percent or more of the aggregate basis of such building and the land on which the building is located is financed by 1 or more qualified obligations, and

''(II) 1 or more of such qualified obligations—

''(aa) are part of an issue the issue date of which is after December 31, 2023, and

''(bb) provide the financing for not less than 5 percent of the aggregate basis of such building and the land on which the building is located.

''(C) QUALIFIED OBLIGATION.—For purposes of subparagraph (B)(ii), the term 'qualified obligation' means an obligation which is described in subparagraph (A) and which is part of an issue the issue date of which is before January 1, 2026.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to buildings placed in service in taxable years beginning after December 31, 2023.

(2) REHABILITATION EXPENDITURES TREATED AS SEPARATE NEW BUILDING.—In the case of any building with respect to which any expenditures are treated as a separate new building under section 42(e) of the Internal Revenue Code of 1986, for purposes of paragraph (1), both the existing building and the separate new building shall be treated as having been placed in service on the date such expenditures are treated as placed in service under section 42(e)(4) of such Code.

TITLE VI—TAX ADMINISTRATION AND ELIMINATING FRAUD

SEC. 601. INCREASE IN THRESHOLD FOR REQUIRING INFORMATION REPORTING WITH RESPECT TO CERTAIN PAYEES.

(a) IN GENERAL.—Sections 6041(a) is amended by striking ''$600'' and inserting ''$1,000''.

(b) INFLATION ADJUSTMENT.—Section 6041 is amended by adding at the end the following new subsection:

''(h) INFLATION ADJUSTMENT.—In the case of any calendar year after 2024, the dollar amount in subsection (a) shall be increased by an amount equal to—

''(1) such dollar amount, multiplied by

''(2) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2023' for 'calendar year 2016' in subparagraph (A)(ii) thereof.

If any increase under the preceding sentence is not a multiple of $100, such increase shall be rounded to the nearest multiple of $100.''.

(c) APPLICATION TO REPORTING ON REMUNERATION FOR SERVICES AND DIRECT SALES.—Section 6041A is amended—

(1) in subsection (a)(2), by striking ''is $600 or more'' and inserting ''equals or exceeds the dollar amount in effect for such calendar year under section 6041(a)'', and

(2) in subsection (b)(1)(B), by striking ''is $5,000 or more'' and inserting ''equals or exceeds the dollar amount in effect for such calendar year under section 6041(a)''.

(d) APPLICATION TO BACKUP WITHHOLDING.—Section 3406(b)(6) is amended—

(1) by striking ''$600'' in subparagraph (A) and inserting ''the dollar amount in effect for such calendar year under section 6041(a)'', and

(2) by striking ''ONLY WHERE AGGREGATE FOR CALENDAR YEAR IS $600 OR MORE'' in the heading and inserting ''ONLY IF IN EXCESS OF THRESHOLD''.

(e) CONFORMING AMENDMENTS.—

(1) The heading of section 6041(a) is amended by striking ''OF $600 OR MORE'' and inserting ''EXCEEDING THRESHOLD''.

(2) Section 6041(a) is amended by striking ''taxable year'' and inserting ''calendar year''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to payments made after December 31, 2023.

SEC. 602. ENFORCEMENT PROVISIONS WITH RESPECT TO COVID-RELATED EMPLOYEE RETENTION CREDITS.

(a) INCREASE IN ASSESSABLE PENALTY ON COVID–ERTC PROMOTERS FOR AIDING AND ABETTING UNDERSTATEMENTS OF TAX LIABILITY.—

(1) IN GENERAL.—If any COVID–ERTC promoter is subject to penalty under section 6701(a) of the Internal Revenue Code of 1986 with respect to any COVID–ERTC document, notwithstanding paragraphs (1) and (2) of section 6701(b) of such Code, the amount of the penalty imposed under such section 6701(a) shall be the greater of—

(A) $200,000 ($10,000, in the case of a natural person), or

(B) 75 percent of the gross income derived (or to be derived) by such promoter with respect to the aid, assistance, or advice referred to in section 6701(a)(1) of such Code with respect to such document.

(2) NO INFERENCE.—Paragraph (1) shall not be construed to create any inference with respect to the proper application of the knowledge requirement of section 6701(a)(3) of the Internal Revenue Code of 1986.

(b) FAILURE TO COMPLY WITH DUE DILIGENCE REQUIREMENTS TREATED AS KNOWLEDGE FOR PURPOSES OF ASSESSABLE PENALTY FOR AIDING AND ABETTING UNDERSTATEMENT OF TAX LIABILITY.—In the case of any COVID–ERTC promoter, the knowledge requirement of section 6701(a)(3) of the Internal Revenue Code of 1986 shall be treated as satisfied with respect to any COVID–ERTC document with respect to which such promoter provided aid, assistance, or advice, if such promoter fails to comply with the due diligence requirements referred to in subsection (c)(1).

(c) ASSESSABLE PENALTY FOR FAILURE TO COMPLY WITH DUE DILIGENCE REQUIREMENTS.—

(1) IN GENERAL.—Any COVID–ERTC promoter which provides aid, assistance, or advice with respect to any COVID–ERTC document and which fails to comply with due diligence requirements imposed by the Secretary with respect to determining eligibility for, or the amount of, any COVID-related employee retention tax credit, shall pay a penalty of $1,000 for each such failure.

(2) DUE DILIGENCE REQUIREMENTS.—Except as otherwise provided by the Secretary, the due diligence requirements referred to in paragraph (1) shall be similar to the due diligence requirements imposed under section 6695(g).

(3) RESTRICTION TO DOCUMENTS USED IN CONNECTION WITH RETURNS OR CLAIMS FOR REFUND.—Paragraph (1) shall not apply with respect to any COVID–ERTC document unless such document constitutes, or relates to, a return or claim for refund.

(4) TREATMENT AS ASSESSABLE PENALTY, ETC.—For purposes of the Internal Revenue Code of 1986, the penalty imposed under paragraph (1) shall be treated in the same manner as a penalty imposed under section 6695(g).

(5) SECRETARY.—For purposes of this subsection, the term ''Secretary'' means the Secretary of the Treasury or the Secretary's delegate.

(d) ASSESSABLE PENALTIES FOR FAILURE TO DISCLOSE INFORMATION, MAINTAIN CLIENT LISTS, ETC.—For purposes of sections 6111, 6112, 6707 and 6708 of the Internal Revenue Code of 1986—

(1) any COVID-related employee retention tax credit (whether or not the taxpayer claims such COVID-related employee retention tax credit) shall be treated as a listed transaction (and as a reportable transaction) with respect to any COVID–ERTC promoter if such promoter provides any aid, assistance, or advice with respect to any COVID–ERTC document relating to such COVID-related employee retention tax credit, and

(2) such COVID–ERTC promoter shall be treated as a material advisor with respect to such transaction.

(e) COVID–ERTC PROMOTER.—For purposes of this section—

(1) IN GENERAL.—The term ''COVID–ERTC promoter'' means, with respect to any COVID–ERTC document, any person which provides aid, assistance, or advice with respect to such document if—

(A) such person charges or receives a fee for such aid, assistance, or advice which is based on the amount of the refund or credit with respect to such document and, with respect to such person's taxable year in which such person provided such assistance or the preceding taxable year, the aggregate gross receipts of such person for aid, assistance, and advice with respect to all COVID-ERTC documents exceeds 20 percent of the gross receipts of such person for such taxable year, or

(B) with respect to such person's taxable year in which such person provided such assistance or the preceding taxable year—

(i) the aggregate gross receipts of such person for aid, assistance, and advice with respect to all COVID–ERTC documents exceeds 50 percent of the gross receipts of such person for such taxable year, or

(ii) both—

(I) such aggregate gross receipts exceeds 20 percent of the gross receipts of such person for such taxable year, and

(II) the aggregate gross receipts of such person for aid, assistance, and advice with respect to all COVID–ERTC documents (determined after application of paragraph (3)) exceeds $500,000.

(2) EXCEPTION FOR CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—The term ''COVID–ERTC promoter'' shall not include a certified professional employer organization (as defined in section 7705).

(3) AGGREGATION RULE.—For purposes of paragraph (1)(B)(ii)(II), all persons treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986, or subsection (m) or (o) of section 414 of such Code, shall be treated as 1 person.

(4) SHORT TAXABLE YEARS.—In the case of any taxable year of less than 12 months, paragraph (1) shall be applied with respect to the calendar year in which such taxable year begins (in addition to applying to such taxable year).

(f) COVID–ERTC DOCUMENT.—For purposes of this section, the term ''COVID–ERTC document'' means any return, affidavit, claim, or other document related to any COVID-related employee retention tax credit, including any document related to eligibility for, or the calculation or determination of any amount directly related to any COVID-related employee retention tax credit.

(g) COVID-RELATED EMPLOYEE RETENTION TAX CREDIT.—For purposes of this section, the term ''COVID-related employee retention tax credit'' means—

(1) any credit, or advance payment, under section 3134 of the Internal Revenue Code of 1986, and

(2) any credit, or advance payment, under section 2301 of the CARES Act.

(h) LIMITATION ON CREDIT AND REFUND OF COVID-RELATED EMPLOYEE RETENTION TAX CREDITS.—Notwithstanding section 6511 of the Internal Revenue Code of 1986 or any other provision of law, no credit or refund of any COVID-related employee retention tax credit shall be allowed or made after January 31, 2024, unless a claim for such credit or refund is filed by the taxpayer on or before such date.

(i) AMENDMENTS TO EXTEND LIMITATION ON ASSESSMENT.—

(1) IN GENERAL.—Section 3134(l) of the Internal Revenue Code of 1986 is amended to read as follows:

''(l) EXTENSION OF LIMITATION ON ASSESSMENT.—

''(1) IN GENERAL.—Notwithstanding section 6501, the limitation on the time period for the assessment of any amount attributable to a credit claimed under this section shall not expire before the date that is 6 years after the latest of—

''(A) the date on which the original return which includes the calendar quarter with respect to which such credit is determined is filed,

''(B) the date on which such return is treated as filed under section 6501(b)(2), or

''(C) the date on which the claim for credit or refund with respect to such credit is made.

''(2) DEDUCTION FOR WAGES TAKEN INTO ACCOUNT IN DETERMINING IMPROPERLY CLAIMED CREDIT.—

''(A) IN GENERAL.—Notwithstanding section 6511, in the case of an assessment attributable to a credit claimed under this section, the limitation on the time period for credit or refund of any amount attributable to a deduction for improperly claimed ERTC wages shall not expire before the time period for such assessment expires under paragraph (1).

''(B) IMPROPERLY CLAIMED ERTC WAGES.—For purposes of this paragraph, the term 'improperly claimed ERTC wages' means, with

respect to an assessment attributable to a credit claimed under this section, the wages with respect to which a deduction would not have been allowed if the portion of the credit to which such assessment relates had been properly claimed.''.

(2) APPLICATION TO CARES ACT CREDIT.—Section 2301 of the CARES Act is amended by adding at the end the following new subsection:

''(o) EXTENSION OF LIMITATION ON ASSESSMENT.—

''(1) IN GENERAL.—Notwithstanding section 6501 of the Internal Revenue Code of 1986, the limitation on the time period for the assessment of any amount attributable to a credit claimed under this section shall not expire before the date that is 6 years after the latest of—

''(A) the date on which the original return which includes the calendar quarter with respect to which such credit is determined is filed,

''(B) the date on which such return is treated as filed under section 6501(b)(2) of such Code, or

''(C) the date on which the claim for credit or refund with respect to such credit is made.

''(2) DEDUCTION FOR WAGES TAKEN INTO ACCOUNT IN DETERMINING IMPROPERLY CLAIMED CREDIT.—

''(A) IN GENERAL.—Notwithstanding section 6511 of such Code, in the case of an assessment attributable to a credit claimed under this section, the limitation on the time period for credit or refund of any amount attributable to a deduction for improperly claimed ERTC wages shall not expire before the time period for such assessment expires under paragraph (1).

''(B) IMPROPERLY CLAIMED ERTC WAGES.—For purposes of this paragraph, the term 'improperly claimed ERTC wages' means, with respect to an assessment attributable to a credit claimed under this section, the wages with respect to which a deduction would not have been allowed if the portion of the credit to which such assessment relates had been properly claimed.''.

(j) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the provisions of this section shall apply to aid, assistance, and advice provided after March 12, 2020.

(2) DUE DILIGENCE REQUIREMENTS.—Subsections (b) and (c) shall apply to aid, assistance, and advice provided after the date of the enactment of this Act.

(3) LIMITATION ON CREDIT AND REFUND OF COVID-RELATED EMPLOYEE RETENTION TAX CREDITS.—Subsection (h) shall apply to credits and refunds allowed or made after January 31, 2024.

(4) AMENDMENTS TO EXTEND LIMITATION ON ASSESSMENT.—The amendments made by subsection (i) shall apply to assessments made after the date of the enactment of this Act.

(k) TRANSITION RULE WITH RESPECT TO REQUIREMENTS TO DISCLOSE INFORMATION, MAINTAIN CLIENT LISTS, ETC.—Any return under section 6111 of the Internal Revenue Code of 1986, or list under section 6112 of such Code, required by reason of subsection (d) of this section to be filed or maintained, respectively, with respect to any aid, assistance, or advice provided by a COVID–ERTC promoter with respect to a COVID–ERTC document before the date of the enactment of this Act, shall not be required to be so filed or maintained (with respect to such aid, assistance or advice) before the date which is 90 days after such date.

(l) PROVISIONS NOT TO BE CONSTRUED TO CREATE NEGATIVE INFERENCES.—

(1) NO INFERENCE WITH RESPECT TO APPLICATION OF KNOWLEDGE REQUIREMENT TO PRE-ENACTMENT CONDUCT OF COVID-ERTC PROMOTERS, ETC.—Subsection (b) shall not be construed to create any inference with respect to the proper application of section 6701(a)(3) of the Internal Revenue Code of 1986 with respect to any aid, assistance, or advice provided by any COVID-ERTC promoter on or before the date of the enactment of this Act (or with respect to any other aid, assistance, or advice to which such subsection does not apply).

(2) REQUIREMENTS TO DISCLOSE INFORMATION, MAINTAIN CLIENT LISTS, ETC.—Subsections (d) and (k) shall not be construed to create any inference with respect to whether any COVID-related employee retention tax credit is (without regard to subsection (d)) a listed transaction (or reportable transaction) with respect to any COVID–ERTC promoter; and, for purposes of subsection (j), a return or list shall not be treated as required (with respect to such aid, assistance, or advice) by reason of subsection (d) if such return or list would be so required without regard to subsection (d).

(m) REGULATIONS.—The Secretary (as defined in subsection (c)(5)) shall issue such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this section (and the amendments made by this section).

SA 2053. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 1911 proposed by Ms. CANTWELL (for herself, Mr. CRUZ, Ms. DUCKWORTH, and Mr. MORAN) to the bill H.R. 3935, to amend title 49, United States Code, to reauthorize and improve the Federal Aviation Administration and other civil aviation programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE _____—ALGORITHMIC ACCOUNTABILITY

SEC. ___01. DEFINITIONS.

In this title:

(1) AUGMENTED CRITICAL DECISION PROCESS.—The term ''augmented critical decision process'' means a process, procedure, or other activity that employs an automated decision system to make a critical decision.

(2) AUTOMATED DECISION SYSTEM.—The term ''automated decision system'' means any system, software, or process (including one derived from machine learning, statistics, or other data processing or artificial intelligence techniques and excluding passive computing infrastructure) that uses computation, the result of which serves as a basis for a decision or judgment.

(3) BIOMETRICS.—The term ''biometrics'' means any information that represents a biological, physiological, or behavioral attribute or feature of a consumer.

(4) CHAIR.—The term ''Chair'' means the Chair of the Commission.

(5) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(6) CONSUMER.—The term ''consumer'' means an individual.

(7) COVERED ENTITY.—

(A) IN GENERAL.—The term ''covered entity'' means any person, partnership, or corporation over which the Commission has jurisdiction under section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2))—

(i) that deploys any augmented critical decision process; and

(I) had greater than $50,000,000 in average annual gross receipts or is deemed to have greater than $250,000,000 in equity value for the 3-taxable-year period (or for the period during which the person, partnership, or corporation has been in existence, if such period is less than 3 years) preceding the most recent fiscal year, as determined in accordance with paragraphs (2) and (3) of section 448(c) of the Internal Revenue Code of 1986;

(II) possesses, manages, modifies, handles, analyzes, controls, or otherwise uses identifying information about more than 1,000,000 consumers, households, or consumer devices for the purpose of developing or deploying any automated decision system or augmented critical decision process; or

(III) is substantially owned, operated, or controlled by a person, partnership, or corporation that meets the requirements under subclause (I) or (II);

(ii) that—

(I) had greater than $5,000,000 in average annual gross receipts or is deemed to have greater than $25,000,000 in equity value for the 3-taxable-year period (or for the period during which the person, partnership, or corporation has been in existence, if such period is less than 3 years) preceding the most recent fiscal year, as determined in accordance with paragraphs (2) and (3) of section 448(c) of the Internal Revenue Code of 1986; and

(II) deploys any automated decision system that is developed for implementation or use, or that the person, partnership, or corporation reasonably expects to be implemented or used, in an augmented critical decision process by any person, partnership, or corporation if such person, partnership, or corporation meets the requirements described in clause (i); or

(iii) that met the criteria described in clause (i) or (ii) within the previous 3 years.

(B) INFLATION ADJUSTMENT.—For purposes of applying this paragraph in any fiscal year after the first fiscal year that begins on or after the date of enactment of this title, each of the dollar amounts specified in subparagraph (A) shall be increased by the percentage increase (if any) in the consumer price index for all urban consumers (U.S. city average) from such first fiscal year that begins after such date of enactment to the fiscal year involved.

(8) CRITICAL DECISION.—The term ''critical decision'' means a decision or judgment that has any legal, material, or similarly significant effect on a consumer's life relating to access to or the cost, terms, or availability of—

(A) education and vocational training, including assessment, accreditation, or certification;

(B) employment, workers management, or self-employment;

(C) essential utilities, such as electricity, heat, water, internet or telecommunications access, or transportation;

(D) family planning, including adoption services or reproductive services;

(E) financial services, including any financial service provided by a mortgage company, mortgage broker, or creditor;

(F) healthcare, including mental healthcare, dental, or vision;

(G) housing or lodging, including any rental or short-term housing or lodging;

(H) legal services, including private arbitration or mediation; or

(I) any other service, program, or opportunity decisions about which have a comparably legal, material, or similarly significant effect on a consumer's life as determined by the Commission through rulemaking.

(9) DEPLOY.—The term ''deploy'' means to implement, use, or make available for sale, license, or other commercial relationship.

(10) DEVELOP.—The term ''develop'' means to design, code, produce, customize, or otherwise create or modify.

(11) IDENTIFYING INFORMATION.—The term ''identifying information'' means any information, regardless of how the information is collected, inferred, predicted, or obtained that identifies or represents a consumer, household, or consumer device through data elements or attributes, such as name, postal address, telephone number, biometrics, email address, internet protocol address, social security number, or any other identifying number, identifier, or code.

(12) IMPACT ASSESSMENT.—The term ''impact assessment'' means the ongoing study and evaluation of an automated decision system or augmented critical decision process and its impact on consumers.

(13) PASSIVE COMPUTING INFRASTRUCTURE.—The term ''passive computing infrastructure'' means any intermediary technology that does not influence or determine the outcome of a decision, including—

(A) web hosting;

(B) domain registration;

(C) networking;

(D) caching;

(E) data storage; or

(F) cybersecurity.

(14) STATE.—The term ''State'' means each of the 50 States, the District of Columbia, and any territory or possession of the United States.

(15) SUMMARY REPORT.—The term ''summary report'' means documentation of a subset of information required to be addressed by the impact assessment as described in this title or determined appropriate by the Commission.

(16) THIRD-PARTY DECISION RECIPIENT.—The term ''third-party decision recipient'' means any person, partnership, or corporation (beyond the consumer and the covered entity) that receives a copy of or has access to the results of any decision or judgment that results from a covered entity's deployment of an automated decision system or augmented critical decision process.

SEC. ___02. ASSESSING THE IMPACT OF AUTOMATED DECISION SYSTEMS AND AUGMENTED CRITICAL DECISION PROCESSES.

(a) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for—

(A) any covered entity to violate a regulation promulgated under subsection (b); or

(B) any person to knowingly provide substantial assistance to any covered entity in violating subsection (b).

(2) PREEMPTION OF PRIVATE CONTRACTS.—It shall be unlawful for any covered entity to commit the acts prohibited in paragraph (1), regardless of specific agreements between entities or consumers.

(b) REGULATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), not later than 2 years after the date of enactment of this title, the Commission shall, in consultation with the Director of the National Institute of Standards and Technology, the Director of the National Artificial Intelligence Initiative, the Director of the Office of Science and Technology Policy, and other relevant stakeholders, including standards bodies, private industry, academia, technology experts, and advocates for civil rights, consumers, and impacted communities, promulgate regulations, in accordance with section 553 of title 5, United States Code, that—

(A) require each covered entity to perform impact assessment of any—

(i) deployed automated decision system that was developed for implementation or use, or that the covered entity reasonably expects to be implemented or used, in an augmented critical decision process by any person, partnership, or corporation that meets the requirements described in section ___01(7)(A)(i); and

(ii) augmented critical decision process, both prior to and after deployment by the covered entity;

(B) require each covered entity to maintain documentation of any impact assessment performed under subparagraph (A), including the applicable information described in section ___03(a) for 3 years longer than the duration of time for which the automated decision system or augmented critical decision process is deployed;

(C) require each person, partnership, or corporation that meets the requirements described in section ___01(7)(A)(i) to disclose their status as a covered entity to any person, partnership, or corporation that sells, licenses, or otherwise provides through a commercial relationship any automated decision system deployed by the covered entity in an automated decision system or augmented critical decision process;

(D) require each covered entity to submit to the Commission, on an annual basis, a summary report for ongoing impact assessment of any deployed automated decision system or augmented critical decision process;

(E) require each covered entity to submit an initial summary report to the Commission for any new automated decision system or augmented critical decision process prior to its deployment by the covered entity;

(F) allow any person, partnership, or corporation over which the Commission has jurisdiction under section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)) that deploys any automated decision system or augmented critical decision process, but is not a covered entity, to submit to the Commission a summary report for any impact assessment performed with respect to such system or process;

(G) require each covered entity, in performing the impact assessment described in subparagraph (A), to the extent possible, to meaningfully consult (including through participatory design, independent auditing, or soliciting or incorporating feedback) with relevant internal stakeholders (such as employees, ethics teams, and responsible technology teams) and independent external stakeholders (such as representatives of and advocates for impacted groups, civil society and advocates, and technology experts) as frequently as necessary;

(H) require each covered entity to attempt to eliminate or mitigate, in a timely manner, any impact made by an augmented critical decision process that demonstrates a likely material negative impact that has legal or similarly significant effects on a consumer's life;

(I) establish definitions for—

(i) what constitutes ''access to or the cost, terms, or availability of'' with respect to a critical decision;

(ii) what constitutes ''possession'', ''management'', ''modification'', and ''control'' with respect to identifying information;

(iii) the different categories of third-party decision recipients that a covered entity must document under section ___04(1)(H); and

(iv) any of the services, programs, or opportunities described in subparagraphs (A) through (I) of section ___01(8) for the purpose of informing consumers, covered entities, and regulators, as the Commission deems necessary;

(J) establish guidelines for any person, partnership, or corporation to calculate the number of consumers, households, or consumer devices for which the person, partnership, or corporation possesses, manages, modifies, or controls identifying information for the purpose of determining covered entity status;

(K) establish guidelines for a covered entity to prioritize different automated decision systems and augmented critical decision processes deployed by the covered entity for performing impact assessment; and

(L) establish a required format for any summary report, as described in subparagraphs (D), (E), and (F), to ensure that such reports are submitted in an accessible and machine-readable format.

(2) CONSIDERATIONS.—In promulgating the regulations under paragraph (1), the Commission—

(A) shall take into consideration—

(i) that certain assessment or documentation of an automated decision system or augmented critical decision process may only be possible at particular stages of the development and deployment of such system or process or may be limited or not possible based on the availability of certain types of information or data or the nature of the relationship between the covered entity and consumers;

(ii) the duration of time between summary report submissions and the timeliness of the reported information;

(iii) the administrative burden placed on the Commission and the covered entity;

(iv) the benefits of standardizing and structuring summary reports for comparative analysis compared with the benefits of less-structured narrative reports to provide detail and flexibility in reporting;

(v) that summary reports submitted by different covered entities may contain different fields according to the requirements established by the Commission, and the Commission may allow or require submission of incomplete reports;

(vi) that existing data privacy and other regulations may inhibit a covered entity from storing or sharing certain information; and

(vii) that a covered entity may require information from other persons, partnerships, or corporations that develop any automated decision system deployed in an automated decision system or augmented critical decision process by the covered entity for the purpose of performing impact assessment; and

(B) may develop specific requirements for impact assessments and summary reports for particular—

(i) categories of critical decisions, as described in subparagraphs (A) through (I) of section ___01(8) or any subcategory developed by the Commission; and

(ii) stages of development and deployment of an automated decision system or augmented critical decision process.

(3) EFFECTIVE DATE.—The regulations described in paragraph (1) shall take effect on the date that is 2 years after such regulations are promulgated.

SEC. ___03. REQUIREMENTS FOR COVERED ENTITY IMPACT ASSESSMENT.

(a) REQUIREMENTS FOR IMPACT ASSESSMENT.—In performing any impact assessment required under section ___02(b)(1) for an automated decision system or augmented critical decision process, a covered entity shall do the following, to the extent possible, as applicable to such covered entity as determined by the Commission:

(1) In the case of a new augmented critical decision process, evaluate any previously existing critical decision-making process used for the same critical decision prior to the deployment of the new augmented critical decision process, along with any related documentation or information, such as—

(A) a description of the baseline process being enhanced or replaced by the augmented critical decision process;

(B) any known harm, shortcoming, failure case, or material negative impact on consumers of the previously existing process used to make the critical decision;

(C) the intended benefits of and need for the augmented critical decision process; and

(D) the intended purpose of the automated decision system or augmented critical decision process.

(2) Identify and describe any consultation with relevant stakeholders as required by section ____02(b)(1)(G), including by documenting—

(A) the points of contact for the stakeholders who were consulted;

(B) the date of any such consultation; and

(C) information about the terms and process of the consultation, such as—

(i) the existence and nature of any legal or financial agreement between the stakeholders and the covered entity;

(ii) any data, system, design, scenario, or other document or material the stakeholder interacted with; and

(iii) any recommendations made by the stakeholders that were used to modify the development or deployment of the automated decision system or augmented critical decision process, as well as any recommendations not used and the rationale for such nonuse.

(3) In accordance with any relevant National Institute of Standards and Technology or other Federal Government best practices and standards, perform ongoing testing and evaluation of the privacy risks and privacy-enhancing measures of the automated decision system or augmented critical decision process, such as—

(A) assessing and documenting the data minimization practices of such system or process and the duration for which the relevant identifying information and any resulting critical decision is stored;

(B) assessing the information security measures in place with respect to such system or process, including any use of privacy-enhancing technology such as federated learning, differential privacy, secure multi-party computation, de-identification, or secure data enclaves based on the level of risk; and

(C) assessing and documenting the current and potential future or downstream positive and negative impacts of such system or process on the privacy, safety, or security of consumers and their identifying information.

(4) Perform ongoing testing and evaluation of the current and historical performance of the automated decision system or augmented critical decision process using measures such as benchmarking datasets, representative examples from the covered entity's historical data, and other standards, including by documenting—

(A) a description of what is deemed successful performance and the methods and technical and business metrics used by the covered entity to assess performance;

(B) a review of the performance of such system or process under test conditions or an explanation of why such performance testing was not conducted;

(C) a review of the performance of such system or process under deployed conditions or an explanation of why performance was not reviewed under deployed conditions;

(D) a comparison of the performance of such system or process under deployed conditions to test conditions or an explanation of why such a comparison was not possible;

(E) an evaluation of any differential performance associated with consumers' race, color, sex, gender, age, disability, religion, family status, socioeconomic status, or veteran status, and any other characteristics the Commission deems appropriate (including any combination of such characteristics) for which the covered entity has information, including a description of the methodology for such evaluation and information about and documentation of the methods used to identify such characteristics in the data (such as through the use of proxy data, including ZIP Codes); and

(F) if any subpopulations were used for testing and evaluation, a description of which subpopulations were used and how and why such subpopulations were determined to be of relevance for the testing and evaluation.

(5) Support and perform ongoing training and education for all relevant employees, contractors, or other agents regarding any documented material negative impacts on consumers from similar automated decision systems or augmented critical decision processes and any improved methods of developing or performing an impact assessment for such system or process based on industry best practices and relevant proposals and publications from experts, such as advocates, journalists, and academics.

(6) Assess the need for and possible development of any guard rail for or limitation on certain uses or applications of the automated decision system or augmented critical decision process, including whether such uses or applications ought to be prohibited or otherwise limited through any terms of use, licensing agreement, or other legal agreement between entities.

(7) Maintain and keep updated documentation of any data or other input information used to develop, test, maintain, or update the automated decision system or augmented critical decision process, including—

(A) how and when such data or other input information was sourced and, if applicable, licensed, including information such as—

(i) metadata and information about the structure and type of data or other input information, such as the file type, the date of the file creation or modification, and a description of data fields;

(ii) an explanation of the methodology by which the covered entity collected, inferred, or obtained the data or other input information and, if applicable, labeled, categorized, sorted, or clustered such data or other input information, including whether such data or other input information was labeled, categorized, sorted, or clustered prior to being collected, inferred, or obtained by the covered entity; and

(iii) whether and how consumers provided informed consent for the inclusion and further use of data or other input information about themselves and any limitations stipulated on such inclusion or further use;

(B) why such data or other input information was used and what alternatives were explored; and

(C) other information about the data or other input information, such as—

(i) the representativeness of the dataset and how this factor was measured, including any assumption about the distribution of the population on which the augmented critical decision process is deployed; and

(ii) the quality of the data, how the quality was evaluated, and any measure taken to normalize, correct, or clean the data.

(8) Evaluate the rights of consumers, such as—

(A) by assessing the extent to which the covered entity provides consumers with—

(i) clear notice that such system or process will be used; and

(ii) a mechanism for opting out of such use;

(B) by assessing the transparency and explainability of such system or process and the degree to which a consumer may contest, correct, or appeal a decision or opt out of such system or process, including—

(i) the information available to consumers or representatives or agents of consumers about the system or process, such as any relevant factors that contribute to a particular decision, including an explanation of which contributing factors, if changed, would cause the system or process to reach a different decision, and how such consumer, representative, or agent can access such information;

(ii) documentation of any complaint, dispute, correction, appeal, or opt-out request submitted to the covered entity by a consumer with respect to such system or process; and

(iii) the process and outcome of any remediation measure taken by the covered entity to address the concerns of or harms to consumers; and

(C) by describing the extent to which any third-party decision recipient receives a copy of or has access to the results of such system or process and the category of such third-party decision recipient, as defined by the Commission in section ____02(b)(1)(I)(iii).

(9) Identify any likely material negative impact of the automated decision system or augmented critical decision process on consumers and assess any applicable mitigation strategy, such as by—

(A) identifying and measuring any likely material negative impact of the system or process on consumers, including documentation of the steps taken to identify and measure such impact;

(B) documenting any steps taken to eliminate or reasonably mitigate any likely material negative impact identified, including steps such as removing the system or process from the market or terminating its development;

(C) with respect to the likely material negative impacts identified, documenting which such impacts were left unmitigated and the rationale for the inaction, including details about the justifying non-discriminatory, compelling interest and why such interest cannot be satisfied by other means (such as where there is an equal, zero-sum trade-off between impacts on 2 or more consumers or where the required mitigating action would violate civil rights or other laws); and

(D) documenting standard protocols or practices used to identify, measure, mitigate, or eliminate any likely material negative impact on consumers and how relevant teams or staff are informed of and trained about such protocols or practices.

(10) Describe any ongoing documentation of the development and deployment process with respect to the automated decision system or augmented critical decision process, including information such as—

(A) the date of any testing, deployment, licensure, or other significant milestones; and

(B) points of contact for any team, business unit, or similar internal stakeholder that was involved.

(11) Identify any capabilities, tools, standards, datasets, security protocols, improvements to stakeholder engagement, or other resources that may be necessary or beneficial to improving the automated decision system, augmented critical decision process, or the impact assessment of such system or process, in areas such as—

(A) performance, including accuracy, robustness, and reliability;

(B) fairness, including bias and non-discrimination;

(C) transparency, explainability, contestability, and opportunity for recourse;

(D) privacy and security;

(E) personal and public safety;

(F) efficiency and timeliness;

(G) cost; or

(H) any other area determined appropriate by the Commission.

(12) Document any of the impact assessment requirements described in paragraphs (1) through (11) that were attempted but were not possible to comply with because they were infeasible, as well as the corresponding rationale for not being able to comply with such requirements, which may include—

(A) the absence of certain information about an automated decision system developed by other persons, partnerships, and corporations;

(B) the absence of certain information about how clients, customers, licensees, partners, and other persons, partnerships, or corporations are deploying an automated decision system in their augmented critical decision processes;

(C) a lack of demographic or other data required to assess differential performance because such data is too sensitive to collect, infer, or store; or

(D) a lack of certain capabilities, including technological innovations, that would be necessary to conduct such requirements.

(13) Perform and document any other ongoing study or evaluation determined appropriate by the Commission.

(b) RULE OF CONSTRUCTION.—Nothing in this title should be construed to limit any covered entity from adding other criteria, procedures, or technologies to improve the performance of an impact assessment of their automated decision system or augmented critical decision process.

(c) NONDISCLOSURE OF IMPACT ASSESSMENT.—Nothing in this title should be construed to require a covered entity to share with or otherwise disclose to the Commission or the public any information contained in an impact assessment performed in accordance with this title, except for any information contained in the summary report required under subparagraph (D) or (E) of section ____02(b)(1).

SEC. ____04. REQUIREMENTS FOR SUMMARY REPORTS TO THE COMMISSION.

The summary report that a covered entity is required to submit under subparagraph (D) or (E) of section ____02(b)(1) for any automated decision system or augmented critical decision process shall, to the extent possible—

(1) contain information from the impact assessment of such system or process, as applicable, including—

(A) the name, website, and point of contact for the covered entity;

(B) a detailed description of the specific critical decision that the augmented critical decision process is intended to make, including the category of critical decision as described in subparagraphs (A) through (I) of section ____01(8);

(C) the covered entity's intended purpose for the automated decision system or augmented critical decision process;

(D) an identification of any stakeholders consulted by the covered entity as required by section ____02(b)(1)(G) and documentation of the existence and nature of any legal agreements between the stakeholders and the covered entity;

(E) documentation of the testing and evaluation of the automated decision system or augmented critical decision process, including—

(i) the methods and technical and business metrics used to assess the performance of such system or process and a description of what metrics are deemed successful performance;

(ii) the results of any assessment of the performance of such system or process and a comparison of the results of any assessment under test and deployed conditions; and

(iii) an evaluation of any differential performance of such system or process assessed during the impact assessment;

(F) any publicly stated guard rail for or limitation on certain uses or applications of the automated decision system or augmented critical decision process, including whether such uses or applications ought to be prohibited or otherwise limited through any terms of use, licensing agreement, or other legal agreement between entities;

(G) documentation about the data or other input information used to develop, test, maintain, or update the automated decision system or augmented critical decision process including—

(i) how and when the covered entity sourced such data or other input information; and

(ii) why such data or other input information was used and what alternatives were explored;

(H) documentation of whether and how the covered entity implements any transparency or explainability measures, including—

(i) which categories of third-party decision recipients receive a copy of or have access to the results of any decision or judgment that results from such system or process; and

(ii) any mechanism by which a consumer may contest, correct, or appeal a decision or opt out of such system or process, including the corresponding website for such mechanism, where applicable;

(I) any likely material negative impact on consumers identified by the covered entity and a description of the steps taken to remediate or mitigate such impact;

(J) a list of any impact assessment requirements that were attempted but were not possible to comply with because they were infeasible, as well as the corresponding rationale for not being able to comply with such requirements; and

(K) any additional capabilities, tools, standards, datasets, security protocols, improvements to stakeholder engagement, or other resources identified by an impact assessment as necessary or beneficial to improve the performance of impact assessment or the development and deployment of any automated decision system or augmented critical decision process that the covered entity determines appropriate to share with the Commission;

(2) include, in addition to the information required under paragraph (1), any relevant additional information from section ____03(a) the covered entity wishes to share with the Commission;

(3) follow any format or structure requirements specified by the Commission; and

(4) include additional criteria that are essential for the purpose of consumer protection, as determined by the Commission.

SEC. ____05. REPORTING; PUBLICLY ACCESSIBLE REPOSITORY.

(a) ANNUAL REPORT.—Not later than 1 year after the effective date described in section ____02(b)(3), and annually thereafter, the Commission shall publish publicly on the website of the Commission a report describing and summarizing the information from the summary reports submitted under subparagraph (D), (E), or (F) of section ____02(b)(1) that—

(1) is accessible and machine readable in accordance with the 21st Century Integrated Digital Experience Act (44 U.S.C. 3501 note); and

(2) describes broad trends, aggregated statistics, and anonymized lessons learned about performing impact assessments of automated decision systems or augmented critical decision processes, for the purposes of updating guidance related to impact assessments and summary reporting, oversight, and making recommendations to other regulatory agencies.

(b) PUBLICLY ACCESSIBLE REPOSITORY.—

(1) IN GENERAL.—

(A) ESTABLISHMENT.—

(i) DEVELOPMENT.—Not later than 180 days after the Commission promulgates the regulations required under section ____02(b)(1), the Commission shall develop a publicly accessible repository designed to publish a limited subset of the information about each automated decision system and augmented critical decision process for which the Commission received a summary report under subparagraph (D), (E), or (F) of section ____02(b)(1) in order to facilitate consumer protection.

(ii) PUBLICATION.—Not later than 180 days after the effective date described in section ____02(b)(3), the Commission shall make the repository publicly accessible.

(iii) UPDATES.—The Commission shall update the repository on a quarterly basis.

(B) PURPOSE.—The purposes of the repository established under subparagraph (A) are—

(i) to inform consumers about the use of automated decision systems and augmented critical decision processes;

(ii) to allow researchers and advocates to study the use of automated decision systems and augmented critical decision processes; and

(iii) to ensure compliance with the requirements of this title.

(C) CONSIDERATIONS.—In establishing the repository under subparagraph (A), the Commission shall consider—

(i) how to provide consumers with pertinent information regarding augmented critical decision processes while minimizing any potential commercial risk to any covered entity of providing such information;

(ii) what information, if any, to include regarding the specific automated decision systems deployed in the augmented critical decision processes;

(iii) how to document information, when applicable, about how to contest or seek recourse for a critical decision in a manner that is readily accessible by the consumer; and

(iv) how to streamline the submission of summary reports under subparagraph (D), (E), or (F) of section ____02(b)(1) to allow the Commission to efficiently populate information into the repository to minimize or eliminate any burden on the Commission.

(D) REQUIREMENTS.—The Commission shall design the repository established under subparagraph (A) to—

(i) be publicly available and easily discoverable on the website of the Commission;

(ii) allow users to sort and search the repository by multiple characteristics (such as by covered entity, date reported, or category of critical decision) simultaneously;

(iii) allow users to make a copy of or download the information obtained from the repository, including any subsets of information obtained by sorting or searching as described in clause (ii), in accordance with current guidance from the Office of Management and Budget, such as the Open, Public, Electronic, and Necessary Government Data Act (44 U.S.C. 101 note);

(iv) be in accordance with user experience and accessibility best practices such as those described in the 21st Century Integrated Digital Experience Act (44 U.S.C. 3501 note);

(v) include a limited subset of information from the summary reports, as applicable, under subparagraph (D), (E), or (F) of section ____02(b)(1) that includes—

(I) the identity of the covered entity that submitted such summary report, including any link to the website of the covered entity;

(II) the specific critical decision that the augmented critical decision process makes, along with the category of the critical decision;

(III) any publicly stated prohibited applications of the automated decision system or augmented critical decision process, including whether such prohibition is enforced through any terms of use, licensing agreement, or other legal agreement between entities;

(IV) to the extent possible, the sources of any data used to develop, test, maintain, or update the automated decision system or augmented critical decision process;

(V) to the extent possible, the type of technical and business metrics used to assess the performance of the augmented critical decision process when deployed; and

(VI) the link to any web page with instructions or other information related to a mechanism by which a consumer may contest, correct, or appeal a decision or opt out of the automated decision system or augmented critical decision process; and

(vi) include information about design, use, and maintenance of the repository, including—

(I) how frequently the repository is updated;

(II) the date of the most recent such update;

(III) the types of information from the summary reports submitted under subparagraph (D), (E), or (F) of section ____02(b)(1) that are and are not included in the repository; and

(IV) any other information about the design, use, and maintenance the Commission determines is—

(aa) relevant to consumers and researchers; or

(bb) essential for consumer education and recourse.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission such sums as are necessary to carry out this subsection.

SEC. ____06. GUIDANCE AND TECHNICAL ASSISTANCE; OTHER REQUIREMENTS.

(a) GUIDANCE AND TECHNICAL ASSISTANCE FROM THE COMMISSION.—

(1) IN GENERAL.—The Commission shall publish guidance on how to meet the requirements of sections ____03 and ____04, including resources such as documentation templates and guides for meaningful consultation, that is developed by the Commission after consultation with the Director of the National Institute of Standards and Technology, the Director of the National Artificial Intelligence Initiative, the Director of the Office of Science and Technology Policy, and other relevant stakeholders, including standards bodies, private industry, academia, technology experts, and advocates for civil rights, consumers, and impacted communities.

(2) ASSISTANCE IN DETERMINING COVERED ENTITY STATUS.—In addition to the guidance required under paragraph (1), the Commission shall—

(A) issue guidance and training materials to assist persons, partnerships, and corporations in evaluating whether they are a covered entity; and

(B) regularly update such guidance and training materials in accordance with any feedback or questions from covered entities, experts, or other relevant stakeholders.

(b) OTHER REQUIREMENTS.—

(1) PUBLICATION.—Nothing in this title shall be construed to limit a covered entity from publicizing any documentation of the impact assessment maintained under section ____02(b)(1)(B), including information beyond what is required to be submitted in a summary report under subparagraph (D) or (E) of section ____02(b)(1), unless such publication would violate the privacy of any consumer.

(2) PERIODIC REVIEW OF REGULATIONS.—The Commission shall review the regulations promulgated under section ____02(b) not less than once every 5 years and update such regulations as appropriate.

(3) REVIEW BY NIST AND OSTP.—The Commission shall make available, in a private and secure manner, to the Director of the National Institute of Standards and Technology, the Director of the Office of Science and Technology Policy, and the head of any Federal agency with relevant regulatory jurisdiction over an augmented critical decision process any summary report submitted under subparagraph (D), (E), or (F) of section ____02(b)(1) for review in order to develop future standards or regulations.

SEC. ____07. RESOURCES AND AUTHORITIES.

(a) BUREAU OF TECHNOLOGY.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There is established within the Commission the Bureau of Technology (in this subsection referred to as the ''Bureau'').

(B) DUTIES.—The Bureau shall engage in activities that include:

(i) Aiding or advising the Commission with respect to the technological aspects of the functions of the Commission, including—

(I) preparing, conducting, facilitating, managing, or otherwise enabling studies, workshops, audits, community participation opportunities, or other similar activities; and

(II) any other assistance deemed appropriate by the Commission or Chair.

(ii) Aiding or advising the Commission with respect to the enforcement of this title.

(iii) Providing technical assistance to any enforcement bureau within the Commission with respect to the investigation and trial of cases.

(2) CHIEF TECHNOLOGIST.—The Bureau shall be headed by a Chief Technologist.

(3) STAFF.—

(A) APPOINTMENTS.—

(i) IN GENERAL.—Subject to subparagraph (B), the Chair may, without regard to the civil service laws (including regulations), appoint personnel with experience in fields such as management, technology, digital and product design, user experience, information security, civil rights, technology policy, privacy policy, humanities and social sciences, product management, software engineering, machine learning, statistics, or other related fields to enable the Bureau to perform its duties.

(ii) MINIMUM APPOINTMENTS.—Not later than 2 years after the date of enactment of this title, the Chair shall appoint not less than 50 personnel.

(B) EXCEPTED SERVICE.—The personnel appointed in accordance with subparagraph (A) may be appointed to positions described in section 213.3102(r) of title 5, Code of Federal Regulations.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission such sums as are necessary to carry out this subsection.

(b) ADDITIONAL PERSONNEL IN THE BUREAU OF CONSUMER PROTECTION.—

(1) ADDITIONAL PERSONNEL.—Notwithstanding any other provision of law, the Chair may, without regard to the civil service laws (including regulations), appoint 25 additional personnel to the Division of Enforcement of the Bureau of Consumer Protection.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission such sums as are necessary to carry out this subsection.

(c) ESTABLISHMENT OF AGREEMENTS OF COOPERATION.—The Commission shall negotiate agreements of cooperation, as needed, with any relevant Federal agency with respect to information sharing and enforcement actions taken regarding the development or deployment of an automated decision system to make a critical decision or of an augmented critical decision process. Such agreements shall include procedures for determining which agency shall file an action and providing notice to the non-filing agency, where feasible, prior to initiating a civil action to enforce any Federal law within such agencies' jurisdictions regarding the development or deployment of an automated decision system to make a critical decision or of an augmented critical decision process by a covered entity.

SEC. ____08. ENFORCEMENT.

(a) ENFORCEMENT BY THE COMMISSION.—

(1) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—A violation of this title or a regulation promulgated thereunder shall be treated as a violation of a rule defining an unfair or deceptive act or practice under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(2) POWERS OF THE COMMISSION.—

(A) IN GENERAL.—The Commission shall enforce this title and the regulations promulgated under this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title.

(B) PRIVILEGES AND IMMUNITIES.—Any person who violates this title or a regulation promulgated thereunder shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(C) AUTHORITY PRESERVED.—Nothing in this title shall be construed to limit the authority of the Commission under any other provision of law.

(D) RULEMAKING.—The Commission shall promulgate in accordance with section 553 of title 5, United States Code, such additional rules as may be necessary to carry out this title.

(b) ENFORCEMENT BY STATES.—

(1) IN GENERAL.—If the attorney general of a State has reason to believe that an interest of the residents of the State has been or is being threatened or adversely affected by a practice that violates this title or a regulation promulgated thereunder, the attorney general of the State may, as parens patriae, bring a civil action on behalf of the residents of the State in an appropriate district court of the United States to obtain appropriate relief.

(2) RIGHTS OF COMMISSION.—

(A) NOTICE TO COMMISSION.—

(i) IN GENERAL.—Except as provided in clause (iii), the attorney general of a State, before initiating a civil action under paragraph (1), shall provide written notification to the Commission that the attorney general intends to bring such civil action.

(ii) CONTENTS.—The notification required under clause (i) shall include a copy of the complaint to be filed to initiate the civil action.

(iii) EXCEPTION.—If it is not feasible for the attorney general of a State to provide the notification required under clause (i) before initiating a civil action under paragraph (1), the attorney general shall notify the Commission immediately upon instituting the civil action.

(B) INTERVENTION BY COMMISSION.—The Commission may—

(i) intervene in any civil action brought by the attorney general of a State under paragraph (1); and

(ii) upon intervening—

(I) be heard on all matters arising in the civil action; and

(II) file petitions for appeal of a decision in the civil action.

(3) INVESTIGATORY POWERS.—Nothing in this subsection may be construed to prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of the State to conduct investigations, to administer oaths or affirmations, or to compel the attendance of witnesses or the production of documentary or other evidence.

(4) VENUE; SERVICE OF PROCESS.—

(A) VENUE.—Any action brought under paragraph (1) may be brought in—

(i) the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code; or

(ii) another court of competent jurisdiction.

(B) SERVICE OF PROCESS.—In an action brought under paragraph (1), process may be served in any district in which—

(i) the defendant is an inhabitant, may be found, or transacts business; or

(ii) venue is proper under section 1391 of title 28, United States Code.

(5) ACTIONS BY OTHER STATE OFFICIALS.—

(A) IN GENERAL.—In addition to a civil action brought by an attorney general under paragraph (1), any other officer of a State who is authorized by the State to do so may bring a civil action under paragraph (1), subject to the same requirements and limitations that apply under this subsection to civil actions brought by attorneys general.

(B) SAVINGS PROVISION.—Nothing in this subsection may be construed to prohibit an authorized official of a State from initiating or continuing any proceeding in a court of the State for a violation of any civil or criminal law of the State.

SEC. ___09. COORDINATION.

In carrying out this title, the Commission shall coordinate with any appropriate Federal agency or State regulator to promote consistent regulatory treatment of automated decision systems and augmented critical decision processes.

SEC. ___10. NO PREEMPTION.

Nothing in this title may be construed to preempt any State, tribal, city, or local law, regulation, or ordinance.

SA 2054. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 1911 proposed by Ms. CANTWELL (for herself, Mr. CRUZ, Ms. DUCKWORTH, and Mr. MORAN) to the bill H.R. 3935, to amend title 49, United States Code, to reauthorize and improve the Federal Aviation Administration and other civil aviation programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE XIV—PROTECTING AMERICANS' DATA FROM FOREIGN SURVEILLANCE ACT OF 2023

SEC. 1401. SHORT TITLE.

This title may be cited as the ''Protecting Americans' Data From Foreign Surveillance Act of 2023''.

SEC. 1402. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) accelerating technological trends have made sensitive personal data an especially valuable input to activities that foreign adversaries of the United States undertake to threaten both the national security of the United States and the privacy that the people of the United States cherish;

(2) it is therefore essential to the safety of the United States and the people of the United States to ensure that the United States Government makes every effort to prevent sensitive personal data from falling into the hands of malign foreign actors; and

(3) because allies of the United States face similar challenges, in implementing this title, the United States Government should explore the establishment of a shared zone of mutual trust with respect to sensitive personal data.

SEC. 1403. REQUIREMENT TO CONTROL THE EXPORT OF CERTAIN PERSONAL DATA OF UNITED STATES NATIONALS AND INDIVIDUALS IN THE UNITED STATES.

(a) IN GENERAL.—Part I of the Export Control Reform Act of 2018 (50 U.S.C. 4811 et seq.) is amended by inserting after section 1758 the following:

''SEC. 1758A. REQUIREMENT TO CONTROL THE EXPORT OF CERTAIN PERSONAL DATA OF UNITED STATES NATIONALS AND INDIVIDUALS IN THE UNITED STATES.

''(a) IDENTIFICATION OF CATEGORIES OF PERSONAL DATA.—

''(1) IN GENERAL.—The Secretary shall, in coordination with the heads of the appropriate Federal agencies, identify categories of personal data of covered individuals that could—

''(A) be exploited by foreign governments or foreign adversaries; and

''(B) if exported, reexported, or in-country transferred in a quantity that exceeds the threshold established under paragraph (3), harm the national security of the United States.

''(2) LIST REQUIRED.—In identifying categories of personal data of covered individuals under paragraph (1), the Secretary, in coordination with the heads of the appropriate Federal agencies, shall—

''(A) identify an initial list of such categories not later than one year after the date of the enactment of the Protecting Americans' Data From Foreign Surveillance Act of 2023; and

''(B) as appropriate thereafter and not less frequently than every 5 years, add categories to, remove categories from, or modify categories on, that list.

''(3) ESTABLISHMENT OF THRESHOLD.—

''(A) ESTABLISHMENT.—Not later than one year after the date of the enactment of the Protecting Americans' Data From Foreign Surveillance Act of 2023, the Secretary, in coordination with the heads of the appropriate Federal agencies, shall establish a threshold for determining when the export, reexport, or in-country transfer (in the aggregate) of the personal data of covered individuals by one person to or in a restricted country could harm the national security of the United States.

''(B) NUMBER OF COVERED INDIVIDUALS AFFECTED.—

''(i) IN GENERAL.—Except as provided by clause (ii), the Secretary shall establish the threshold under subparagraph (A) so that the threshold is—

''(I) not lower than the export, reexport, or in-country transfer (in the aggregate) by one person to or in a restricted country during a calendar year of the personal data of 10,000 covered individuals; and

''(II) not higher than the export, reexport, or in-country transfer (in the aggregate) by one person to or in a restricted country during a calendar year of the personal data of 1,000,000 covered individuals.

''(ii) EXPORTS BY CERTAIN FOREIGN PERSONS.—In the case of a person that possesses the data of more than 1,000,000 covered individuals, the threshold established under subparagraph (A) shall be one export, reexport, or in-country transfer of personal data to or in a restricted country by that person during a calendar year if the export, reexport, or in-country transfer is to—

''(I) the government of a restricted country;

''(II) a foreign person that owns or controls the person conducting the export, reexport, or in-country transfer and that person knows, or should know, that the export, reexport, or in-country transfer of the personal data was requested by the foreign person to comply with a request from the government of a restricted country; or

''(III) an entity on the Entity List maintained by the Bureau of Industry and Security of the Department of Commerce and set forth in Supplement No. 4 to part 744 of the Export Administration Regulations.

''(C) CATEGORY THRESHOLDS.—The Secretary, in coordination with the heads of the appropriate Federal agencies, may establish a threshold under subparagraph (A) for each category (or combination of categories) of personal data identified under paragraph (1).

''(D) UPDATES.—The Secretary, in coordination with the heads of the appropriate Federal agencies—

''(i) may update a threshold established under subparagraph (A) as appropriate; and

''(ii) shall reevaluate the threshold not less frequently than every 5 years.

''(E) TREATMENT OF PERSONS UNDER COMMON OWNERSHIP AS ONE PERSON.—For purposes of determining whether a threshold established under subparagraph (A) has been met—

''(i) all exports, reexports, or in-country transfers involving personal data conducted by persons under the ownership or control of the same person shall be aggregated to that person; and

''(ii) that person shall be liable for any export, reexport, or in-country transfer in violation of this section.

''(F) CONSIDERATIONS.—In establishing a threshold under subparagraph (A), the Secretary, in coordination with the heads of the appropriate Federal agencies, shall seek to balance the need to protect personal data from exploitation by foreign governments and foreign adversaries against the likelihood of—

''(i) impacting legitimate business activities, research activities, and other activities that do not harm the national security of the United States; or

''(ii) chilling speech protected by the First Amendment to the Constitution of the United States.

''(4) DETERMINATION OF PERIOD FOR PROTECTION.—The Secretary, in coordination with the heads of the appropriate Federal agencies, shall determine, for each category (or combination of categories) of personal data identified under paragraph (1), the period of time for which encryption technology described in subsection (b)(4)(A)(iii) is required to be able to protect that category (or combination of categories) of data from decryption to prevent the exploitation of the data by a foreign government or foreign adversary from harming the national security of the United States.

''(5) USE OF INFORMATION; CONSIDERATIONS.—In carrying out this subsection (including with respect to the list required under paragraph (2)), the Secretary, in coordination with the heads of the appropriate Federal agencies, shall—

''(A) use multiple sources of information, including—

''(i) publicly available information;

''(ii) classified information, including relevant information provided by the Director of National Intelligence;

''(iii) information relating to reviews and investigations of transactions by the Committee on Foreign Investment in the United

States under section 721 of the Defense Production Act of 1950 (50 U.S.C. 4565);

''(iv) the categories of sensitive personal data described in paragraphs (1)(ii) and (2) of section 800.241(a) of title 31, Code of Federal Regulations, as in effect on the day before the date of the enactment of the Protecting Americans' Data From Foreign Surveillance Act of 2023, and any categories of sensitive personal data added to such section after such date of enactment;

''(v) information provided by the advisory committee established pursuant to paragraph (7); and

''(vi) the recommendations (which the Secretary shall request) of—

''(I) experts in privacy, civil rights, and civil liberties, identified by the National Academy of Sciences; and

''(II) experts on the First Amendment to the Constitution of the United States identified by the American Bar Association; and

''(B) take into account—

''(i) the significant quantity of personal data of covered individuals that is publicly available by law or has already been stolen or acquired by foreign governments or foreign adversaries;

''(ii) the harm to United States national security caused by the theft or acquisition of that personal data;

''(iii) the potential for further harm to United States national security if that personal data were combined with additional sources of personal data;

''(iv) the fact that non-sensitive personal data, when analyzed in the aggregate, can reveal sensitive personal data;

''(v) the commercial availability of inferred and derived data; and

''(vi) the potential for especially significant harm from data and inferences related to sensitive domains, such as health, work, education, criminal justice, and finance.

''(6) NOTICE AND COMMENT PERIOD.—The Secretary shall provide for a public notice and comment period after the publication in the Federal Register of a proposed rule, and before the publication of a final rule—

''(A) identifying the initial list of categories of personal data under subparagraph (A) of paragraph (2);

''(B) adding categories to, removing categories from, or modifying categories on, that list under subparagraph (B) of that paragraph;

''(C) establishing or updating the threshold under paragraph (3); or

''(D) setting forth the period of time for which encryption technology described in subsection (b)(4)(A)(iii) is required under paragraph (4) to be able to protect such a category of data from decryption.

''(7) ADVISORY COMMITTEE.—

''(A) IN GENERAL.—The Secretary shall establish an advisory committee to advise the Secretary with respect to privacy and sensitive personal data.

''(B) MEMBERSHIP.—The committee established pursuant to subparagraph (A) shall include the following members selected by the Secretary:

''(i) Experts on privacy and cybersecurity.

''(ii) Representatives of United States private sector companies, industry associations, and scholarly societies.

''(iii) Representatives of civil society groups, including such groups focused on protecting civil rights and civil liberties.

''(C) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Subsections (a)(1), (a)(3), and (b) of section 10 and sections 11, 13, and 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory committee established pursuant to subparagraph (A).

''(8) TREATMENT OF ANONYMIZED PERSONAL DATA.—

''(A) IN GENERAL.—In carrying out this subsection, the Secretary may not treat anonymized personal data differently than identifiable personal data unless the Secretary is confident, based on the method of anonymization used and the period of time determined under paragraph (4) for protection of the category of personal data involved, it will not be possible for well-resourced adversaries, including foreign governments, to re-identify the individuals to which the anonymized personal data relates, such as by using other sources of data, including non-public data obtained through hacking and espionage, and reasonably anticipated advances in technology.

''(B) GUIDANCE.—The Under Secretary of Commerce for Standards and Technology shall issue guidance to the public with respect to methods for anonymizing data and how to determine if individuals to which the anonymized personal data relates can be, or are likely in the future to be, reasonably identified, such as by using other sources of data.

''(9) SENSE OF CONGRESS ON IDENTIFICATION OF CATEGORIES OF PERSONAL DATA.—It is the sense of Congress that, in identifying categories of personal data of covered individuals under paragraph (1), the Secretary should, to the extent reasonably possible and in coordination with the Secretary of the Treasury and the Director of the Office of Management and Budget, harmonize those categories with the categories of sensitive personal data described in paragraph (5)(A)(iv).

''(b) COMMERCE CONTROLS.—

''(1) CONTROLS REQUIRED.—Beginning 18 months after the date of the enactment of the Protecting Americans' Data From Foreign Surveillance Act of 2023, the Secretary shall impose appropriate controls under the Export Administration Regulations on the export or reexport to, or in-country transfer in, all countries (other than countries on the list required by paragraph (2)(D)) of covered personal data in a manner that exceeds the applicable threshold established under subsection (a)(3), including through interim controls (such as by informing a person that a license is required for export, reexport, or in-country transfer of covered personal data), as appropriate, or by publishing additional regulations.

''(2) LEVELS OF CONTROL.—

''(A) IN GENERAL.—Except as provided in subparagraph (C) or (D), the Secretary shall—

''(i) require a license or other authorization for the export, reexport, or in-country transfer of covered personal data in a manner that exceeds the applicable threshold established under subsection (a)(3);

''(ii) determine whether that export, reexport, or in-country transfer is likely to harm the national security of the United States—

''(I) after consideration of the matters described in subparagraph (B); and

''(II) in coordination with the heads of the appropriate Federal agencies; and

''(iii) if the Secretary determines under clause (ii) that the export, reexport, or in-country transfer is likely to harm the national security of the United States, deny the application for the license or other authorization for the export, reexport, or in-country transfer.

''(B) CONSIDERATIONS.—In determining under clause (ii) of subparagraph (A) whether an export, reexport, or in-country transfer of covered personal data described in clause (i) of that subparagraph is likely to harm the national security of the United States, the Secretary, in coordination with the heads of the appropriate Federal agencies, shall take into account—

''(i) the adequacy and enforcement of data protection, surveillance, and export control laws in the foreign country to which the covered personal data would be exported or reexported, or in which the covered personal data would be transferred, in order to determine whether such laws, and the enforcement of such laws, are sufficient to—

''(I) protect the covered personal data from accidental loss, theft, and unauthorized or unlawful processing;

''(II) ensure that the covered personal data is not exploited for intelligence purposes by foreign governments to the detriment of the national security of the United States; and

''(III) prevent the reexport of the covered personal data to a third country for which a license would be required for such data to be exported directly from the United States;

''(ii) the circumstances under which the government of the foreign country can compel, coerce, or pay a person in or national of that country to disclose the covered personal data; and

''(iii) whether that government has conducted hostile foreign intelligence operations, including information operations, against the United States.

''(C) LICENSE REQUIREMENT AND PRESUMPTION OF DENIAL FOR CERTAIN COUNTRIES.—

''(i) IN GENERAL.—The Secretary shall—

''(I) require a license or other authorization for the export or reexport to, or in-country transfer in, a country on the list required by clause (ii) of covered personal data in a manner that exceeds the threshold established under subsection (a)(3); and

''(II) deny an application for such a license or other authorization unless the person seeking the license or authorization demonstrates to the satisfaction of the Secretary that the export, reexport, or in-country transfer will not harm the national security of the United States.

''(ii) LIST REQUIRED.—

''(I) IN GENERAL.—Not later than one year after the date of the enactment of the Protecting Americans' Data From Foreign Surveillance Act of 2023, the Secretary shall (subject to subclause (III)) establish a list of each country with respect to which the Secretary determines that the export or reexport to, or in-country transfer in, the country of covered personal data in a manner that exceeds the applicable threshold established under subsection (a)(3) will be likely to harm the national security of the United States.

''(II) MODIFICATIONS TO LIST.—The Secretary (subject to subclause (III))—

''(aa) may add a country to or remove a country from the list required by subclause (I) at any time; and

''(bb) shall review that list not less frequently than every 5 years.

''(III) CONCURRENCE; CONSULTATIONS; CONSIDERATIONS.—The Secretary shall establish the list required by subclause (I) and add a country to or remove a country from that list under subclause (II)—

''(aa) with the concurrence of the Secretary of State;

''(bb) in consultation with the heads of the appropriate Federal agencies; and

''(cc) based on the considerations described in subparagraph (B).

''(D) NO LICENSE REQUIREMENT FOR CERTAIN COUNTRIES.—

''(i) IN GENERAL.—The Secretary may not require a license or other authorization for the export or reexport to, or in-country transfer in, a country on the list required by clause (ii) of covered personal data, without regard to the applicable threshold established under subsection (a)(3).

''(ii) LIST REQUIRED.—

''(I) IN GENERAL.—Not later than one year after the date of the enactment of the Protecting Americans' Data From Foreign Surveillance Act of 2023, the Secretary shall (subject to clause (iii) and subclause (III)), establish a list of each country with respect to which the Secretary determines that the export or reexport to, or in-country transfer in, the country of covered personal data (without regard to any threshold established under subsection (a)(3)) will not harm the national security of the United States.

''(II) MODIFICATIONS TO LIST.—The Secretary (subject to clause (iii) and subclause (III))—

''(aa) may add a country to or remove a country from the list required by subclause (I) at any time; and

''(bb) shall review that list not less frequently than every 5 years.

''(III) CONCURRENCE; CONSULTATIONS; CONSIDERATIONS.—The Secretary shall establish the list required by subclause (I) and add a country to or remove a country from that list under subclause (II)—

''(aa) with the concurrence of the Secretary of State;

''(bb) in consultation with the heads of the appropriate Federal agencies; and

''(cc) based on the considerations described in subparagraph (B).

''(iii) CONGRESSIONAL REVIEW.—

''(I) IN GENERAL.—The list required by clause (ii) and any updates to that list adding or removing countries shall take effect, for purposes of clause (i), on the date that is 180 days after the Secretary submits to the appropriate congressional committees a proposal for the list or update unless there is enacted into law, before that date, a joint resolution of disapproval pursuant to subclause (II).

''(II) JOINT RESOLUTION OF DISAPPROVAL.—

''(aa) JOINT RESOLUTION OF DISAPPROVAL DEFINED.—In this clause, the term 'joint resolution of disapproval' means a joint resolution the matter after the resolving clause of which is as follows: 'That Congress does not approve of the proposal of the Secretary with respect to the list required by section 1758A(b)(2)(D)(ii) submitted to Congress on _____.', with the blank space being filled with the appropriate date.

''(bb) PROCEDURES.—The procedures set forth in paragraphs (4)(C), (5), (6), and (7) of section 2523(d) of title 18, United States Code, apply with respect to a joint resolution of disapproval under this clause to the same extent and in the same manner as such procedures apply to a joint resolution of disapproval under such section 2523(d), except that paragraph (6) of such section shall be applied and administered by substituting 'the Committee on Banking, Housing, and Urban Affairs' for 'the Committee on the Judiciary' each place it appears.

''(III) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This clause is enacted by Congress—

''(aa) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such is deemed a part of the rules of each House, respectively, and supersedes other rules only to the extent that it is inconsistent with such rules; and

''(bb) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

''(3) REVIEW OF LICENSE APPLICATIONS.—

''(A) IN GENERAL.—The Secretary shall, consistent with the provisions of section 1756 and in coordination with the heads of the appropriate Federal agencies—

''(i) review applications for a license or other authorization for the export or reexport to, or in-country transfer in, a restricted country of covered personal data in a manner that exceeds the applicable threshold established under subsection (a)(3); and

''(ii) establish procedures for conducting the review of such applications.

''(B) DISCLOSURES RELATING TO COLLABORATIVE ARRANGEMENTS.—In the case of an application for a license or other authorization for an export, reexport, or in-country transfer described in subparagraph (A)(i) submitted by or on behalf of a joint venture, joint development agreement, or similar collaborative arrangement, the Secretary may require the applicant to identify, in addition to any foreign person participating in the arrangement, any foreign person with significant ownership interest in a foreign person participating in the arrangement.

''(4) EXCEPTIONS.—

''(A) IN GENERAL.—The Secretary shall not impose under paragraph (1) a requirement for a license or other authorization with respect to the export, reexport, or in-country transfer of covered personal data pursuant to any of the following transactions:

''(i) The export, reexport, or in-country transfer by an individual of covered personal data that specifically pertains to that individual.

''(ii) The export, reexport, or in-country transfer of the personal data of one or more individuals by a person performing a service for those individuals if the service could not possibly be performed (as defined by the Secretary in regulations) without the export, reexport, or in-country transfer of that personal data.

''(iii) The export, reexport, or in-country transfer of personal data that is encrypted if—

''(I) the encryption key or other information necessary to decrypt the data is not, at the time of the export, reexport, or in-country transfer of the personal data or any other time, exported, reexported, or transferred to a restricted country or (except as provided in subparagraph (B)) a national of a restricted country; and

''(II) the encryption technology used to protect the data against decryption is certified by the National Institute of Standards and Technology as capable of protecting data for the period of time determined under subsection (a)(4) to be sufficient to prevent the exploitation of the data by a foreign government or foreign adversary from harming the national security of the United States.

''(iv) The export, reexport, or in-country transfer of personal data that is ordered by an appropriate court of the United States.

''(B) EXCEPTION FOR CERTAIN NATIONALS OF RESTRICTED COUNTRIES.—Subparagraph (A)(iii)(I) does not apply with respect to an individual who is a national of a restricted country if the individual is also a citizen of the United States or a noncitizen described in subsection (l)(5)(C).

''(c) REQUIREMENTS FOR IDENTIFICATION OF CATEGORIES AND DETERMINATION OF APPROPRIATE CONTROLS.—In identifying categories of personal data under subsection (a)(1) and imposing appropriate controls under subsection (b), the Secretary, in coordination with the heads of the appropriate Federal agencies, as appropriate—

''(1) may not regulate or restrict the publication or sharing of—

''(A) personal data that is a matter of public record, such as a court record or other government record that is generally available to the public, including information about an individual made public by that individual or by the news media;

''(B) information about a matter of public interest; or

''(C) any other information the publication or sharing of which is protected by the First Amendment to the Constitution of the United States; and

''(2) shall consult with the appropriate congressional committees.

''(d) PENALTIES.—

''(1) LIABLE PERSONS.—

''(A) IN GENERAL.—In addition to any person that commits an unlawful act described in subsection (a) of section 1760, an officer or employee of an organization has committed an unlawful act subject to penalties under that section if the officer or employee knew or should have known that another employee of the organization who reports, directly or indirectly, to the officer or employee was directed to export, reexport, or in-country transfer covered personal data in violation of this section and subsequently did export, reexport, or in-country transfer such data.

''(B) EXCEPTIONS AND CLARIFICATIONS.—

''(i) INTERMEDIARIES NOT LIABLE.—An intermediate consignee (as defined in section 772.1 of the Export Administration Regulations (or any successor regulation)) or other intermediary is not liable for the export, reexport, or in-country transfer of covered personal data in violation of this section when acting as an intermediate consignee or other intermediary for another person.

''(ii) SPECIAL RULE FOR CERTAIN APPLICATIONS.—In a case in which an application installed on an electronic device transmits or causes the transmission of covered personal data without being directed to do so by the owner or user of the device who installed the application, the developer of the application, and not the owner or user of the device, is liable for any violation of this section.

''(2) CRIMINAL PENALTIES.—In determining an appropriate term of imprisonment under section 1760(b)(2) with respect to a person for a violation of this section, the court shall consider—

''(A) how many covered individuals had their covered personal data exported, reexported, or in-country transferred in violation of this section;

''(B) any harm that resulted from the violation; and

''(C) the intent of the person in committing the violation.

''(e) REPORT TO CONGRESS.—

''(1) IN GENERAL.—Not less frequently than annually, the Secretary, in coordination with the heads of the appropriate Federal agencies, shall submit to the appropriate congressional committees a report on the results of actions taken pursuant to this section.

''(2) INCLUSIONS.—Each report required by paragraph (1) shall include a description of the determinations made under subsection (b)(2)(A)(ii) during the preceding year.

''(3) FORM.—Each report required by paragraph (1) shall be submitted in unclassified form but may include a classified annex.

''(f) DISCLOSURE OF CERTAIN LICENSE INFORMATION.—

''(1) IN GENERAL.—Not less frequently than every 90 days, the Secretary shall publish on a publicly accessible website of the Department of Commerce, including in a machine-readable format, the information specified in paragraph (2), with respect to each application—

''(A) for a license for the export or reexport to, or in-country transfer in, a restricted country of covered personal data in a manner that exceeds the applicable threshold established under subsection (a)(3); and

''(B) with respect to which the Secretary made a decision in the preceding 90-day period.

''(2) INFORMATION SPECIFIED.—The information specified in this paragraph with respect

to an application described in paragraph (1) is the following:

''(A) The name of the applicant.

''(B) The date of the application.

''(C) The name of the foreign party to which the applicant sought to export, reexport, or transfer the data.

''(D) The categories of covered personal data the applicant sought to export, reexport, or transfer.

''(E) The number of covered individuals whose information the applicant sought to export, reexport, or transfer.

''(F) Whether the application was approved or denied.

''(g) NEWS MEDIA PROTECTIONS.—A person that is engaged in journalism is not subject to restrictions imposed under this section to the extent that those restrictions directly infringe on the journalism practices of that person.

''(h) CITIZENSHIP DETERMINATIONS BY PERSONS PROVIDING SERVICES TO END-USERS NOT REQUIRED.—This section does not require a person that provides products or services to an individual to determine the citizenship or immigration status of the individual, but once the person becomes aware that the individual is a covered individual, the person shall treat covered personal data of that individual as is required by this section.

''(i) FEES.—

''(1) IN GENERAL.—Notwithstanding section 1756(c), the Secretary may, to the extent provided in advance in appropriations Acts, assess and collect a fee, in an amount determined by the Secretary in regulations, with respect to each application for a license submitted under subsection (b).

''(2) DEPOSIT AND AVAILABILITY OF FEES.—Notwithstanding section 3302 of title 31, United States Code, fees collected under paragraph (1) shall—

''(A) be credited as offsetting collections to the account providing appropriations for activities carried out under this section;

''(B) be available, to the extent and in the amounts provided in advance in appropriations Acts, to the Secretary solely for use in carrying out activities under this section; and

''(C) remain available until expended.

''(j) REGULATIONS.—The Secretary may prescribe such regulations as are necessary to carry out this section.

''(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary and to the head of each of the appropriate Federal agencies participating in carrying out this section such sums as may be necessary to carry out this section, including to hire additional employees with expertise in privacy.

''(l) DEFINITIONS.—In this section:

''(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

''(A) the Committee on Banking, Housing, and Urban Affairs, the Committee on Foreign Relations, the Committee on Finance, and the Select Committee on Intelligence of the Senate; and

''(B) the Committee on Foreign Affairs, the Committee on Ways and Means, and the Permanent Select Committee on Intelligence of the House of Representatives.

''(2) APPROPRIATE FEDERAL AGENCIES.—The term 'appropriate Federal agencies' means the following:

''(A) The Department of Defense.

''(B) The Department of State.

''(C) The Department of Justice.

''(D) The Department of the Treasury.

''(E) The Office of the Director of National Intelligence.

''(F) The Office of Science and Technology Policy.

''(G) The Department of Homeland Security.

''(H) The Consumer Financial Protection Bureau.

''(I) The Federal Trade Commission.

''(J) The Federal Communications Commission.

''(K) The Department of Health and Human Services.

''(L) Such other Federal agencies as the Secretary considers appropriate.

''(3) COVERED INDIVIDUAL.—The term 'covered individual', with respect to personal data, means an individual who, at the time the data is acquired—

''(A) is located in the United States; or

''(B) is—

''(i) located outside the United States or whose location cannot be determined; and

''(ii) a citizen of the United States or a noncitizen lawfully admitted for permanent residence.

''(4) COVERED PERSONAL DATA.—The term 'covered personal data' means the categories of personal data of covered individuals identified pursuant to subsection (a).

''(5) EXPORT.—

''(A) IN GENERAL.—The term 'export', with respect to covered personal data, includes—

''(i) subject to subparagraph (D), the shipment or transmission of the data out of the United States, including the sending or taking of the data out of the United States, in any manner, if the shipment or transmission is intentional, without regard to whether the shipment or transmission was intended to go out of the United States; or

''(ii) the release or transfer of the data to any noncitizen (other than a noncitizen described in subparagraph (C)), if the release or transfer is intentional, without regard to whether the release or transfer was intended to be to a noncitizen.

''(B) EXCEPTIONS.—The term 'export' does not include—

''(i) the publication of covered personal data on the internet in a manner that makes the data discoverable by and accessible to any member of the general public; or

''(ii) any activity protected by the speech or debate clause of the Constitution of the United States.

''(C) NONCITIZENS DESCRIBED.—A noncitizen described in this subparagraph is a noncitizen who is authorized to be employed in the United States.

''(D) TRANSMISSIONS THROUGH RESTRICTED COUNTRIES.—

''(i) IN GENERAL.—On and after the date that is 5 years after the date of the enactment of the Protecting Americans' Data From Foreign Surveillance Act of 2023, and except as provided in clause (iii), the term 'export' includes the transmission of data through a restricted country, without regard to whether the person originating the transmission had knowledge of or control over the path of the transmission.

''(ii) EXCEPTIONS.—Clause (i) does not apply with respect to a transmission of data through a restricted country if—

''(I) the data is encrypted as described in subsection (b)(4)(A)(iii); or

''(II) the person that originated the transmission received a representation from the party delivering the data for the person stating that the data will not transit through a restricted country.

''(iii) FALSE REPRESENTATIONS.—If a party delivering covered personal data as described in clause (ii)(II) transmits the data directly or indirectly through a restricted country despite making the representation described in clause (ii)(II), that party shall be liable for violating this section.

''(6) FOREIGN ADVERSARY.—The term 'foreign adversary' has the meaning given that term in section 8(c)(2) of the Secure and Trusted Communications Networks Act of 2019 (47 U.S.C. 1607(c)(2)).

''(7) IN-COUNTRY TRANSFER; REEXPORT.—The terms 'in-country transfer' and 'reexport', with respect to personal data, shall have the meanings given those terms in regulations prescribed by the Secretary.

''(8) LAWFULLY ADMITTED FOR PERMANENT RESIDENCE; NATIONAL.—The terms 'lawfully admitted for permanent residence' and 'national' have the meanings given those terms in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)).

''(9) NONCITIZEN.—The term 'noncitizen' means an individual who is not a citizen or national of the United States.

''(10) RESTRICTED COUNTRY.—The term 'restricted country' means a country for which a license or other authorization is required under subsection (b) for the export or reexport to, or in-country transfer in, that country of covered personal data in a manner that exceeds the applicable threshold established under subsection (a)(3).''.

(b) STATEMENT OF POLICY.—Section 1752 of the Export Control Reform Act of 2018 (50 U.S.C. 4811) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking ''; and'' and inserting a semicolon;

(B) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(C) to restrict, notwithstanding section 203(b) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)), the export of personal data of United States citizens and other covered individuals (as defined in section 1758A(l)) in a quantity and a manner that could harm the national security of the United States.''; and

(2) in paragraph (2), by adding at the end the following:

''(H) To prevent the exploitation of personal data of United States citizens and other covered individuals (as defined in section 1758A(l)) in a quantity and a manner that could harm the national security of the United States.''.

(c) LIMITATION ON AUTHORITY TO MAKE EXCEPTIONS TO LICENSING REQUIREMENTS.—Section 1754 of the Export Control Reform Act of 2018 (50 U.S.C. 4813) is amended—

(1) in subsection (a)(14), by inserting ''and subject to subsection (g)'' after ''as warranted''; and

(2) by adding at the end the following:

''(g) LIMITATION ON AUTHORITY TO MAKE EXCEPTIONS TO LICENSING REQUIREMENTS.—The Secretary may create under subsection (a)(14) exceptions to licensing requirements under section 1758A only for the export, reexport, or in-country transfer of covered personal data (as defined in subsection (l) of that section) by or for a Federal department or agency.''.

(d) RELATIONSHIP TO INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.—Section 1754(b) of the Export Control Reform Act of 2018 (50 U.S.C. 4813(b)) is amended by inserting ''(other than section 1758A)'' after ''this part''.

SEC. 1404. SEVERABILITY.

If any provision of or any amendment made by this title, or the application of any such provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of the provisions of and amendments made by this title, and the application of such provisions and amendments to any other person or circumstance, shall not be affected.

SA 2055. Mr. CASEY submitted an amendment intended to be proposed by him to the bill H.R. 3935, to amend title 49, United States Code, to reauthorize and improve the Federal Aviation Administration and other civil aviation

programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—ANTISEMITISM

SEC. ___1. SHORT TITLE.

This title may be cited as the ''Antisemitism Awareness Act of 2024''.

SEC. ___2. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving Federal financial assistance;

(2) while such title does not cover discrimination based solely on religion, individuals who face discrimination based on actual or perceived shared ancestry or ethnic characteristics do not lose protection under such title for also being members of a group that share a common religion;

(3) discrimination against Jews may give rise to a violation of such title when the discrimination is based on race, color, or national origin, which can include discrimination based on actual or perceived shared ancestry or ethnic characteristics;

(4) it is the policy of the United States to enforce such title against prohibited forms of discrimination rooted in antisemitism as vigorously as against all other forms of discrimination prohibited by such title; and

(5) as noted in the U.S. National Strategy to Counter Antisemitism issued by the White House on May 25, 2023, it is critical to—

(A) increase awareness and understanding of antisemitism, including its threat to America;

(B) improve safety and security for Jewish communities;

(C) reverse the normalization of antisemitism and counter antisemitic discrimination; and

(D) expand communication and collaboration between communities.

SEC. ___3. FINDINGS.

Congress finds the following:

(1) Antisemitism is on the rise in the United States and is impacting Jewish students in K–12 schools, colleges, and universities.

(2) The International Holocaust Remembrance Alliance (referred to in this title as the ''IHRA'') Working Definition of Antisemitism is a vital tool which helps individuals understand and identify the various manifestations of antisemitism.

(3) On December 11, 2019, Executive Order 13899 extended protections against discrimination under the Civil Rights Act of 1964 to individuals subjected to antisemitism on college and university campuses and tasked Federal agencies to consider the IHRA Working Definition of Antisemitism when enforcing title VI of such Act.

(4) Since 2018, the Department of Education has used the IHRA Working Definition of Antisemitism when investigating violations of that title VI.

(5) The use of alternative definitions of antisemitism impairs enforcement efforts by adding multiple standards and may fail to identify many of the modern manifestations of antisemitism.

(6) The White House released the first-ever United States National Strategy to Counter Antisemitism on May 25, 2023, making clear that the fight against this hate is a national, bipartisan priority that must be successfully conducted through a whole-of-government-and-society approach.

SEC. ___4. DEFINITIONS.

For purposes of this title, the term ''definition of antisemitism''—

(1) means the definition of antisemitism adopted on May 26, 2016, by the IHRA, of which the United States is a member, which definition has been adopted by the Department of State; and

(2) includes the ''[c]ontemporary examples of antisemitism'' identified in the IHRA definition.

SEC. ___5. RULE OF CONSTRUCTION FOR TITLE VI OF THE CIVIL RIGHTS ACT OF 1964.

In reviewing, investigating, or deciding whether there has been a violation of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) on the basis of race, color, or national origin, based on an individual's actual or perceived shared Jewish ancestry or Jewish ethnic characteristics, the Department of Education shall take into consideration the definition of antisemitism as part of the Department's assessment of whether the practice was motivated by antisemitic intent.

SEC. ___6. OTHER RULES OF CONSTRUCTION.

(a) GENERAL RULE OF CONSTRUCTION.—Nothing in this title shall be construed—

(1) to expand the authority of the Secretary of Education;

(2) to alter the standards pursuant to which the Department of Education makes a determination that harassing conduct amounts to actionable discrimination; or

(3) to diminish or infringe upon the rights protected under any other provision of law that is in effect as of the date of enactment of this Act.

(b) CONSTITUTIONAL PROTECTIONS.—Nothing in this title shall be construed to diminish or infringe upon any right protected under the First Amendment to the Constitution of the United States.

SA 2056. Mr. KELLY submitted an amendment intended to be proposed to amendment SA 1911 proposed by Ms. CANTWELL (for herself, Mr. CRUZ, Ms. DUCKWORTH, and Mr. MORAN) to the bill H.R. 3935, to amend title 49, United States Code, to reauthorize and improve the Federal Aviation Administration and other civil aviation programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. SAFETY ENHANCEMENTS FOR CERTIFICATION OF TRANSPORT CATEGORY PURPOSE BUILT CARGO AIRCRAFT.

(a) PURPOSES.—The purposes of this section are the following:

(1) To evaluate the function and reliability aspects of unique commercial cargo aircraft operations prior to any commercial operation of such aircraft under part 135 or part 121 of title 14, Code of Federal Regulations.

(2) To ensure compliance with the airworthiness requirements for unique commercial cargo aircraft.

(3) To support of the development of safe, new, and useful air cargo systems such that the highest level of safety mitigation, oversight, and inspections can support the advancement of aviation in the United States.

(b) AUTHORIZATION OF FLIGHT OPERATIONS FOR CERTAIN TESTING.—Notwithstanding section 44711(a) of title 49, United States Code, and any regulation prohibiting such operations, the Secretary shall have the sole discretion to permit, as part of function and reliability flight testing and prior to type design approval, the operation of aircraft carrying unique commercial cargo if such aircraft is—

(1) a cargo-only aircraft with a maximum take-off weight of not less than 600,000 pounds;

(2) an aircraft for which testing and evaluation is to be performed with representative or actual cargo in cargo operation; and

(3) designed to use a novel cargo loading, cargo unloading, or cargo retention method.

(c) USE OF DESIGNATED ENGINEERING REPRESENTATIVE FLIGHT TEST PILOTS.—The Secretary may authorize Designated Engineering Representative Flight Test Pilots to perform the function and reliability flight testing described in subsection (b).

(d) SAFETY PROCESSES.—The Secretary shall use FAA safety processes and procedures for performing certification flight tests under this section to ensure an adequate level of safety.

(e) DEFINITION OF UNIQUE COMMERCIAL CARGO.—For purposes of this section, the term ''unique commercial cargo'' means cargo—

(1) that cannot be carried or otherwise transported in a certified cargo airplane; and

(2) for which a person seeking certification under this section may receive financial benefit to carry or otherwise transport.

(f) EXPIRATION OF AUTHORITY.—The authority described in section shall expire on October 1, 2033.

SA 2057. Mr. WARNER (for himself, Mr. KAINE, Mr. VAN HOLLEN, Mr. CARDIN, and Mr. TILLIS) submitted an amendment intended to be proposed to amendment SA 1911 proposed by Ms. CANTWELL (for herself, Mr. CRUZ, Ms. DUCKWORTH, and Mr. MORAN) to the bill H.R. 3935, to amend title 49, United States Code, to reauthorize and improve the Federal Aviation Administration and other civil aviation programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 502, add the following:

(d) REQUIREMENT TO CONSIDER IMPACT ON FLIGHT DELAYS, CANCELLATIONS, AND PASSENGER SAFETY.—Subsection (i) of section 41718 of title 49, United States Code, as added by subsection (a), is further amended by adding at the end the following new paragraph:

''(6) REQUIRED DETERMINATIONS.—Notwithstanding the preceding provisions of this subsection, the Secretary may only grant any of the slot exemptions authorized under this subsection if the Secretary determines for each of the slot exemptions that the granting of the slot exemption will not increase flight delays, cancellations, or compromise passenger safety for existing flight service at Ronald Reagan Washington National Airport. In making this determination, the Secretary shall take into consideration—

''(A) current operational performance at Ronald Reagan Washington National Airport, as of the date on which the Secretary makes the determinations required under this paragraph prior to granting the slot exemption under paragraph (1);

''(B) the most recent projections based on the Annual Service Volume Delay Model , as of the date applicable under subparagraph (A); and

''(C) current landside and airside constraints, such as gate capacity, as of the date applicable under subparagraph (A).''.

SA 2058. Mr. OSSOFF (for himself, Mr. WARNOCK, Mrs. SHAHEEN, Mr. PADILLA, Ms. HASSAN, and Mr. WELCH) submitted an amendment intended to be proposed to amendment SA 1911 proposed by Ms. CANTWELL (for herself, Mr. CRUZ, Ms. DUCKWORTH, and Mr.

MORAN) to the bill H.R. 3935, to amend title 49, United States Code, to reauthorize and improve the Federal Aviation Administration and other civil aviation programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. DISASTER RESPONSE.

(a) IN GENERAL.—For an additional amount for ''Agricultural Programs—Processing, Research, and Marketing—Office of the Secretary'', there is appropriated, out of amounts in the Treasury not otherwise appropriated, $12,200,000,000, to remain available until expended, for necessary expenses related to losses of revenue, and quality or production losses of crops (including milk, peaches, apples, and crops prevented from being planted during calendar year 2023), trees, bushes, and vines, as a consequence of droughts, wildfires, hurricanes, floods, derechos, excessive heat, tornadoes, winter storms, frost, freeze, including a polar vortex, smoke exposure, and excessive moisture occurring during calendar year 2023, under such terms and conditions as determined by the Secretary of Agriculture.

(b) TERMS AND CONDITIONS.—The amount provided under this section shall be subject to the terms and conditions set forth in the first, second, and fourth through twelfth provisos under the heading ''Department of Agriculture—Agricultural Programs—Processing, Research, and Marketing—Office of the Secretary'' in title I of the Disaster Relief Supplemental Appropriations Act, 2022 (division B of Public Law 117–43), except that each reference to 2020 or 2021 in those provisos shall be deemed to be a reference to calendar year 2023.

(c) EMERGENCY DESIGNATION.—

(1) STATUTORY PAYGO.—This section is designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (2 U.S.C. 933(g)).

(2) SENATE DESIGNATION.—In the Senate, this section is designated as an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018.

SA 2059. Mr. CRAPO submitted an amendment intended to be proposed by him to the bill H.R. 3935, to amend title 49, United States Code, to reauthorize and improve the Federal Aviation Administration and other civil aviation programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT OF 2000.

(a) EXTENSION OF AUTHORITY FOR SECURE PAYMENTS.—Section 101 of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7111) is amended, in subsections (a) and (b), by striking ''2023'' each place it appears and inserting ''2026''.

(b) DISTRIBUTION OF PAYMENTS.—Section 103(d)(2) of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7113(d)(2)) is amended by striking ''2023'' and inserting ''2026''.

(c) RESOURCE ADVISORY COMMITTEES.—Section 205(a)(4) of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7125(a)(4)) is amended by striking ''December 20, 2023'' each place it appears and inserting ''December 20, 2026''.

(d) EXTENSION OF AUTHORITY TO CONDUCT SPECIAL PROJECTS ON FEDERAL LAND.—Section 208 of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7128) is amended—

(1) in subsection (a), by striking ''2025'' and inserting ''2028''; and

(2) in subsection (b), by striking ''2026'' and inserting ''2029''.

(e) EXTENSION OF AUTHORITY TO EXPEND COUNTY FUNDS.—Section 305 of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7144) is amended—

(1) in subsection (a), by striking ''2025'' and inserting ''2028''; and

(2) in subsection (b), by striking ''2026'' and inserting ''2029''.

(f) RESOURCE ADVISORY COMMITTEE PILOT PROGRAM EXTENSION.—Section 205 of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7125) is amended by striking subsection (g) and inserting the following:

''(g) PILOT PROGRAM FOR RESOURCE ADVISORY COMMITTEE APPOINTMENTS BY REGIONAL FORESTERS.—

''(1) IN GENERAL.—The Secretary concerned shall establish and carry out a pilot program under which the Secretary concerned shall allow the regional forester with jurisdiction over a unit of Federal land to appoint members of the resource advisory committee for that unit, in accordance with the applicable requirements of this section.

''(2) RESPONSIBILITIES OF REGIONAL FORESTER.—Before appointing a member of a resource advisory committee under the pilot program under this subsection, a regional forester shall conduct the review and analysis that would otherwise be conducted for an appointment to a resource advisory committee if the pilot program was not in effect, including any review and analysis with respect to civil rights and budgetary requirements.

''(3) SAVINGS CLAUSE.—Nothing in this subsection relieves a regional forester or the Secretary concerned from an obligation to comply with any requirement relating to an appointment to a resource advisory committee, including any requirement with respect to civil rights or advertising a vacancy.

''(4) TERMINATION OF EFFECTIVENESS.—The authority provided under this subsection terminates on October 1, 2028.''.

NOTICE OF INTENT TO OBJECT TO PROCEEDING

I, Senator RON WYDEN, intend to object to proceeding to the nomination of Col. David M. Church for appointment in the United States Army to the grade of brigadier general, dated May 8, 2024.

AUTHORITY FOR COMMITTEES TO MEET

Mr. SCHUMER. Madam President, I have seven requests for committees to meet during today's session of the Senate. They have the approval of the Majority and Minority Leaders.

Pursuant to rule XXVI, paragraph 5(a), of the Standing Rules of the Senate, the following committees are authorized to meet during today's session of the Senate:

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

The Committee on Commerce, Science, and Transportation is authorized to meet during the session of the Senate on Wednesday, May 8, 2024, at 2:30 p.m., to conduct a hearing.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

The Committee on Environment and Public Works is authorized to meet during the session of the Senate on Wednesday, May 8, 2024, at 10 a.m., to conduct a hearing.

COMMITTEE ON THE JUDICIARY

The Committee on the Judiciary is authorized to meet during the session of the Senate on Wednesday, May 8, 2024, at 10 a.m., to conduct a hearing.

SELECT COMMITTEE ON INTELLIGENCE

The Select Committee on Intelligence is authorized to meet during the session of the Senate on Wednesday, May 8, 2024, at 2:30 p.m., to conduct a closed briefing.

SUBCOMMITTEE ON AIRLAND

The Subcommittee on Airland of the Committee on Armed Services is authorized to meet during the session of the Senate on Wednesday, May 8, 2024, at 4:00 p.m., to conduct a hearing.

SUBCOMMITTEE ON PERSONNEL

The Subcommittee on Personnel of the Committee on Armed Services is authorized to meet during the session of the Senate on Wednesday, May 8, 2024, at 3 p.m., to conduct a hearing.

SUBCOMMITTEE ON STRATEGIC FORCES

The Subcommittee on Strategic Forces of the Committee on Armed Services is authorized to meet during the session of the Senate on Wednesday, May 8, 2024, at 4:45 p.m., to conduct a hearing.

PRIVILEGES OF THE FLOOR

Ms. LUMMIS. Madam President, I ask unanimous consent that the following interns in my office be granted floor privileges until May 9, 2024. They are: Georgina Ringley, Jessica Yang, and Elizabeth Michael.

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

AUTHORIZING THE USE OF EMANCIPATION HALL IN THE CAPITOL VISITOR CENTER FOR AN EVENT TO CELEBRATE THE BIRTHDAY OF KING KAMEHAMEHA I

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Con. Res. 36.

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

The clerk will report the concurrent resolution by title.

The senior assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 36) authorizing the use of Emancipation Hall in the Capitol Visitor Center for an event to celebrate the birthday of King Kamehameha I.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. SCHUMER. I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be considered made and laid upon the