(2) by striking ''The Secretary of the Treasury shall cause the destruction of'' and all that follows through ''liable for costs pursuant to subsection (c).'' and inserting the following: ''The Secretary of the Treasury shall cause the destruction of any such article refused admission unless such article is exported, under regulations prescribed by the Secretary of the Treasury, within 90 days of the date of notice of such refusal or within such additional time as may be permitted pursuant to such regulations, except that the Secretary of Health and Human Services may destroy, without the opportunity for export, any drug or device refused admission under this section, if such drug or device is valued at an amount that is $2,500 or less (or such higher amount as the Secretary of the Treasury may set by regulation pursuant to section 498(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1498(a)(1))) and was not brought into compliance as described under subsection (b). The Secretary of Health and Human Services shall issue regulations providing for notice and an opportunity to appear before the Secretary of Health and Human Services and introduce testimony, as described in the first sentence of this subsection, on destruction of a drug or device under the seventh sentence of this subsection. The regulations shall provide that prior to destruction, appropriate due process is available to the owner or consignee seeking to challenge the decision to destroy the drug or device. Where the Secretary of Health and Human Services provides notice and an opportunity to appear and introduce testimony on the destruction of a drug or device, the Secretary of Health and Human Services shall store and, as applicable, dispose of the drug or device after the issuance of the notice, except that the owner and consignee shall remain liable for costs pursuant to subsection (c).''.

(b) DEFINITION.—Section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) is amended—

(1) by redesignating subparagraphs (1), (2), and (3) as clauses (A), (B), and (C), respectively; and

(2) after making such redesignations—

(A) by striking ''(h) The term'' and inserting ''(h)(1) The term''; and

(B) by adding at the end the following:

''(2) The term 'counterfeit device' means a device which, or the container, packaging, or labeling of which, without authorization, bears a trademark, trade name, or other identifying mark, imprint, or symbol, or any likeness thereof, or is manufactured using a design, of a device manufacturer, packer, or distributor other than the person or persons who in fact manufactured, packed, or distributed such device and which thereby falsely purports or is represented to be the product of, or to have been packed or distributed by, such other device manufacturer, packer, or distributor.

''(3) For purposes of subparagraph (2)—

''(A) the term 'manufactured' refers to any of the following activities: manufacture, preparation, propagation, compounding, assembly, or processing; and

''(B) the term 'manufacturer' means a person who is engaged in any of the activities listed in clause (A).''.

SA 2559. Mr. ROMNEY (for himself, Ms. COLLINS, and Ms. MCSALLY) submitted an amendment intended to be proposed to amendment SA 2499 proposed by Mr. MCCONNELL to the bill S. 178, to condemn gross human rights violations of ethnic Turkic Muslims in Xinjiang, and calling for an end to arbitrary detention, torture, and harassment of these communities inside and outside China; which was ordered to lie on the table; as follows:

Strike sections 1 and 2 and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Pandemic Unemployment Compensation Extension Act of 2020''.

SEC. 2. IMPROVEMENTS TO FEDERAL PANDEMIC UNEMPLOYMENT COMPENSATION TO BETTER MATCH LOST WAGES.

(a) EXTENSION.—Section 2104(e)(2) of the Relief for Workers Affected by Coronavirus Act (contained in subtitle A of title II of division A of the CARES Act (Public Law 116–136)) is amended by striking ''July 31, 2020'' and inserting ''December 31, 2020''.

(b) IMPROVEMENTS TO ACCURACY OF PAYMENTS.—

(1) FEDERAL PANDEMIC UNEMPLOYMENT COMPENSATION.—

(A) IN GENERAL.—Section 2104(b) of the Relief for Workers Affected by Coronavirus Act (contained in subtitle A of title II of division A of the CARES Act (Public Law 116–136)) is amended—

(i) in paragraph (1)(B), by striking ''of $600'' and inserting ''equal to the amount specified in paragraph (3)''; and

(ii) by adding at the end the following new paragraph:

''(3) AMOUNT OF FEDERAL PANDEMIC UNEMPLOYMENT COMPENSATION.—

''(A) IN GENERAL.—The amount specified in this paragraph is the following amount with respect to an individual:

''(i) For weeks of unemployment beginning after the date on which an agreement is entered into under this section and ending on or before July 31, 2020, $600.

''(ii) For weeks of unemployment beginning after the last week under clause (i) and ending before August 31, 2020, an amount equal to one of the following, as determined by the State for all individuals:

''(I) $500.

''(II) $400

''(iii) For weeks of unemployment beginning after the last week under clause (ii) and ending on or before September 28, 2020, $400.

''(iv) Subject to subparagraph (B), for weeks of unemployment beginning after the last week under clause (iii) and ending before December 31, 2020, an amount (not to exceed $500) equal to one of the following, as determined by the State for all individuals:

''(I) An amount equal to—

''(aa) 80 percent of the individual's average weekly wages; minus

''(bb) the individual's base amount (determined prior to any reductions or offsets).

''(II) If proposed by the State as an alternative to subclause (I) and approved by the Secretary, an amount that results in the sum of the base amount and the amount of Federal Pandemic Unemployment Compensation under this section being on average equal to 80 percent of lost wages.

''(B) WAIVER TO PROVIDE FLAT DOLLAR AMOUNT.—If a State determines that it is unable to calculate amounts under either subclause (I) or (II) of subparagraph (A)(iv), the State may apply to the Secretary for a waiver under which the amount specified under subparagraph (A)(iv) shall be $300 rather than the amount calculated under such subclause (I) or (II).

''(C) BASE AMOUNT.—For purposes of this paragraph, the term 'base amount' means, with respect to an individual, an amount equal to—

''(i) for weeks of unemployment under the pandemic unemployment assistance program under section 2102, the amount determined under subsection (d)(1)(A)(i) or (d)(2) of such section 2102, as applicable; or

''(ii) for all other weeks of unemployment, the amount determined under paragraph (1)(A) of this subsection.

''(D) AVERAGE WEEKLY WAGES.—

''(i) IN GENERAL.—Subject to clause (ii), for purposes of this paragraph, the term 'average weekly wages' means, with respect to an individual, the following:

''(I) If the State computes the individual weekly unemployment compensation benefit amount based on an individual's average weekly wages in a base period, an amount equal to the individual's average weekly wages used in such computation.

''(II) If the State computes the individual weekly unemployment compensation benefit amount based on high quarter wages or a formula using wages across some but not all quarters in a base period, an amount equal to 1/13 of such high quarter wages or average wages of the applicable quarters used in the computation for the individual.

''(III) If the State uses computations other than the computations under subclause (I) or (II) for the individual weekly unemployment compensation benefit amount, or for computations of the weekly benefit amount under the pandemic unemployment assistance program under section 2102, as described in subsection (d)(1)(A)(i) or (d)(2) of such section 2102, for which subclause (I) or (II) do not apply, an amount equal to 1/52 of the sum of all base period wages.

''(ii) SPECIAL RULE.—If more than one of the methods of computation under subclauses (I), (II), and (III) of clause (i) are applicable to a State, then such term shall mean the amount determined under the applicable subclause of clause (i) that results in the highest amount of average weekly wages.''.

(B) TECHNICAL AMENDMENT REGARDING APPLICATION TO SHORT-TIME COMPENSATION PROGRAMS AND AGREEMENTS.—Section 2104(i)(2) of the Relief for Workers Affected by Coronavirus Act (contained in subtitle A of title II of division A of the CARES Act (Public Law 116–136)) is amended—

(i) in subparagraph (C), by striking ''and'' at the end;

(ii) in subparagraph (D), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(E) short-time compensation under section 2108 or 2109.''.

(2) CONFORMING AMENDMENTS.—

(A) PANDEMIC UNEMPLOYMENT ASSISTANCE.—Section 2102(d) of the Relief for Workers Affected by Coronavirus Act (contained in subtitle A of title II of division A of the CARES Act (Public Law 116–136)) is amended by inserting ''with respect to the individual'' after ''section 2104'' in each of paragraphs (1)(A)(ii) and (2).

(B) PANDEMIC EMERGENCY UNEMPLOYMENT COMPENSATION.—Section 2107 of the Relief for Workers Affected by Coronavirus Act (contained in subtitle A of title II of division A of the CARES Act (Public Law 116–136)) is amended—

(i) in subsection (a)(4)(A)(ii), by inserting ''with respect to the individual'' after ''section 2104''; and

(ii) in subsection (b)(2), by inserting ''with respect to the individual'' after ''section 2104''.

(c) CONSISTENT TREATMENT OF EARNINGS AND UNEMPLOYMENT COMPENSATION.—Section 2104(h) of the Relief for Workers Affected by Coronavirus Act (contained in subtitle A of title II of division A of the CARES Act (Public Law 116–136)) is amended by adding at the end the following new sentence: ''The preceding sentence shall not apply to any Federal Pandemic Unemployment Compensation paid to an individual with respect to a week of unemployment ending on or after October 5, 2020.''.

(d) REQUIREMENT FOR RETURN TO WORK NOTIFICATION AND REPORTING.—Section 2104(b) of the Relief for Workers Affected by Coronavirus Act (contained in subtitle A of title II of division A of the CARES Act (Public Law 116–136)) is amended by adding at the end the following new paragraph:

''(3) Beginning 30 days after the date of enactment of this paragraph, any agreement under this section shall require that the State has in place a process to address refusal to return to work or refusal of suitable work that includes the following:

''(A) Providing a plain-language notice to individuals at the time of applying for benefits regarding State law provisions relating to each of the following:

''(i) Return to work requirements.

''(ii) Rights to refuse to return to work or to refuse suitable work.

''(iii) How to contest the denial of a claim that has been denied due to a claim by an employer that the individual refused to return to work or refused suitable work.

''(B) Providing a plain-language notice to employers through any system used by employers or any regular correspondence sent to employers regarding how to notify the State if an individual refuses to return to work.

''(C) Other items determined appropriate by the Secretary of Labor.''.

(e) EFFECTIVE DATE.—The amendments made by this section (other than the amendment made by subsection (d)) shall take effect as if included in the enactment of the Relief for Workers Affected by Coronavirus Act (contained in subtitle A of title II of division A of the CARES Act (Public Law 116–136)).

SEC. 3. EMERGENCY DESIGNATION.

(a) IN GENERAL.—The amounts provided by this Act and the amendments made by this Act are 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)).

(b) DESIGNATION IN SENATE.—In the Senate, this Act and the amendments made by this Act are 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 2560. Mr. COTTON submitted an amendment intended to be proposed to amendment SA 2499 proposed by Mr. MCCONNELL to the bill S. 178, to condemn gross human rights violations of ethnic Turkic Muslims in Xinjiang, and calling for an end to arbitrary detention, torture, and harassment of these communities inside and outside China; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. 3. FUNDING LIMITATIONS.

(a) PROHIBITION.—None of the funds appropriated under this Act or under the CARES Act (Public Law 116–136), as amended by this Act, may be provided to an entity that is under the foreign ownership, control, or influence of—

(1) the Government of the People's Republic of China;

(2) the Chinese Communist Party; or

(3) an entity domiciled in the People's Republic of China.

(b) CLAWBACK.—The Secretary of the Treasury, in consultation with the Secretary of State, shall recover all of the amounts appropriated under this Act or under the CARES Act that were provided to entities described in subsection (a).

SA 2561. Mrs. CAPITO submitted an amendment intended to be proposed to amendment SA 2499 proposed by Mr. MCCONNELL to the bill S. 178, to condemn gross human rights violations of ethnic Turkic Muslims in Xinjiang, and calling for an end to arbitrary detention, torture, and harassment of these communities inside and outside China; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COVERAGE OF PRESCRIPTION DIGITAL THERAPEUTICS UNDER THE MEDICARE PROGRAM.

(a) COVERAGE AS MEDICAL AND OTHER HEALTH SERVICE.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) in subparagraph (GG), by striking ''and'' at the end;

(2) in subparagraph (HH), by striking the period at the end and inserting ''; and''; and

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

''(II) prescription digital therapeutics as defined in subsection (kkk);''.

(b) PRESCRIPTION DIGITAL THERAPEUTICS DEFINED.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new subsection:

''(kkk) PRESCRIPTION DIGITAL THERAPEUTICS DEFINED.—

''(1) IN GENERAL.—The term 'prescription digital therapeutic' means a product, device, internet application, or other technology that—

''(A) is approved or cleared by the Food and Drug Administration under a relevant authority (within the meaning of paragraph (2));

''(B) has an approved indication for the prevention, management, or treatment of a mental health or substance use disorder, including opioid use disorder;

''(C) uses behavioral treatment or modification to achieve its intended result; and

''(D) can only be dispensed pursuant to a prescription.

''(2) RELEVANT AUTHORITY DEFINED.—For purposes of paragraph (1), the term 'relevant authority' means the following sections of the Federal Food, Drug, and Cosmetic Act:

''(A) Section 510(k) of such Act (21 U.S.C. 360(k)).

''(B) Section 515 of such Act (21 U.S.C. 360e).''.

(c) PAYMENT FOR PRESCRIPTION DIGITAL THERAPEUTICS.—Section 1834 of the Social Security Act (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

''(x) PAYMENT FOR PRESCRIPTION DIGITAL THERAPEUTICS.—

''(1) SEPARATE PAYMENT.—The Secretary shall make a payment (separate from any payment that may otherwise be made under this title for a related service) in the amount established pursuant to paragraph (3) for a prescription digital therapeutic (as defined in section 1861(kkk)) that is furnished on or after January 1, 2021.

''(2) PAYMENT RECIPIENT.—Payment under this subsection shall be made to any provider of services or supplier enrolled under this title that—

''(A) prescribes a prescription digital therapeutic (as defined in such subsection);

''(B) uses such prescription digital therapeutic as an integral part of a treatment for a related service; and

''(C) agrees to accept, as payment in full, after the application of any deductible or coinsurance that may be applied under this part, the amount established pursuant to paragraph (3).

''(3) ESTABLISHMENT OF PAYMENT AMOUNT.—

''(A) IN GENERAL.—The Secretary shall establish a payment methodology for a prescription digital therapeutic only in accordance with the requirements of this paragraph.

''(B) DEVELOPMENT OF FEE SCHEDULE.—Within 180 days of the approval or clearance described in section 1861(kkk)(1)(A), the Secretary shall develop a proposed fee schedule for each prescription digital therapeutic so approved or cleared. In developing such fee schedule, the Secretary may use the gap filling process described on 84 Federal Register 60729 through 60742 and published on November 8, 2019.

''(C) NOTICE AND COMMENT REQUIRED.—Upon the development of the proposed fee schedule described in subparagraph (B), the Secretary shall publish in the Federal Register such proposed fee schedule. Section 1871 shall apply to any proposed fee scheduled published pursuant to this subparagraph.

''(4) RULE OF CONSTRUCTION.—For purposes of paragraph (1), a service is 'related' to the use of a prescription digital therapeutic if the service—

''(A) is an integral part of the use of the prescription digital therapeutic;

''(B) is necessary to achieve the full intended result of the prescription digital therapeutic; and

''(C) must, pursuant to the approval or clearance described in section 1861(kkk)(1)(A), be adjunctive to the use of the prescription digital therapeutic.''.

(d) RULE OF CONSTRUCTION; EFFECTIVE DATE.—

(1) RULE OF CONSTRUCTION.—No provision of this section, or the enactment of this section, shall be construed to imply that, in the case of an item or service that meets the definition of a prescription digital therapeutic under this section for which coverage or payment under the Medicare program is already available prior to the date of the enactment of this Act may not be covered or reimbursed under such program.

(2) EFFECTIVE DATE.—The amendments made by this section shall apply to a prescription digital therapeutic dispensed after December 31, 2020.

SEC. ___. COVERAGE OF PRESCRIPTION DIGITAL THERAPEUTICS UNDER THE MEDICAID PROGRAM.

Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended—

(1) in paragraph (29), by striking ''; and'' and inserting a semicolon;

(2) by redesignating paragraph (30) as paragraph (31); and

(3) by inserting the following paragraph after paragraph (29):

''(30) prescription digital therapeutics (as defined in section 1861(kkk)); and''.

SA 2562. Mrs. CAPITO submitted an amendment intended to be proposed to amendment SA 2499 proposed by Mr. MCCONNELL to the bill S. 178, to condemn gross human rights violations of ethnic Turkic Muslims in Xinjiang, and calling for an end to arbitrary detention, torture, and harassment of these communities inside and outside China; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ACCESS TO NON-OPIOID TREATMENTS FOR PAIN.

(a) IN GENERAL.—Section 1833(t) of the Social Security Act (42 U.S.C. 1395l(t)) is amended—