

provision shall be stricken from the measure and may not be offered as an amendment from the floor.

“(c) FORM OF THE POINT OF ORDER.—A point of order under subsection (b)(1) may be raised by a Senator as provided in section 313(e).

“(d) CONFERENCE REPORTS.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill or joint resolution, upon a point of order being made by any Senator pursuant to subsection (b)(1), and such point of order being sustained, such material contained in such conference report or House amendment shall be stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

“(e) SUPERMAJORITY WAIVER AND APPEAL.—

“(1) WAIVER.—Subsection (b)(1) may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

“(2) APPEALS.—Debate on appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under subsection (b)(1).”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Congressional Budget Act of 1974 is amended by inserting after the item relating to section 428 the following:

“PART C—ADDITIONAL LIMITATIONS ON BUDGETARY AND APPROPRIATIONS LEGISLATION

“Sec. 441. Point of order against funding for contingency operations that does not meet the requirements for emergency war funding.”.

**SA 1898.** Mr. LEE submitted an amendment intended to be proposed by him to the bill H.R. 815, to amend title 38, United States Code, to make certain improvements relating to the eligibility of veterans to receive reimbursement for emergency treatment furnished through the Veterans Community Care program, and for other purposes; which was ordered to lie on the table; as follows:

Amend section 614 to read as follows:

SEC. 614. None of the funds appropriated or otherwise made available by this division and division B of this Act, and prior Acts making appropriations for the Department of State, foreign operations, and related programs, may be made available for assessed or voluntary contributions, grants, or other payments to the United Nations Relief and Works Agency or to any other organ, specialized agency, commission, or other formally affiliated body of the United Nations that provides funding or otherwise operates in Gaza, notwithstanding any other provision of law.

**SA 1899.** Mr. LEE submitted an amendment intended to be proposed by him to the bill H.R. 815, to amend title 38, United States Code, to make certain improvements relating to the eligibility of veterans to receive reimbursement for emergency treatment furnished through the Veterans Community Care program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. \_\_\_\_\_. None of the amounts appropriated or otherwise made available by this Act may be made available to facilitate the use of military force against Iran, including any deployments to forward operating bases in Iraq and Syria, absent express authorization from Congress.

**SA 1900.** Mr. LEE submitted an amendment intended to be proposed by him to the bill H.R. 815, to amend title 38, United States Code, to make certain improvements relating to the eligibility of veterans to receive reimbursement for emergency treatment furnished through the Veterans Community Care program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. \_\_\_\_\_. Effective January 1, 2026, the following laws are hereby repealed:

(1) The Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107-243; 116 Stat. 1498; 50 U.S.C. 1541 note).

(2) The Authorization for Use of Military Force (Public Law 107-40; 50 U.S.C. 1541 note).

**SA 1901.** Mrs. BLACKBURN submitted an amendment intended to be proposed by her to the bill H.R. 815, to amend title 38, United States Code, to make certain improvements relating to the eligibility of veterans to receive reimbursement for emergency treatment furnished through the Veterans Community Care program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_\_. SUSPENSION ON RELEASING FUNDS TO IRAN.**

Notwithstanding any other provision of this Act, no Executive Branch official may unfreeze, issue a waiver, or otherwise release any funds to the Islamic Republic of Iran until all hostages (or the remains of any deceased hostages), who were taken in connection with the October 7, 2023, terrorist attack on Israel have been released.

**SA 1902.** Mr. LEE submitted an amendment intended to be proposed by him to the bill H.R. 815, to amend title 38, United States Code, to make certain improvements relating to the eligibility of veterans to receive reimbursement for emergency treatment furnished through the Veterans Community Care program, and for other purposes; which was ordered to lie on the table; as follows:

Strike p. 59, line 6 and all that follows through p. 69 and insert the following:

(c) LIMITATION ON ARRANGEMENT TERMS.—

(1) IN GENERAL.—The arrangement required under subsection (a) may not provide for the cancellation of any or all amounts of indebtedness.

(2) USE OF PAYMENTS.—All payments received by the Government of the United States from the Government of Ukraine resulting from any loan authorized by this Act shall be exclusively and indefinitely reserved for—

(A) the construction of a wall along the southern land border of the United States; and

(B) other measures to improve the security of the borders of the United States.

**SA 1903.** Mr. WYDEN submitted an amendment intended to be proposed by him to the bill H.R. 815, to amend title 38, United States Code, to make certain improvements relating to the eligibility of veterans to receive reimbursement for emergency treatment furnished through the Veterans Community Care program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**DIVISION \_\_\_\_—NO FORCE OR EFFECT OF PROTECTING AMERICANS FROM FOREIGN ADVERSARY CONTROLLED APPLICATIONS ACT**

**SEC. 1. NO FORCE OR EFFECT OF PROTECTING AMERICANS FROM FOREIGN ADVERSARY CONTROLLED APPLICATIONS ACT.**

Division H of this Act shall have no force or effect.

**DIVISION \_\_\_\_—PROTECTING AMERICANS' DATA FROM FOREIGN SURVEILLANCE ACT OF 2023**

**SEC. 1. SHORT TITLE.**

This division may be cited as the “Protecting Americans’ Data From Foreign Surveillance Act of 2023”.

**SEC. 2. 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 division, the United States Government should explore the establishment of a shared zone of mutual trust with respect to sensitive personal data.

**SEC. 3. 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 (1)(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(1)) 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(1)) 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 (1) 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. 4. SEVERABILITY.

If any provision of or any amendment made by this division, 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 division, and the application of such provisions and amendments to any other person or circumstance, shall not be affected.

**SA 1904.** Mr. CRUZ submitted an amendment intended to be proposed by him to the bill H.R. 815, to amend title 38, United States Code, to make certain improvements relating to the eligibility of veterans to receive reimbursement for emergency treatment furnished through the Veterans Community Care program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

#### DIVISION —SECURING THE BORDER

##### SEC. 1001. SHORT TITLE.

This division may be cited as the “Secure the Border Act of 2024”.

#### TITLE I—BORDER SECURITY

##### SEC. 1101. DEFINITIONS.

In this division:

(1) CBP.—The term “CBP” means U.S. Customs and Border Protection.

(2) COMMISSIONER.—The term “Commissioner” means the Commissioner of U.S. Customs and Border Protection.

(3) DEPARTMENT.—The term “Department” means the Department of Homeland Security.

(4) OPERATIONAL CONTROL.—The term “operational control” has the meaning given

such term in section 2(b) of the Secure Fence Act of 2006 (Public Law 109-367; 8 U.S.C. 1701 note).

(5) SECRETARY.—The term “Secretary” means the Secretary of Homeland Security.

(6) SITUATIONAL AWARENESS.—The term “situational awareness” has the meaning given such term in section 1092(a)(7) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-328; 6 U.S.C. 223(a)(7)).

(7) UNMANNED AIRCRAFT SYSTEM.—The term “unmanned aircraft system” has the meaning given such term in section 44801 of title 49, United States Code.

#### SEC. 1102. BORDER WALL CONSTRUCTION.

(a) IN GENERAL.—

(1) IMMEDIATE RESUMPTION OF BORDER WALL CONSTRUCTION.—Not later than seven days after the date of the enactment of this Act, the Secretary shall resume all activities related to the construction of the border wall along the border between the United States and Mexico that were underway or being planned for prior to January 20, 2021.

(2) USE OF FUNDS.—To carry out this section, the Secretary shall expend all unexpired funds appropriated or explicitly obligated for the construction of the border wall that were appropriated or obligated, as the case may be, for use beginning on October 1, 2019.

(3) USE OF MATERIALS.—Any unused materials purchased before the date of the enactment of this Act for construction of the border wall may be used for activities related to the construction of the border wall in accordance with paragraph (1).

(b) PLAN TO COMPLETE TACTICAL INFRASTRUCTURE AND TECHNOLOGY.—Not later than 90 days after the date of the enactment of this Act and annually thereafter until construction of the border wall has been completed, the Secretary shall submit to the appropriate congressional committees an implementation plan, including annual benchmarks for the construction of 200 miles of such wall and associated cost estimates for satisfying all requirements of the construction of the border wall, including installation and deployment of tactical infrastructure, technology, and other elements as identified by the Department prior to January 20, 2021, through the expenditure of funds appropriated or explicitly obligated, as the case may be, for use, as well as any future funds appropriated or otherwise made available by Congress.

(c) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means the Committee on Homeland Security and the Committee on Appropriations of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations of the Senate.

(2) TACTICAL INFRASTRUCTURE.—The term “tactical infrastructure” includes boat ramps, access gates, checkpoints, lighting, and roads associated with a border wall.

(3) TECHNOLOGY.—The term “technology” includes border surveillance and detection technology, including linear ground detection systems, associated with a border wall.

#### SEC. 1103. STRENGTHENING THE REQUIREMENTS FOR BARRIERS ALONG THE SOUTHERN BORDER.

Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Division C of Public Law 104-208; 8 U.S.C. 1103 note) is amended—

(1) by amending subsection (a) to read as follows:

“(a) IN GENERAL.—The Secretary of Homeland Security shall take such actions as may