(i) INTERIM PROVISION OF INFORMATION.—The Secretary shall, as determined appropriate, periodically during such emergency period, post on the internet website of the Centers for Medicare & Medicaid services data on utilization of telehealth and other virtual services under the Medicare program and the impact of characteristics described in subparagraph (A) on such utilization.

(ii) REPORT.—Not later than 15 months after date of enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under subparagraph (A), together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

SA 2564. Mr. MORAN 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. _____. PAYCHECK PROTECTION PROGRAM.

Section 7(a)(36)(D) of the Small Business Act (15 U.S.C. 636(a)(36)(D)) is amended by striking clause (i) and inserting the following:

''(i) IN GENERAL.—During the covered period, in addition to small business concerns, any business concern, nonprofit organization, veterans organization, or Tribal business concern described in section 31(b)(2)(C) shall be eligible to receive a covered loan if the business concern, nonprofit organization, veterans organization, or Tribal business concern—

''(I) employs not more than the greater of—

''(aa) 500 employees; or

''(bb) if applicable, the size standard in number of employees established by the Administration for the industry in which the business concern, nonprofit organization, veterans organization, or Tribal business concern operates; or

''(II) is as described in clauses (i) and (ii) of section 3(a)(5)(B).''.

SA 2565. Mr. CORNYN (for himself and Mr. MCCONNELL) 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, add the following:

TITLE II—SAFE TO WORK

SEC. 201. SHORT TITLE.

This title may be cited as the ''Safeguarding America's Frontline Employees To Offer Work Opportunities Required to Kickstart the Economy Act'' or the ''SAFE TO WORK Act''.

SEC. 202. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The SARS–CoV–2 virus that originated in China and causes the disease COVID–19 has caused untold misery and devastation throughout the world, including in the United States.

(2) For months, frontline health care workers and health care facilities have fought the virus with courage and resolve. They did so at first with very little information about how to treat the virus and developed strategies to save lives of the people of the United States in real time. They risked their personal health and wellbeing to protect and treat their patients.

(3) Businesses in the United States kicked into action to produce and procure personal protective equipment, such as masks, gloves, face shields, and hand sanitizer, and other necessary medical supplies, such as ventilators, at unprecedented rates.

(4) To halt the spread of the disease, State and local governments took drastic measures. They shut down small and large businesses, schools, colleges and universities, religious, philanthropic and other nonprofit institutions, and local government agencies. They ordered people to remain in their homes.

(5) This standstill was needed to slow the spread of the virus. But it devastated the economy of the United States. The sum of hundreds of local-level and State-level decisions to close nearly every space in which people might gather brought interstate commerce nearly to a halt.

(6) This halt led to the loss of millions of jobs. These lost jobs were not a natural consequence of the economic environment, but rather the result of a drastic, though temporary, response to the unprecedented nature of this global pandemic.

(7) Congress passed a series of statutes to address the health care and economic crises—the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (Public Law 116–123; 134 Stat. 146), the Families First Coronavirus Response Act (Public Law 116–127; 134 Stat. 178), the Coronavirus Aid, Relief, and Economic Security Act or the CARES Act (Public Law 116–136), and the Paycheck Protection Program and Health Care Enhancement Act (Public Law 116–139; 134 Stat. 620). In these laws Congress exercised its power under the Commerce and Spending Clauses of the Constitution of the United States to direct trillions of taxpayer dollars toward efforts to aid workers, businesses, State and local governments, health care workers, and patients.

(8) This legislation provided short-term insulation from the worst of the economic storm, but these laws alone cannot protect the United States from further devastation. Only reopening the economy so that workers can get back to work and students can get back to school can accomplish that goal.

(9) The Constitution of the United States specifically enumerates the legislative powers of Congress. One of those powers is the regulation of interstate commerce. The Government is not a substitute for the economy, but it has the authority and the duty to act when interstate commerce is threatened and damaged. As applied to the present crisis, Congress can deploy its power over interstate commerce to promote a prudent reopening of businesses and other organizations that serve as the foundation and backbone of the national economy and of commerce among the States. These include small and large businesses, schools (which are substantial employers in their own right and provide necessary services to enable parents and other caregivers to return to work), colleges and universities (which are substantial employers and supply the interstate market for higher-education services), religious, philanthropic and other nonprofit institutions (which are substantial employers and provide necessary services to their communities), and local government agencies.

(10) Congress must also ensure that the Nation's health care workers and health care facilities are able to act fully to defeat the virus.

(11) Congress must also safeguard its investment of taxpayer dollars under the CARES Act and other coronavirus legislation. Congress must ensure that those funds are used to help businesses and workers survive and recover from the economic crisis, and to help health care workers and health care facilities defeat the virus. CARES Act funds cannot be diverted from these important purposes to line the pockets of the trial bar.

(12) One of the chief impediments to the continued flow of interstate commerce as this public-health crisis has unfolded is the risk of litigation. Small and large businesses, schools, colleges and universities, religious, philanthropic and other nonprofit institutions, and local government agencies confront the risk of a tidal wave of lawsuits accusing them of exposing employees, customers, students, and worshipers to coronavirus. Health care workers face the threat of lawsuits arising from their efforts to fight the virus.

(13) They confront this litigation risk even as they work tirelessly to comply with the coronavirus guidance, rules, and regulations issued by local governments, State governments, and the Federal Government. They confront this risk notwithstanding equipment and staffing shortages. And they confront this risk while also grappling with constantly changing information on how best to protect employees, customers, students, and worshipers from the virus, and how best to treat it.

(14) These lawsuits pose a substantial risk to interstate commerce because they threaten to keep small and large businesses, schools, colleges and universities, religious, philanthropic and other nonprofit institutions, and local government agencies from reopening for fear of expensive litigation that might prove to be meritless. These lawsuits further threaten to undermine the Nation's fight against the virus by exposing our health care workers and health care facilities to liability for difficult medical decisions they have made under trying and uncertain circumstances.

(15) These lawsuits also risk diverting taxpayer money provided under the CARES Act and other coronavirus legislation from its intended purposes to the pockets of opportunistic trial lawyers.

(16) This risk is not purely local. It is necessarily national in scale. A patchwork of local and State rules governing liability in coronavirus-related lawsuits creates tremendous unpredictability for everyone participating in interstate commerce and acts as a significant drag on national recovery. The aggregation of each individual potential liability risk poses a substantial and unprecedented threat to interstate commerce.

(17) The accumulated economic risks for these potential defendants directly and substantially affects interstate commerce. Individuals and entities potentially subject to coronavirus-related liability will structure their decisionmaking to avoid that liability. Small and large businesses, schools, colleges and universities, religious, philanthropic and other nonprofit institutions, and local government agencies may decline to reopen because of the risk of litigation. They may limit their output or engagement with customers and communities to avoid the risk of litigation. These individual economic decisions substantially affect interstate commerce because, as a whole, they will prevent the free and fair exchange of goods and services across State lines. Such economic activity that, individually and in the aggregate, substantially affects interstate commerce is

precisely the sort of conduct that should be subject to congressional regulation.

(18) Lawsuits against health care workers and facilities pose a similarly dangerous risk to interstate commerce. Interstate commerce will not truly rebound from this crisis until the virus is defeated, and that will not happen unless health care workers and facilities are free to combat vigorously the virus and treat patients with coronavirus and those otherwise impacted by the response to coronavirus.

(19) Subjecting health care workers and facilities to onerous litigation even as they have done their level best to combat a virus about which very little was known when it arrived in the United States would divert important health care resources from hospitals and providers to courtrooms.

(20) Such a diversion would substantially affect interstate commerce by degrading the national capacity for combating the virus and saving patients, thereby substantially elongating the period before interstate commerce could fully re-engage.

(21) Congress also has the authority to determine the jurisdiction of the courts of the United States, to set the standards for causes of action they can hear, and to establish the rules by which those causes of action should proceed. Congress therefore must act to set rules governing liability in coronavirus-related lawsuits.

(22) These rules necessarily must be temporary and carefully tailored to the interstate crisis caused by the coronavirus pandemic. They must extend no further than necessary to meet this uniquely national crisis for which a patchwork of State and local tort laws are ill-suited.

(23) Because of the national scope of the economic and health care dangers posed by the risks of coronavirus-related lawsuits, establishing temporary rules governing liability for certain coronavirus-related tort claims is a necessary and proper means of carrying into execution Congress's power to regulate commerce among the several States.

(24) Because Congress must safeguard the investment of taxpayer dollars it made in the CARES Act and other coronavirus legislation, and ensure that they are used for their intended purposes and not diverted for other purposes, establishing temporary rules governing liability for certain coronavirus-related tort claims is a necessary and proper means of carrying into execution Congress's power to provide for the general welfare of the United States.

(b) PURPOSES.—Pursuant to the powers delegated to Congress by article I, section 8, clauses 1, 3, 9, and 18, and article III, section 2, clause 1 of the Constitution of the United States, the purposes of this title are to—

(1) establish necessary and consistent standards for litigating certain claims specific to the unique coronavirus pandemic;

(2) prevent the overburdening of the court systems with undue litigation;

(3) encourage planning, care, and appropriate risk management by small and large businesses, schools, colleges and universities, religious, philanthropic and other nonprofit institutions, local government agencies, and health care providers;

(4) ensure that the Nation's recovery from the coronavirus economic crisis is not burdened or slowed by the substantial risk of litigation;

(5) prevent litigation brought to extract settlements and enrich trial lawyers rather than vindicate meritorious claims;

(6) protect interstate commerce from the burdens of potentially meritless litigation;

(7) ensure the economic recovery proceeds without artificial and unnecessary delay;

(8) protect the interests of the taxpayers by ensuring that emergency taxpayer support continues to aid businesses, workers, and health care providers rather than enrich trial lawyers; and

(9) protect the highest and best ideals of the national economy, so businesses can produce and serve their customers, workers can work, teachers can teach, students can learn, and believers can worship.

SEC. 203. DEFINITIONS.

In this title:

(1) APPLICABLE GOVERNMENT STANDARDS AND GUIDANCE.—The term ''applicable government standards and guidance'' means—

(A) any mandatory standards or regulations specifically concerning the prevention or mitigation of the transmission of coronavirus issued by the Federal Government, or a State or local government with jurisdiction over an individual or entity, whether provided by executive, judicial, or legislative order; and

(B) with respect to an individual or entity that, at the time of the actual, alleged, feared, or potential for exposure to coronavirus is not subject to any mandatory standards or regulations described in subparagraph (A), any guidance, standards, or regulations specifically concerning the prevention or mitigation of the transmission of coronavirus issued by the Federal Government, or a State or local government with jurisdiction over the individual or entity.

(2) BUSINESSES, SERVICES, ACTIVITIES, OR ACCOMMODATIONS.—The term ''businesses, services, activities, or accommodations'' means any act by an individual or entity, irrespective of whether the act is carried on for profit, that is interstate or foreign commerce, that involves persons or things in interstate or foreign commerce, that involves the channels or instrumentalities of interstate or foreign commerce, that substantially affects interstate or foreign commerce, or that is otherwise an act subject to regulation by Congress as necessary and proper to carry into execution Congress's powers to regulate interstate or foreign commerce or to spend funds for the general welfare.

(3) CORONAVIRUS.—The term ''coronavirus'' means any disease, health condition, or threat of harm caused by the SARS–CoV–2 virus or a virus mutating therefrom.

(4) CORONAVIRUS EXPOSURE ACTION.—

(A) IN GENERAL.—The term ''coronavirus exposure action'' means a civil action—

(i) brought by a person who suffered personal injury or is at risk of suffering personal injury, or a representative of a person who suffered personal injury or is at risk of suffering personal injury;

(ii) brought against an individual or entity engaged in businesses, services, activities, or accommodations; and

(iii) alleging that an actual, alleged, feared, or potential for exposure to coronavirus caused the personal injury or risk of personal injury, that—

(I) occurred in the course of the businesses, services, activities, or accommodations of the individual or entity; and

(II) occurred—

(aa) on or after December 1, 2019; and

(bb) before the later of—

(AA) October 1, 2024; or

(BB) the date on which there is no declaration by the Secretary of Health and Human Services under section 319F–3(b) of the Public Health Service Act (42 U.S.C. 247d–6d(b)) (relating to medical countermeasures) that is in effect with respect to coronavirus, including the Declaration Under the Public Readiness and Emergency Preparedness Act for Medical Countermeasures Against COVID–19 (85 Fed. Reg. 15198) issued by the Secretary of Health and Human Services on March 17, 2020.

(B) EXCLUSIONS.—The term ''coronavirus exposure action'' does not include—

(i) a criminal, civil, or administrative enforcement action brought by the Federal Government or any State, local, or Tribal government; or

(ii) a claim alleging intentional discrimination on the basis of race, color, national origin, religion, sex (including pregnancy), disability, genetic information, or age.

(5) CORONAVIRUS-RELATED ACTION.—The term ''coronavirus-related action'' means a coronavirus exposure action or a coronavirus-related medical liability action.

(6) CORONAVIRUS-RELATED HEALTH CARE SERVICES.—The term ''coronavirus-related health care services'' means services provided by a health care provider, regardless of the location where the services are provided, that relate to—

(A) the diagnosis, prevention, or treatment of coronavirus;

(B) the assessment or care of an individual with a confirmed or suspected case of coronavirus; or

(C) the care of any individual who is admitted to, presents to, receives services from, or resides at, a health care provider for any purpose during the period of a Federal emergency declaration concerning coronavirus, if such provider's decisions or activities with respect to such individual are impacted as a result of coronavirus.

(7) CORONAVIRUS-RELATED MEDICAL LIABILITY ACTION.—

(A) IN GENERAL.—The term ''coronavirus-related medical liability action'' means a civil action—

(i) brought by a person who suffered personal injury, or a representative of a person who suffered personal injury;

(ii) brought against a health care provider; and

(iii) alleging any harm, damage, breach, or tort resulting in the personal injury alleged to have been caused by, be arising out of, or be related to a health care provider's act or omission in the course of arranging for or providing coronavirus-related health care services that occurred—

(I) on or after December 1, 2019; and

(II) before the later of—

(aa) October 1, 2024; or

(bb) the date on which there is no declaration by the Secretary of Health and Human Services under section 319F–3(b) of the Public Health Service Act (42 U.S.C. 247d–6d(b)) (relating to covered countermeasures) that is in effect with respect to coronavirus, including the Declaration Under the Public Readiness and Emergency Preparedness Act for Medical Countermeasures Against COVID–19 (85 Fed. Reg. 15198) issued by the Secretary of Health and Human Services on March 17, 2020.

(B) EXCLUSIONS.—The term ''coronavirus-related medical liability action'' does not include—

(i) a criminal, civil, or administrative enforcement action brought by the Federal Government or any State, local, or Tribal government; or

(ii) a claim alleging intentional discrimination on the basis of race, color, national origin, religion, sex (including pregnancy), disability, genetic information, or age.

(8) EMPLOYER.—The term ''employer''—

(A) means any person serving as an employer or acting directly in the interest of an employer in relation to an employee;

(B) includes a public agency; and

(C) does not include any labor organization (other than when acting as an employer) or any person acting in the capacity of officer or agent of such labor organization.

(9) GOVERNMENT.—The term ''government'' means an agency, instrumentality, or other entity of the Federal Government, a State government (including multijurisdictional agencies, instrumentalities, and entities), a local government, or a Tribal government.

(10) GROSS NEGLIGENCE.—The term ''gross negligence'' means a conscious, voluntary act or omission in reckless disregard of—

(A) a legal duty;

(B) the consequences to another party; and

(C) applicable government standards and guidance.

(11) HARM.—The term ''harm'' includes—

(A) physical and nonphysical contact that results in personal injury to an individual; and

(B) economic and noneconomic losses.

(12) HEALTH CARE PROVIDER.—

(A) IN GENERAL.—The term ''health care provider'' means any person, including an agent, volunteer (subject to subparagraph (C)), contractor, employee, or other entity, who is—

(i) required by Federal or State law to be licensed, registered, or certified to provide health care and is so licensed, registered, or certified (or is exempt from any such requirement);

(ii) otherwise authorized by Federal or State law to provide care (including services and supports furnished in a home or community-based residential setting under the State Medicaid program or a waiver of that program); or

(iii) considered under applicable Federal or State law to be a health care provider, health care professional, health care institution, or health care facility.

(B) INCLUSION OF ADMINISTRATORS, SUPERVISORS, ETC.—The term ''health care provider'' includes a health care facility administrator, executive, supervisor, board member or trustee, or another individual responsible for directing, supervising, or monitoring the provision of coronavirus-related health care services in a comparable role.

(C) INCLUSION OF VOLUNTEERS.—The term ''health care provider'' includes volunteers that meet the following criteria:

(i) The volunteer is a health care professional providing coronavirus-related health care services.

(ii) The act or omission by the volunteer occurs—

(I) in the course of providing health care services;

(II) in the health care professional's capacity as a volunteer;

(III) in the course of providing health care services that—

(aa) are within the scope of the license, registration, or certification of the volunteer, as defined by the State of licensure, registration, or certification; and

(bb) do not exceed the scope of license, registration, or certification of a substantially similar health professional in the State in which such act or omission occurs; and

(IV) in a good-faith belief that the individual being treated is in need of health care services.

(13) INDIVIDUAL OR ENTITY.—The term ''individual or entity'' means—

(A) any natural person, corporation, company, trade, business, firm, partnership, joint stock company, educational institution, labor organization, or similar organization or group of organizations;

(B) any nonprofit organization, foundation, society, or association organized for religious, charitable, educational, or other purposes; or

(C) any State, Tribal, or local government.

(14) LOCAL GOVERNMENT.—The term ''local government'' means any unit of government within a State, including a—

(A) county;

(B) borough;

(C) municipality;

(D) city;

(E) town;

(F) township;

(G) parish;

(H) local public authority, including any public housing agency under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.);

(I) special district;

(J) school district;

(K) intrastate district;

(L) council of governments, whether or not incorporated as a nonprofit corporation under State law; and

(M) agency or instrumentality of—

(i) multiple units of local government (including units of local government located in different States); or

(ii) an intra-State unit of local government.

(15) MANDATORY.—The term ''mandatory'', with respect to standards or regulations, means the standards or regulations are themselves enforceable by the issuing government through criminal, civil, or administrative action.

(16) PERSONAL INJURY.—The term ''personal injury''—

(A) means actual or potential physical injury to an individual or death caused by a physical injury; and

(B) includes mental suffering, emotional distress, or similar injuries suffered by an individual in connection with a physical injury.

(17) STATE.—The term ''State''—

(A) means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, and any political subdivision or instrumentality thereof; and

(B) includes any agency or instrumentality of 2 or more of the entities described in subparagraph (A).

(18) TRIBAL GOVERNMENT.—

(A) IN GENERAL.—The term ''Tribal government'' means the recognized governing body of any Indian tribe included on the list published by the Secretary of the Interior pursuant to section 104(a) of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131(a)).

(B) INCLUSION.—The term ''Tribal government'' includes any subdivision (regardless of the laws and regulations of the jurisdiction in which the subdivision is organized or incorporated) of a governing body described in subparagraph (A) that—

(i) is wholly owned by that governing body; and

(ii) has been delegated the right to exercise 1 or more substantial governmental functions of the governing body.

(19) WILLFUL MISCONDUCT.—The term ''willful misconduct'' means an act or omission that is taken—

(A) intentionally to achieve a wrongful purpose;

(B) knowingly without legal or factual justification; and

(C) in disregard of a known or obvious risk that is so great as to make it highly probable that the harm will outweigh the benefit.

Subtitle A—Liability Relief

PART I—LIABILITY LIMITATIONS FOR INDIVIDUALS AND ENTITIES ENGAGED IN BUSINESSES, SERVICES, ACTIVITIES, OR ACCOMMODATIONS

SEC. 211. APPLICATION OF PART.

(a) CAUSE OF ACTION; TRIBAL SOVEREIGN IMMUNITY.—

(1) CAUSE OF ACTION.—

(A) IN GENERAL.—This part creates an exclusive cause of action for coronavirus exposure actions.

(B) LIABILITY.—A plaintiff may prevail in a coronavirus exposure action only in accordance with the requirements of this subtitle.

(C) APPLICATION.—The provisions of this part shall apply to—

(i) any cause of action that is a coronavirus exposure action that was filed before the date of enactment of this Act and that is pending on such date of enactment; and

(ii) any coronavirus exposure action filed on or after such date of enactment.

(2) PRESERVATION OF LIABILITY LIMITS AND DEFENSES.—Except as otherwise explicitly provided in this part, nothing in this part expands any liability otherwise imposed or limits any defense otherwise available under Federal, State, or Tribal law.

(3) IMMUNITY.—Nothing in this part abrogates the immunity of any State, or waives the immunity of any Tribal government. The limitations on liability provided under this part shall control in any action properly filed against a State or Tribal government pursuant to a duly executed waiver by the State or Tribe of sovereign immunity and stating claims within the scope of this part.

(b) PREEMPTION AND SUPERSEDURE.—

(1) IN GENERAL.—Except as described in paragraphs (2) through (6), this part preempts and supersedes any Federal, State, or Tribal law, including statutes, regulations, rules, or standards that are enacted, promulgated, or established under common law, related to recovery for personal injuries caused by actual, alleged, feared, or potential for exposure to coronavirus.

(2) STRICTER LAWS NOT PREEMPTED OR SUPERSEDED.—Nothing in this part shall be construed to affect the applicability of any provision of any Federal, State, or Tribal law that imposes stricter limits on damages or liabilities for personal injury caused by, arising out of, or related to an actual, alleged, feared, or potential for exposure to coronavirus, or otherwise affords greater protection to defendants in any coronavirus exposure action, than are provided in this part. Any such provision of Federal, State, or Tribal law shall be applied in addition to the requirements of this part and not in lieu thereof.

(3) WORKERS' COMPENSATION LAWS NOT PREEMPTED OR SUPERSEDED.—Nothing in this part shall be construed to affect the applicability of any State or Tribal law providing for a workers' compensation scheme or program, or to preempt or supersede an exclusive remedy under such scheme or program.

(4) ENFORCEMENT ACTIONS.—Nothing in this part shall be construed to impair, limit, or affect the authority of the Federal Government, or of any State, local, or Tribal government, to bring any criminal, civil, or administrative enforcement action against any individual or entity.

(5) DISCRIMINATION CLAIMS.—Nothing in this part shall be construed to affect the applicability of any provision of any Federal, State, or Tribal law that creates a cause of action for intentional discrimination on the basis of race, color, national origin, religion, sex (including pregnancy), disability, genetic information, or age.

(6) MAINTENANCE AND CURE.—Nothing in this part shall be construed to affect a seaman's right to claim maintenance and cure benefits.

(c) STATUTE OF LIMITATIONS.—A coronavirus exposure action may not be commenced in any Federal, State, or Tribal government court later than 1 year after the date of the actual, alleged, feared, or potential for exposure to coronavirus.

SEC. 212. LIABILITY; SAFE HARBOR.

(a) REQUIREMENTS FOR LIABILITY FOR EXPOSURE TO CORONAVIRUS.—Notwithstanding any other provision of law, and except as otherwise provided in this section, no individual or entity engaged in businesses, services, activities, or accommodations shall be liable in any coronavirus exposure action unless the plaintiff can prove by clear and convincing evidence that—

(1) in engaging in the businesses, services, activities, or accommodations, the individual or entity was not making reasonable efforts in light of all the circumstances to comply with the applicable government standards and guidance in effect at the time of the actual, alleged, feared, or potential for exposure to coronavirus;

(2) the individual or entity engaged in gross negligence or willful misconduct that caused an actual exposure to coronavirus; and

(3) the actual exposure to coronavirus caused the personal injury of the plaintiff.

(b) REASONABLE EFFORTS TO COMPLY.—

(1) CONFLICTING APPLICABLE GOVERNMENT STANDARDS AND GUIDANCE.—

(A) IN GENERAL.—If more than 1 government to whose jurisdiction an individual or entity is subject issues applicable government standards and guidance, and the applicable government standards and guidance issued by 1 or more of the governments conflicts with the applicable government standards and guidance issued by 1 or more of the other governments, the individual or entity shall be considered to have made reasonable efforts in light of all the circumstances to comply with the applicable government standards and guidance for purposes of subsection (a)(1) unless the plaintiff establishes by clear and convincing evidence that the individual or entity was not making reasonable efforts in light of all the circumstances to comply with any of the conflicting applicable government standards and guidance issued by any government to whose jurisdiction the individual or entity is subject.

(B) EXCEPTION.—If mandatory standards and regulations constituting applicable government standards and guidance issued by any government with jurisdiction over the individual or entity conflict with applicable government standards and guidance that are not mandatory and are issued by any other government with jurisdiction over the individual or entity or by the same government that issued the mandatory standards and regulations, the plaintiff may establish that the individual or entity did not make reasonable efforts in light of all the circumstances to comply with the applicable government standards and guidance for purposes of subsection (a)(1) by establishing by clear and convincing evidence that the individual or entity was not making reasonable efforts in light of all the circumstances to comply with the mandatory standards and regulations to which the individual or entity was subject.

(2) WRITTEN OR PUBLISHED POLICY.—

(A) IN GENERAL.—If an individual or entity engaged in businesses, services, activities, or accommodations maintained a written or published policy on the mitigation of transmission of coronavirus at the time of the actual, alleged, feared, or potential for exposure to coronavirus that complied with, or was more protective than, the applicable government standards and guidance to which the individual or entity was subject, the individual or entity shall be presumed to have made reasonable efforts in light of all the circumstances to comply with the applicable government standards and guidance for purposes of subsection (a)(1).

(B) REBUTTAL.—The plaintiff may rebut the presumption under subparagraph (A) by establishing that the individual or entity was not complying with the written or published policy at the time of the actual, alleged, feared, or potential for exposure to coronavirus.

(C) ABSENCE OF A WRITTEN OR PUBLISHED POLICY.—The absence of a written or published policy shall not give rise to a presumption that the individual or entity did not make reasonable efforts in light of all the circumstances to comply with the applicable government standards and guidance for purposes of subsection (a)(1).

(3) TIMING.—For purposes of subsection (a)(1), a change to a policy or practice by an individual or entity before or after the actual, alleged, feared, or potential for exposure to coronavirus, shall not be evidence of liability for the actual, alleged, feared, or potential for exposure to coronavirus.

(c) THIRD PARTIES.—No individual or entity shall be held liable in a coronavirus exposure action for the acts or omissions of a third party, unless—

(1) the individual or entity had an obligation under general common law principles to control the acts or omissions of the third party; or

(2) the third party was an agent of the individual or entity.

(d) MITIGATION.—Changes to the policies, practices, or procedures of an individual or entity for complying with the applicable government standards and guidance after the time of the actual, alleged, feared, or potential for exposure to coronavirus, shall not be considered evidence of liability or culpability.

PART II—LIABILITY LIMITATIONS FOR HEALTH CARE PROVIDERS

SEC. 221. APPLICATION OF PART.

(a) IN GENERAL.—

(1) CAUSE OF ACTION.—

(A) IN GENERAL.—This part creates an exclusive cause of action for coronavirus-related medical liability actions.

(B) LIABILITY.—A plaintiff may prevail in a coronavirus-related medical liability action only in accordance with the requirements of this subtitle.

(C) APPLICATION.—The provisions of this part shall apply to—

(i) any cause of action that is a coronavirus-related medical liability action that was filed before the date of enactment of this Act and that is pending on such date of enactment; and

(ii) any coronavirus-related medical liability action filed on or after such date of enactment.

(2) PRESERVATION OF LIABILITY LIMITS AND DEFENSES.—Except as otherwise explicitly provided in this part, nothing in this part expands any liability otherwise imposed or limits any defense otherwise available under Federal, State, or Tribal law.

(3) IMMUNITY.—Nothing in this part abrogates the immunity of any State, or waives the immunity of any Tribal government. The limitations on liability provided under this part shall control in any action properly filed against a State or Tribal government pursuant to a duly executed waiver by the State or Tribe of sovereign immunity and stating claims within the scope of this part.

(b) PREEMPTION AND SUPERSEDURE.—

(1) IN GENERAL.—Except as described in paragraphs (2) through (6), this part preempts and supersedes any Federal, State, or Tribal law, including statutes, regulations, rules, or standards that are enacted, promulgated, or established under common law, related to recovery for personal injuries caused by, arising out of, or related to an act or omission by a health care provider in the course of arranging for or providing coronavirus-related health care services.

(2) STRICTER LAWS NOT PREEMPTED OR SUPERSEDED.—Nothing in this part shall be construed to affect the applicability of any provision of any Federal, State, or Tribal law that imposes stricter limits on damages or liabilities for personal injury caused by, arising out of, or related to an act or omission by a health care provider in the course of arranging for or providing coronavirus-related health care services, or otherwise affords greater protection to defendants in any coronavirus-related medical liability action than are provided in this part. Any such provision of Federal, State, or Tribal law shall be applied in addition to the requirements of this part and not in lieu thereof.

(3) ENFORCEMENT ACTIONS.—Nothing in this part shall be construed to impair, limit, or affect the authority of the Federal Government, or of any State, local, or Tribal government to bring any criminal, civil, or administrative enforcement action against any health care provider.

(4) DISCRIMINATION CLAIMS.—Nothing in this part shall be construed to affect the applicability of any provision of any Federal, State, or Tribal law that creates a cause of action for intentional discrimination on the basis of race, color, national origin, religion, sex (including pregnancy), disability, genetic information, or age.

(5) PUBLIC READINESS AND EMERGENCY PREPAREDNESS.—Nothing in this part shall be construed to affect the applicability of section 319F–3 of the Public Health Service Act (42 U.S.C. 247d–6d) to any act or omission involving a covered countermeasure, as defined in subsection (i) of such section in arranging for or providing coronavirus-related health care services. Nothing in this part shall be construed to affect the applicability of section 319F–4 of the Public Health Service Act (42 U.S.C. 247d–6e).

(6) VACCINE INJURY.—To the extent that title XXI of the Public Health Service Act (42 U.S.C. 300aa–1 et seq.) establishes a Federal rule applicable to a civil action brought for a vaccine-related injury or death, this part does not affect the application of that rule to such an action.

(c) STATUTE OF LIMITATIONS.—A coronavirus-related medical liability action may not be commenced in any Federal, State, or Tribal government court later than 1 year after the date of the alleged harm, damage, breach, or tort, unless tolled for—

(1) proof of fraud;

(2) intentional concealment; or

(3) the presence of a foreign body, which has no therapeutic or diagnostic purpose or effect, in the person of the injured person.

SEC. 222. LIABILITY FOR HEALTH CARE PROFESSIONALS AND HEALTH CARE FACILITIES DURING CORONAVIRUS PUBLIC HEALTH EMERGENCY.

(a) REQUIREMENTS FOR LIABILITY FOR CORONAVIRUS-RELATED HEALTH CARE SERVICES.—Notwithstanding any other provision of law, and except as provided in subsection (b), no health care provider shall be liable in a coronavirus-related medical liability action unless the plaintiff can prove by clear and convincing evidence—

(1) gross negligence or willful misconduct by the health care provider; and

(2) that the alleged harm, damage, breach, or tort resulting in the personal injury was directly caused by the alleged gross negligence or willful misconduct.

(b) EXCEPTIONS.—For purposes of this section, acts, omissions, or decisions resulting from a resource or staffing shortage shall not be considered willful misconduct or gross negligence.

PART III—SUBSTANTIVE AND PROCEDURAL PROVISIONS FOR CORONAVIRUS-RELATED ACTIONS GENERALLY

SEC. 231. JURISDICTION.

(a) JURISDICTION.—The district courts of the United States shall have concurrent original jurisdiction of any coronavirus-related action.

(b) REMOVAL.—

(1) IN GENERAL.—A coronavirus-related action of which the district courts of the United States have original jurisdiction under subsection (a) that is brought in a State or Tribal government court may be removed to a district court of the United States in accordance with section 1446 of title 28, United States Code, except that—

(A) notwithstanding subsection (b)(2)(A) of such section, such action may be removed by any defendant without the consent of all defendants; and

(B) notwithstanding subsection (b)(1) of such section, for any cause of action that is a coronavirus-related action that was filed in a State court before the date of enactment of this Act and that is pending in such court on such date of enactment, and of which the district courts of the United States have original jurisdiction under subsection (a), any defendant may file a notice of removal of a civil action or proceeding within 30 days of the date of enactment of this Act.

(2) PROCEDURE AFTER REMOVAL.—Section 1447 of title 28, United States Code, shall apply to any removal of a case under paragraph (1), except that, notwithstanding subsection (d) of such section, a court of appeals of the United States shall accept an appeal from an order of a district court granting or denying a motion to remand the case to the State or Tribal government court from which it was removed if application is made to the court of appeals of the United States not later than 10 days after the entry of the order.

SEC. 232. LIMITATIONS ON SUITS.

(a) JOINT AND SEVERAL LIABILITY LIMITATIONS.—

(1) IN GENERAL.—An individual or entity against whom a final judgment is entered in any coronavirus-related action shall be liable solely for the portion of the judgment that corresponds to the relative and proportionate responsibility of that individual or entity. In determining the percentage of responsibility of any defendant, the trier of fact shall determine that percentage as a percentage of the total fault of all individuals or entities, including the plaintiff, who caused or contributed to the total loss incurred by the plaintiff.

(2) PROPORTIONATE LIABILITY.—

(A) DETERMINATION OF RESPONSIBILITY.—In any coronavirus-related action, the court shall instruct the jury to answer special interrogatories, or, if there is no jury, the court shall make findings with respect to each defendant, including defendants who have entered into settlements with the plaintiff or plaintiffs, concerning the percentage of responsibility, if any, of each defendant, measured as a percentage of the total fault of all individuals or entities who caused or contributed to the loss incurred by the plaintiff.

(B) FACTORS FOR CONSIDERATION.—In determining the percentage of responsibility under this subsection, the trier of fact shall consider—

(i) the nature of the conduct of each individual or entity found to have caused or contributed to the loss incurred by the plaintiff; and

(ii) the nature and extent of the causal relationship between the conduct of each such individual or entity and the damages incurred by the plaintiff.

(3) JOINT LIABILITY FOR SPECIFIC INTENT OR FRAUD.—Notwithstanding paragraph (1), in any coronavirus-related action the liability of a defendant is joint and several if the trier of fact specifically determines that the defendant—

(A) acted with specific intent to injure the plaintiff; or

(B) knowingly committed fraud.

(4) RIGHT TO CONTRIBUTION NOT AFFECTED.—Nothing in this subsection affects the right, under any other law, of a defendant to contribution with respect to another defendant determined under paragraph (3) to have acted with specific intent to injure the plaintiff or to have knowingly committed fraud.

(b) LIMITATIONS ON DAMAGES.—In any coronavirus-related action—

(1) the award of compensatory damages shall be limited to economic losses incurred as the result of the personal injury, harm, damage, breach, or tort, except that the court may award damages for noneconomic losses if the trier of fact determines that the personal injury, harm, damage, breach, or tort was caused by the willful misconduct of the individual or entity;

(2) punitive damages—

(A) may be awarded only if the trier of fact determines that the personal injury to the plaintiff was caused by the willful misconduct of the individual or entity; and

(B) may not exceed the amount of compensatory damages awarded; and

(3) the amount of monetary damages awarded to a plaintiff shall be reduced by the amount of compensation received by the plaintiff from another source in connection with the personal injury, harm, damage, breach, or tort, such as insurance or reimbursement by a government.

(c) PREEMPTION AND SUPERSEDURE.—

(1) IN GENERAL.—Except as described in paragraphs (2) and (3), this section preempts and supersedes any Federal, State, or Tribal law, including statutes, regulations, rules, or standards that are enacted, promulgated, or established under common law, related to joint and several liability, proportionate or contributory liability, contribution, or the award of damages for any coronavirus-related action.

(2) STRICTER LAWS NOT PREEMPTED OR SUPERSEDED.—Nothing in this section shall be construed to affect the applicability of any provision of any Federal, State, or Tribal law that—

(A) limits the liability of a defendant in a coronavirus-related action to a lesser degree of liability than the degree of liability determined under this section;

(B) otherwise affords a greater degree of protection from joint or several liability than is afforded by this section; or

(C) limits the damages that can be recovered from a defendant in a coronavirus-related action to a lesser amount of damages than the amount determined under this section.

(3) PUBLIC READINESS AND EMERGENCY PREPAREDNESS.—Nothing in this part shall be construed to affect the applicability of section 319F–3 of the Public Health Service Act (42 U.S.C. 247d–6d) to any act or omission involving a covered countermeasure, as defined in subsection (i) of such section in arranging for or providing coronavirus-related health care services. Nothing in this part shall be construed to affect the applicability of section 319F–4 of the Public Health Service Act (42 U.S.C. 247d–6e).

SEC. 233. PROCEDURES FOR SUIT IN DISTRICT COURTS OF THE UNITED STATES.

(a) PLEADING WITH PARTICULARITY.—In any coronavirus-related action filed in or removed to a district court of the United States—

(1) the complaint shall plead with particularity—

(A) each element of the plaintiff's claim; and

(B) with respect to a coronavirus exposure action, all places and persons visited by the person on whose behalf the complaint was filed and all persons who visited the residence of the person on whose behalf the complaint was filed during the 14-day-period before the onset of the first symptoms allegedly caused by coronavirus, including—

(i) each individual or entity against which a complaint is filed, along with the factual basis for the belief that such individual or entity was a cause of the personal injury alleged; and

(ii) every other person or place visited by the person on whose behalf the complaint was filed and every other person who visited the residence of the person on whose behalf the complaint was filed during such period, along with the factual basis for the belief that these persons and places were not the cause of the personal injury alleged; and

(2) the complaint shall plead with particularity each alleged act or omission constituting gross negligence or willful misconduct that resulted in personal injury, harm, damage, breach, or tort.

(b) SEPARATE STATEMENTS CONCERNING THE NATURE AND AMOUNT OF DAMAGES AND REQUIRED STATE OF MIND.—

(1) NATURE AND AMOUNT OF DAMAGES.—In any coronavirus-related action filed in or removed to a district court of the United States in which monetary damages are requested, there shall be filed with the complaint a statement of specific information as to the nature and amount of each element of damages and the factual basis for the damages calculation.

(2) REQUIRED STATE OF MIND.—In any coronavirus-related action filed in or removed to a district court of the United States in which a claim is asserted on which the plaintiff may prevail only on proof that the defendant acted with a particular state of mind, there shall be filed with the complaint, with respect to each element of that claim, a statement of the facts giving rise to a strong inference that the defendant acted with the required state of mind.

(c) VERIFICATION AND MEDICAL RECORDS.—

(1) VERIFICATION REQUIREMENT.—

(A) IN GENERAL.—The complaint in a coronavirus-related action filed in or removed to a district court of the United States shall include a verification, made by affidavit of the plaintiff under oath, stating that the pleading is true to the knowledge of the deponent, except as to matters specifically identified as being alleged on information and belief, and that as to those matters the plaintiff believes it to be true.

(B) IDENTIFICATION OF MATTERS ALLEGED UPON INFORMATION AND BELIEF.—Any matter that is not specifically identified as being alleged upon the information and belief of the plaintiff, shall be regarded for all purposes, including a criminal prosecution, as having been made upon the knowledge of the plaintiff.

(2) MATERIALS REQUIRED.—In any coronavirus-related action filed in or removed to a district court of the United States, the plaintiff shall file with the complaint—

(A) an affidavit by a physician or other qualified medical expert who did not treat the person on whose behalf the complaint was filed that explains the basis for such physician's or other qualified medical expert's belief that such person suffered the personal injury, harm, damage, breach, or tort alleged in the complaint; and

(B) certified medical records documenting the alleged personal injury, harm, damage, breach, or tort.

(d) APPLICATION WITH FEDERAL RULES OF CIVIL PROCEDURE.—This section applies exclusively to any coronavirus-related action filed in or removed to a district court of the United States and, except to the extent that this section requires additional information to be contained in or attached to pleadings, nothing in this section is intended to amend or otherwise supersede applicable rules of Federal civil procedure.

(e) CIVIL DISCOVERY FOR ACTIONS IN DISTRICT COURTS OF THE UNITED STATES.—

(1) TIMING.—Notwithstanding any other provision of law, in any coronavirus-related action filed in or removed to a district court of the United States, no discovery shall be allowed before—

(A) the time has expired for the defendant to answer or file a motion to dismiss; and

(B) if a motion to dismiss is filed, the court has ruled on the motion.

(2) STANDARD.—Notwithstanding any other provision of law, the court in any coronavirus-related action that is filed in or removed to a district court of the United States—

(A) shall permit discovery only with respect to matters directly related to material issues contested in the coronavirus-related action; and

(B) may compel a response to a discovery request (including a request for admission, an interrogatory, a request for production of documents, or any other form of discovery request) under rule 37 of the Federal Rules of Civil Procedure, only if the court finds that—

(i) the requesting party needs the information sought to prove or defend as to a material issue contested in such action; and

(ii) the likely benefits of a response to such request equal or exceed the burden or cost for the responding party of providing such response.

(f) INTERLOCUTORY APPEAL AND STAY OF DISCOVERY.—The courts of appeals of the United States shall have jurisdiction of an appeal from a motion to dismiss that is denied in any coronavirus-related action in a district court of the United States. The district court shall stay all discovery in such a coronavirus-related action until the court of appeals has disposed of the appeal.

(g) CLASS ACTIONS AND MULTIDISTRICT LITIGATION PROCEEDINGS.—

(1) CLASS ACTIONS.—In any coronavirus-related action that is filed in or removed to a district court of the United States and is maintained as a class action or multidistrict litigation—

(A) an individual or entity shall only be a member of the class if the individual or entity affirmatively elects to be a member; and

(B) the court, in addition to any other notice required by applicable Federal or State law, shall direct notice of the action to each member of the class, which shall include—

(i) a concise and clear description of the nature of the action;

(ii) the jurisdiction where the case is pending; and

(iii) the fee arrangements with class counsel, including—

(I) the hourly fee being charged; or

(II) if it is a contingency fee, the percentage of the final award which will be paid, including an estimate of the total amount that would be paid if the requested damages were to be granted; and

(III) if the cost of the litigation is being financed, a description of the financing arrangement.

(2) MULTIDISTRICT LITIGATIONS.—

(A) TRIAL PROHIBITION.—In any coordinated or consolidated pretrial proceedings conducted pursuant to section 1407(b) of title 28, United States Code, the judge or judges to whom coronavirus-related actions are assigned by the Judicial Panel on Multidistrict Litigation may not conduct a trial in a coronavirus-related action transferred to or directly filed in the proceedings unless all parties to that coronavirus-related action consent.

(B) REVIEW OF ORDERS.—The court of appeals of the United States having jurisdiction over the transferee district court shall permit an appeal to be taken from any order issued in the conduct of coordinated or consolidated pretrial proceedings conducted pursuant to section 1407(b) of title 28, United States Code, if the order is applicable to 1 or more coronavirus-related actions and an immediate appeal from the order may materially advance the ultimate termination of 1 or more coronavirus-related actions in the proceedings.

SEC. 234. DEMAND LETTERS; CAUSE OF ACTION.

(a) CAUSE OF ACTION.—If any person transmits or causes another to transmit in any form and by any means a demand for remuneration in exchange for settling, releasing, waiving, or otherwise not pursuing a claim that is, or could be, brought as part of a coronavirus-related action, the party receiving such a demand shall have a cause of action for the recovery of damages occasioned by such demand and for declaratory judgment in accordance with chapter 151 of title 28, United States Code, if the claim for which the letter was transmitted was meritless.

(b) DAMAGES.—Damages available under subsection (a) shall include—

(1) compensatory damages including costs incurred in responding to the demand; and

(2) punitive damages, if the court determines that the defendant had knowledge or was reckless with regard to the fact that the claim was meritless.

(c) ATTORNEY'S FEES AND COSTS.—In an action commenced under subsection (a), if the plaintiff is a prevailing party, the court shall, in addition to any judgment awarded to a plaintiff, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action.

(d) JURISDICTION.—The district courts of the United States shall have concurrent original jurisdiction of all claims arising under subsection (a).

(e) ENFORCEMENT BY THE ATTORNEY GENERAL.—

(1) IN GENERAL.—Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of transmitting demands for remuneration in exchange for settling, releasing, waiving, or otherwise not pursuing a claim that is, or could be, brought as part of a coronavirus-related action and that is meritless, the Attorney General may commence a civil action in any appropriate district court of the United States.

(2) RELIEF.—In a civil action under paragraph (1), the court may, to vindicate the public interest, assess a civil penalty against the respondent in an amount not exceeding $50,000 per transmitted demand for remuneration in exchange for settling, releasing, waiving or otherwise not pursuing a claim that is meritless.

(3) DISTRIBUTION OF CIVIL PENALTIES.—If the Attorney General obtains civil penalties in accordance with paragraph (2), the Attorney General shall distribute the proceeds equitably among those persons aggrieved by the respondent's pattern or practice of transmitting demands for remuneration in exchange for settling, releasing, waiving or otherwise not pursuing a claim that is meritless.

PART IV—RELATION TO LABOR AND EMPLOYMENT LAWS

SEC. 241. LIMITATION ON VIOLATIONS UNDER SPECIFIC LAWS.

(a) IN GENERAL.—

(1) DEFINITION.—In this subsection, the term ''covered Federal employment law'' means any of the following:

(A) The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) (including any standard included in a State plan approved under section 18 of such Act (29 U.S.C. 667)).

(B) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

(C) The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.).

(D) The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.).

(E) Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.).

(F) Title II of the Genetic Information Nondiscrimination Act of 2008 (42 U.S.C. 2000ff et seq.).

(G) Title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.).

(2) LIMITATION.—Notwithstanding any provision of a covered Federal employment law, in any action, proceeding, or investigation resulting from or related to an actual, alleged, feared, or potential for exposure to coronavirus, or a change in working conditions caused by a law, rule, declaration, or order related to coronavirus, an employer shall not be subject to any enforcement proceeding or liability under any provision of a covered Federal employment law if the employer—

(A) was relying on and generally following applicable government standards and guidance;

(B) knew of the obligation under the relevant provision; and

(C) attempted to satisfy any such obligation by—

(i) exploring options to comply with such obligations and with the applicable government standards and guidance (such as through the use of virtual training or remote communication strategies);

(ii) implementing interim alternative protections or procedures; or

(iii) following guidance issued by the relevant agency with jurisdiction with respect to any exemptions from such obligation.

(b) PUBLIC ACCOMMODATION LAWS.—

(1) DEFINITIONS.—In this subsection—

(A) the term ''auxiliary aids and services'' has the meaning given the term in section 4 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12103);

(B) the term ''covered public accommodation law'' means—

(i) title III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181 et seq.); or

(ii) title II of the Civil Rights Act of 1964 (42 U.S.C. 2000a et seq.);

(C) the term ''place of public accommodation'' means—

(i) a place of public accommodation, as defined in section 201 of the Civil Rights Act of 1964 (42 U.S.C. 2000a); or

(ii) a public accommodation, as defined in section 301 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181); and

(D) the term ''public health emergency period'' means a period designated a public health emergency period by a Federal, State, or local government authority.

(2) ACTIONS AND MEASURES DURING A PUBLIC HEALTH EMERGENCY.—

(A) IN GENERAL.—Notwithstanding any other provision of law or regulation, during any public health emergency period, no person who owns, leases (or leases to), or operates a place of public accommodation shall be liable under, or found in violation of, any

covered public accommodation law for any action or measure taken regarding coronavirus and that place of public accommodation, if such person—

(i) has determined that the significant risk of substantial harm to public health or the health of employees cannot be reduced or eliminated by reasonably modifying policies, practices, or procedures, or the provision of an auxiliary aid or service; or

(ii) has offered such a reasonable modification or auxiliary aid or service but such offer has been rejected by the individual protected by the covered law.

(B) REQUIRED WAIVER PROHIBITED.—For purposes of this subsection, no person who owns, leases (or leases to), or operates a place of public accommodation shall be required to waive any measure, requirement, or recommendation that has been adopted in accordance with a requirement or recommendation issued by the Federal Government or any State or local government with regard to coronavirus, in order to offer such a reasonable modification or auxiliary aids and services.

SEC. 242. LIABILITY FOR CONDUCTING TESTING AT WORKPLACE.

Notwithstanding any other provision of Federal, State, or local law, an employer, or other person who hires or contracts with other individuals to provide services, conducting testing for coronavirus at the workplace shall not be liable for any action or personal injury directly resulting from such testing, except for those personal injuries caused by the gross negligence or intentional misconduct of the employer or other person.

SEC. 243. JOINT EMPLOYMENT AND INDEPENDENT CONTRACTING.

Notwithstanding any other provision of Federal or State law, including any covered Federal employment law (as defined in section 241(a)), the Labor Management Relations Act, 1947 (29 U.S.C. 141 et seq.), the Employment Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.), and the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.), it shall not constitute evidence of a joint employment relationship or employment relationship for any employer to provide or require, for an employee of another employer or for an independent contractor, any of the following:

(1) Coronavirus-related policies, procedures, or training.

(2) Personal protective equipment or training for the use of such equipment.

(3) Cleaning or disinfecting services or the means for such cleaning or disinfecting.

(4) Workplace testing for coronavirus.

(5) Temporary assistance due to coronavirus, including financial assistance or other health and safety benefits.

SEC. 244. EXCLUSION OF CERTAIN NOTIFICATION REQUIREMENTS AS A RESULT OF THE COVID–19 PUBLIC HEALTH EMERGENCY.

(a) DEFINITIONS.—Section 2(a) of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101(a)) is amended—

(1) in paragraph (2), by adding before the semicolon at the end the following: ''and the shutdown, if occurring during the covered period, is not a result of the COVID–19 national emergency'';

(2) in paragraph (3)—

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

(B) in subparagraph (B), by adding ''and'' at the end; and

(C) by adding at the end the following:

''(C) if occurring during the covered period, is not a result of the COVID–19 national emergency;'';

(3) in paragraph (7), by striking ''and'';

(4) in paragraph (8), by striking the period at the end and inserting a semicolon; and

(5) by adding at the end the following:

''(9) the term 'covered period' means the period that—

''(A) begins on January 1, 2020; and

''(B) ends 90 days after the last date of the COVID–19 national emergency; and

''(10) the term 'COVID–19 national emergency' means the national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to the Coronavirus Disease 2019 (COVID–19).''.

(b) EXCLUSION FROM DEFINITION OF EMPLOYMENT LOSS.—Section 2(b) of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101(b)) is amended by adding at the end the following:

''(3) Notwithstanding subsection (a)(6), during the covered period an employee may not be considered to have experienced an employment loss if the termination, layoff exceeding 6 months, or reduction in hours of work of more than 50 percent during each month of any 6-month period involved is a result of the COVID–19 national emergency.''.

Subtitle B—Products

SEC. 261. APPLICABILITY OF THE TARGETED LIABILITY PROTECTIONS FOR PANDEMIC AND EPIDEMIC PRODUCTS AND SECURITY COUNTERMEASURES WITH RESPECT TO COVID–19.

(a) IN GENERAL.—Section 319F–3(i)(1) of the Public Health Service Act (42 U.S.C. 247d–6d(i)(1)) is amended—

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

(2) in subparagraph (D), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(E) a drug (as such term is defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act), biological product (including a vaccine) (as such term is defined in section 351(i)), or device (as such term is defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act) that—

''(i) is the subject of a notice of use of enforcement discretion issued by the Secretary if such drug, biological product, or device is used—

''(I) when such notice is in effect;

''(II) within the scope of such notice; and

''(III) in compliance with other applicable requirements of the Federal Food, Drug, and Cosmetic Act that are not the subject of such notice;

''(ii) in the case of a device, is exempt from the requirement under section 510(k) of the Federal Food, Drug, and Cosmetic Act; or

''(iii) in the case of a drug—

''(I) meets the requirements for marketing under a final administrative order under section 505G of the Federal Food, Drug, and Cosmetic Act; or

''(II) is marketed in accordance with section 505G(a)(3) of such Act.''.

(b) CLARIFYING MEANS OF DISTRIBUTION.—Section 319F–3(a)(5) of the Public Health Service Act (42 U.S.C. 247d–6d(a)(5)) is amended by inserting ''by, or in partnership with, Federal, State, or local public health officials or the private sector'' after ''distribution'' the first place it appears.

(c) NO CHANGE TO ADMINISTRATIVE PROCEDURE ACT APPLICATION TO ENFORCEMENT DISCRETION EXERCISE.—Section 319F–3 of the Public Health Service Act (42 U.S.C. 247d–6d) is amended by adding at the end the following:

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

''(1) to require use of procedures described in section 553 of title 5, United States Code, for a notice of use of enforcement discretion for which such procedures are not otherwise required; or

''(2) to affect whether such notice constitutes final agency action within the meaning of section 704 of title 5, United States Code.''.

Subtitle C—General Provisions

SEC. 281. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such a provision or amendment to any person or circumstance is held to be unconstitutional, the remaining provisions of and amendments made by this title, as well as the application of such provision or amendment to any person other than the parties to the action holding the provision or amendment to be unconstitutional, or to any circumstances other than those presented in such action, shall not be affected thereby.

SA 2566. Mrs. HYDE–SMITH 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, add the following:

SEC. 3. EXTENDING MEDICARE TELEHEALTH FLEXIBILITIES FOR FEDERALLY QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS.

(a) IN GENERAL.—Section 1834(m) of the Social Security Act (42 U.S.C. 1395m(m)) is amended—

(1) in paragraph (4)(C)—

(A) in clause (i), in the matter preceding subclause (I), by striking ''and (7)'' and inserting ''(7), and (8)''; and

(B) in clause (ii)(X), by inserting ''or paragraph (8)(A)(i)'' before the period; and

(2) in paragraph (8)—

(A) in the paragraph heading by inserting ''AND FOR AN ADDITIONAL PERIOD AFTER'' after ''DURING '';

(B) in subparagraph (A)—

(i) in the matter preceding clause (i), by inserting ''and the 5-year period beginning on the first day after the end of such emergency period'' after ''1135(g)(1)(B)'';

(ii) in clause (ii), by striking ''and'' at the end;

(iii) by redesignating clause (iii) as clause (iv); and

(iv) by inserting after clause (ii) the following new clause:

''(iii) the geographic requirements described in paragraph (4)(C)(i) shall not apply with respect to such a telehealth service; and'';

(C) in subparagraph (B)(i)—

(i) in the first sentence, by inserting ''and the 5-year period beginning on the first day after the end of such emergency period'' before the period; and

(ii) in the third sentence, by striking ''program instruction or otherwise'' and inserting ''interim final rule, program instruction, or otherwise''; and

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

''(C) REQUIREMENT DURING ADDITIONAL PERIOD.—

''(i) IN GENERAL.—During the 5-year period beginning on the first day after the end of the emergency period described in section 1135(g)(1)(B), payment may only be made under this paragraph for a telehealth service described in subparagraph (A)(i) that is furnished to an eligible telehealth individual if such service is furnished by a qualified provider (as defined in clause (ii)).

''(ii) DEFINITION OF QUALIFIED PROVIDER.—For purposes of this subparagraph, the term 'qualified provider' means, with respect to a