

Suspend the Rules And Pass the Bill, H.R. 4998, with Amendments

(The amendments strike all after the enacting clause and insert a new text and a new title)

116TH CONGRESS
1ST SESSION

H. R. 4998

To prohibit certain Federal loans, grants, and subsidies from being used to purchase communications equipment or services posing national security risks, to provide for the establishment of a reimbursement program for the replacement of communications equipment or services posing such risks, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 8, 2019

Mr. PALLONE (for himself, Mr. WALDEN, Ms. MATSUI, and Mr. GUTHRIE) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To prohibit certain Federal loans, grants, and subsidies from being used to purchase communications equipment or services posing national security risks, to provide for the establishment of a reimbursement program for the replacement of communications equipment or services posing such risks, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Secure and Trusted
3 Communications Networks Act of 2019”.

4 **SEC. 2. DETERMINATION OF COMMUNICATIONS EQUIP-**
5 **MENT OR SERVICES POSING NATIONAL SECU-**
6 **RITY RISKS.**

7 (a) PUBLICATION OF COVERED COMMUNICATIONS
8 EQUIPMENT OR SERVICES LIST.—Not later than 1 year
9 after the date of the enactment of this Act, the Commis-
10 sion shall publish on its website a list of covered commu-
11 nications equipment or services.

12 (b) PUBLICATION BY COMMISSION.—The Commis-
13 sion shall place on the list published under subsection (a)
14 any communications equipment or service, if and only if
15 such equipment or service—

16 (1) is produced or provided by any entity, if,
17 based exclusively on the determinations described in
18 paragraphs (1) through (4) of subsection (c), such
19 equipment or service produced or provided by such
20 entity poses an unacceptable risk to the national se-
21 curity of the United States or the security and safe-
22 ty of United States persons; and

23 (2) is capable of—

24 (A) routing or redirecting user data traffic
25 or permitting visibility into any user data or

1 packets that such equipment or service trans-
2 mits or otherwise handles;

3 (B) causing the network of a provider of
4 advanced communications service to be dis-
5 rupted remotely; or

6 (C) otherwise posing an unacceptable risk
7 to the national security of the United States or
8 the security and safety of United States per-
9 sons.

10 (c) RELIANCE ON CERTAIN DETERMINATIONS.—In
11 taking action under subsection (b)(1), the Commission
12 shall place on the list any communications equipment or
13 service that poses an unacceptable risk to the national se-
14 curity of the United States or the security and safety of
15 United States persons based solely on one or more of the
16 following determinations:

17 (1) A specific determination made by any execu-
18 tive branch interagency body with appropriate na-
19 tional security expertise, including the Federal Ac-
20 quisition Security Council established under section
21 1322(a) of title 41, United States Code.

22 (2) A specific determination made by the De-
23 partment of Commerce pursuant to Executive Order
24 13873 (84 Fed. Reg. 22689; relating to securing the

1 information and communications technology and
2 services supply chain).

3 (3) The communications equipment or service
4 being covered telecommunications equipment or serv-
5 ices, as defined in section 889(f)(3) of the John S.
6 McCain National Defense Authorization Act for Fis-
7 cal Year 2019 (Public Law 115–232; 132 Stat.
8 1918).

9 (4) A specific determination made by an appro-
10 priate national security agency.

11 (d) UPDATING OF LIST.—

12 (1) IN GENERAL.—The Commission shall peri-
13 odically update the list published under subsection
14 (a) to address changes in the determinations de-
15 scribed in paragraphs (1) through (4) of subsection
16 (c).

17 (2) MONITORING OF DETERMINATIONS.—The
18 Commission shall monitor the making or reversing
19 of the determinations described in paragraphs (1)
20 through (4) of subsection (c) in order to place addi-
21 tional communications equipment or services on the
22 list published under subsection (a) or to remove
23 communications equipment or services from such
24 list. If a determination described in any such para-
25 graph that provided the basis for a determination by

1 the Commission under subsection (b)(1) with respect
2 to any communications equipment or service is re-
3 versed, the Commission shall remove such equipment
4 or service from such list, except that the Commission
5 may not remove such equipment or service from
6 such list if any other determination described in any
7 such paragraph provides a basis for inclusion on
8 such list by the Commission under subsection (b)(1)
9 with respect to such equipment or service.

10 (3) PUBLIC NOTIFICATION.—For each 12-
11 month period during which the list published under
12 subsection (a) is not updated, the Commission shall
13 notify the public that no updates were necessary
14 during such period to protect national security or to
15 address changes in the determinations described in
16 paragraphs (1) through (4) of subsection (c).

17 **SEC. 3. PROHIBITION ON USE OF CERTAIN FEDERAL SUB-**
18 **SIDIES.**

19 (a) IN GENERAL.—

20 (1) PROHIBITION.—A Federal subsidy that is
21 made available through a program administered by
22 the Commission and that provides funds to be used
23 for the capital expenditures necessary for the provi-
24 sion of advanced communications service may not be
25 used to—

1 (A) purchase, rent, lease, or otherwise ob-
2 tain any covered communications equipment or
3 service; or

4 (B) maintain any covered communications
5 equipment or service previously purchased,
6 rented, leased, or otherwise obtained.

7 (2) TIMING.—Paragraph (1) shall apply with
8 respect to any covered communications equipment or
9 service beginning on the date that is 60 days after
10 the date on which the Commission places such
11 equipment or service on the list required by section
12 2(a). In the case of any covered communications
13 equipment or service that is on the initial list pub-
14 lished under such section, such equipment or service
15 shall be treated as being placed on the list on the
16 date on which such list is published.

17 (b) COMPLETION OF PROCEEDING.—Not later than
18 180 days after the date of the enactment of this Act, the
19 Commission shall adopt a Report and Order to implement
20 subsection (a). If the Commission has, before the date of
21 the enactment of this Act, taken action that in whole or
22 in part implements subsection (a), the Commission is not
23 required to revisit such action, but only to the extent such
24 action is consistent with this section.

1 **SEC. 4. SECURE AND TRUSTED COMMUNICATIONS NET-**
2 **WORKS REIMBURSEMENT PROGRAM.**

3 (a) **IN GENERAL.**—The Commission shall establish a
4 reimbursement program, to be known as the “Secure and
5 Trusted Communications Networks Reimbursement Pro-
6 gram”, to make reimbursements to providers of advanced
7 communications service to replace covered communica-
8 tions equipment or services.

9 (b) **ELIGIBILITY.**—The Commission may not make a
10 reimbursement under the Program to a provider of ad-
11 vanced communications service unless the provider—

12 (1) has 2,000,000 or fewer customers; and

13 (2) makes all of the certifications required by
14 subsection (d)(4).

15 (c) **USE OF FUNDS.**—

16 (1) **IN GENERAL.**—A recipient of a reimburse-
17 ment under the Program shall use reimbursement
18 funds solely for the purposes of—

19 (A) permanently removing covered commu-
20 nications equipment or services purchased,
21 rented, leased, or otherwise obtained before—

22 (i) in the case of any covered commu-
23 nications equipment or services that are on
24 the initial list published under section 2(a),
25 August 14, 2018; or

1 (ii) in the case of any covered commu-
2 nications equipment or services that are
3 not on the initial list published under sec-
4 tion 2(a), the date that is 60 days after
5 the date on which the Commission places
6 such equipment or services on the list re-
7 quired by such section;

8 (B) replacing the covered communications
9 equipment or services removed as described in
10 subparagraph (A) with communications equip-
11 ment or services that are not covered commu-
12 nications equipment or services; and

13 (C) disposing of the covered communica-
14 tions equipment or services removed as de-
15 scribed in subparagraph (A) in accordance with
16 the requirements under subsection (d)(7).

17 (2) LIMITATIONS.—A recipient of a reimburse-
18 ment under the Program may not—

19 (A) use reimbursement funds to remove,
20 replace, or dispose of any covered communica-
21 tions equipment or service purchased, rented,
22 leased, or otherwise obtained on or after—

23 (i) in the case of any covered commu-
24 nications equipment or service that is on

1 the initial list published under section 2(a),
2 August 14, 2018; or

3 (ii) in the case of any covered commu-
4 nications equipment or service that is not
5 on the initial list published under section
6 2(a), the date that is 60 days after the
7 date on which the Commission places such
8 equipment or service on the list required
9 by such section; or

10 (B) purchase, rent, lease, or otherwise ob-
11 tain any covered communications equipment or
12 service, using reimbursement funds or any
13 other funds (including funds derived from pri-
14 vate sources).

15 (d) IMPLEMENTATION.—

16 (1) SUGGESTED REPLACEMENTS.—

17 (A) DEVELOPMENT OF LIST.—The Com-
18 mission shall develop a list of suggested replace-
19 ments of both physical and virtual communica-
20 tions equipment, application and management
21 software, and services or categories of replace-
22 ments of both physical and virtual communica-
23 tions equipment, application and management
24 software and services.

1 (B) NEUTRALITY.—The list developed
2 under subparagraph (A) shall be technology
3 neutral and may not advantage the use of reim-
4 bursement funds for capital expenditures over
5 operational expenditures, to the extent that the
6 Commission determines that communications
7 services can serve as an adequate substitute for
8 the installation of communications equipment.

9 (2) APPLICATION PROCESS.—

10 (A) IN GENERAL.—The Commission shall
11 develop an application process and related
12 forms and materials for the Program.

13 (B) COST ESTIMATE.—

14 (i) INITIAL ESTIMATE.—The Commis-
15 sion shall require an applicant to provide
16 an initial reimbursement cost estimate at
17 the time of application, with supporting
18 materials substantiating the costs.

19 (ii) UPDATES.—During and after the
20 application review process, the Commission
21 may require an applicant to—

22 (I) update the initial reimburse-
23 ment cost estimate submitted under
24 clause (i); and

1 (II) submit additional supporting
2 materials substantiating an updated
3 cost estimate submitted under sub-
4 clause (I).

5 (C) MITIGATION OF BURDEN.—In devel-
6 oping the application process under this para-
7 graph, the Commission shall take reasonable
8 steps to mitigate the administrative burdens
9 and costs associated with the application proc-
10 ess, while taking into account the need to avoid
11 waste, fraud, and abuse in the Program.

12 (3) APPLICATION REVIEW PROCESS.—

13 (A) DEADLINE.—

14 (i) IN GENERAL.—Except as provided
15 in clause (ii) and subparagraph (B), the
16 Commission shall approve or deny an ap-
17 plication for a reimbursement under the
18 Program not later than 90 days after the
19 date of the submission of the application.

20 (ii) ADDITIONAL TIME NEEDED BY
21 COMMISSION.—If the Commission deter-
22 mines that, because an excessive number of
23 applications have been filed at one time,
24 the Commission needs additional time for
25 employees of the Commission to process

1 the applications, the Commission may ex-
2 tend the deadline described in clause (i) for
3 not more than 45 days.

4 (B) OPPORTUNITY FOR APPLICANT TO
5 CURE DEFICIENCY.—If the Commission deter-
6 mines that an application is materially deficient
7 (including by lacking an adequate cost estimate
8 or adequate supporting materials), the Commis-
9 sion shall provide the applicant a 15-day period
10 to cure the defect before denying the applica-
11 tion. If such period would extend beyond the
12 deadline under subparagraph (A) for approving
13 or denying the application, such deadline shall
14 be extended through the end of such period.

15 (C) EFFECT OF DENIAL.—Denial of an ap-
16 plication for a reimbursement under the Pro-
17 gram shall not preclude the applicant from re-
18 submitting the application or submitting a new
19 application for a reimbursement under the Pro-
20 gram at a later date.

21 (4) CERTIFICATIONS.—An applicant for a reim-
22 bursement under the Program shall, in the applica-
23 tion of the applicant, certify to the Commission
24 that—

1 (A) as of the date of the submission of the
2 application, the applicant—

3 (i) has developed a plan for—

4 (I) the permanent removal and
5 replacement of any covered commu-
6 nications equipment or services that
7 are in the communications network of
8 the applicant as of such date; and

9 (II) the disposal of the equip-
10 ment or services removed as described
11 in subclause (I) in accordance with
12 the requirements under paragraph
13 (7); and

14 (ii) has developed a specific timeline
15 (subject to paragraph (6)) for the perma-
16 nent removal, replacement, and disposal of
17 the covered communications equipment or
18 services identified under clause (i), which
19 timeline shall be submitted to the Commis-
20 sion as part of the application; and

21 (B) beginning on the date of the approval
22 of the application, the applicant—

23 (i) will not purchase, rent, lease, or
24 otherwise obtain covered communications
25 equipment or services, using reimburse-

1 ment funds or any other funds (including
2 funds derived from private sources); and

3 (ii) in developing and tailoring the
4 risk management practices of the appli-
5 cant, will consult and consider the stand-
6 ards, guidelines, and best practices set
7 forth in the cybersecurity framework devel-
8 oped by the National Institute of Stand-
9 ards and Technology.

10 (5) DISTRIBUTION OF REIMBURSEMENT
11 FUNDS.—

12 (A) IN GENERAL.—The Commission shall
13 make reasonable efforts to ensure that reim-
14 bursement funds are distributed equitably
15 among all applicants for reimbursements under
16 the Program according to the needs of the ap-
17 plicants, as identified by the applications of the
18 applicants.

19 (B) NOTIFICATION.—If, at any time dur-
20 ing the implementation of the Program, the
21 Commission determines that \$1,000,000,000
22 will not be sufficient to fully fund all approved
23 applications for reimbursements under the Pro-
24 gram, the Commission shall immediately no-
25 tify—

1 (i) the Committee on Energy and
2 Commerce and the Committee on Appro-
3 priations of the House of Representatives;
4 and

5 (ii) the Committee on Commerce,
6 Science, and Transportation and the Com-
7 mittee on Appropriations of the Senate.

8 (6) REMOVAL, REPLACEMENT, AND DISPOSAL
9 TERM.—

10 (A) DEADLINE.—Except as provided in
11 subparagraphs (B) and (C), the permanent re-
12 moval, replacement, and disposal of any covered
13 communications equipment or services identified
14 under paragraph (4)(A)(i) shall be completed
15 not later than 1 year after the date on which
16 the Commission distributes reimbursement
17 funds to the recipient.

18 (B) GENERAL EXTENSION.—The Commis-
19 sion may grant an extension of the deadline de-
20 scribed in subparagraph (A) for 6 months to all
21 recipients of reimbursements under the Pro-
22 gram if the Commission—

23 (i) finds that the supply of replace-
24 ment communications equipment or serv-
25 ices needed by the recipients to achieve the

1 purposes of the Program is inadequate to
2 meet the needs of the recipients; and

3 (ii) provides notice and a detailed jus-
4 tification for granting the extension to—

5 (I) the Committee on Energy and
6 Commerce of the House of Represent-
7 atives; and

8 (II) the Committee on Com-
9 merce, Science, and Transportation of
10 the Senate.

11 (C) INDIVIDUAL EXTENSION.—

12 (i) PETITION.—A recipient of a reim-
13 bursement under the Program may peti-
14 tion the Commission for an extension for
15 such recipient of the deadline described in
16 subparagraph (A) or, if the Commission
17 has granted an extension of such deadline
18 under subparagraph (B), such deadline as
19 so extended.

20 (ii) GRANT.—The Commission may
21 grant a petition filed under clause (i) by
22 extending, for the recipient that filed the
23 petition, the deadline described in subpara-
24 graph (A) or, if the Commission has grant-
25 ed an extension of such deadline under

1 subparagraph (B), such deadline as so ex-
2 tended, for a period of not more than 6
3 months if the Commission finds that, due
4 to no fault of such recipient, such recipient
5 is unable to complete the permanent re-
6 moval, replacement, and disposal described
7 in subparagraph (A).

8 (7) DISPOSAL OF COVERED COMMUNICATIONS
9 EQUIPMENT OR SERVICES.—The Commission shall
10 include in the regulations promulgated under sub-
11 section (g) requirements for the disposal by a recipi-
12 ent of a reimbursement under the Program of cov-
13 ered communications equipment or services identi-
14 fied under paragraph (4)(A)(i) and removed from
15 the network of the recipient in order to prevent such
16 equipment or services from being used in the net-
17 works of providers of advanced communications serv-
18 ice.

19 (8) STATUS UPDATES.—

20 (A) IN GENERAL.—Not less frequently
21 than once every 90 days beginning on the date
22 on which the Commission approves an applica-
23 tion for a reimbursement under the Program,
24 the recipient of the reimbursement shall submit
25 to the Commission a status update on the work

1 of the recipient to permanently remove, replace,
2 and dispose of the covered communications
3 equipment or services identified under para-
4 graph (4)(A)(i).

5 (B) PUBLIC POSTING.—Not earlier than
6 30 days after the date on which the Commis-
7 sion receives a status update under subpara-
8 graph (A), the Commission shall make such sta-
9 tus update public on the website of the Com-
10 mission.

11 (C) REPORTS TO CONGRESS.—Not less fre-
12 quently than once every 180 days beginning on
13 the date on which the Commission first makes
14 funds available to a recipient of a reimburse-
15 ment under the Program, the Commission shall
16 prepare and submit to the Committee on En-
17 ergy and Commerce of the House of Represent-
18 atives and the Committee on Commerce,
19 Science, and Transportation of the Senate a re-
20 port on—

21 (i) the implementation of the Program
22 by the Commission; and

23 (ii) the work by recipients of reim-
24 bursements under the Program to perma-
25 nently remove, replace, and dispose of cov-

1 ered communications equipment or services
2 identified under paragraph (4)(A)(i).

3 (e) MEASURES TO AVOID WASTE, FRAUD, AND
4 ABUSE.—

5 (1) IN GENERAL.—The Commission shall take
6 all necessary steps to avoid waste, fraud, and abuse
7 with respect to the Program.

8 (2) SPENDING REPORTS.—The Commission
9 shall require recipients of reimbursements under the
10 Program to submit to the Commission on a regular
11 basis reports regarding how reimbursement funds
12 have been spent, including detailed accounting of the
13 covered communications equipment or services per-
14 manently removed and disposed of, and the replace-
15 ment equipment or services purchased, rented,
16 leased, or otherwise obtained, using reimbursement
17 funds.

18 (3) AUDITS, REVIEWS, AND FIELD INVESTIGA-
19 TIONS.—The Commission shall conduct—

20 (A) regular audits and reviews of reim-
21 bursements under the Program to confirm that
22 recipients of such reimbursements are com-
23 plying with this Act; and

24 (B) random field investigations to ensure
25 that recipients of reimbursements under the

1 Program are performing the work such recipi-
2 ents are required to perform under the commit-
3 ments made in the applications of such recipi-
4 ents for reimbursements under the Program, in-
5 cluding the permanent removal, replacement,
6 and disposal of the covered communications
7 equipment or services identified under sub-
8 section (d)(4)(A)(i).

9 (4) FINAL CERTIFICATION.—

10 (A) IN GENERAL.—The Commission shall
11 require a recipient of a reimbursement under
12 the Program to submit to the Commission, in
13 a form and at an appropriate time to be deter-
14 mined by the Commission, a certification stat-
15 ing that the recipient—

16 (i) has fully complied with (or is in
17 the process of complying with) all terms
18 and conditions of the Program;

19 (ii) has fully complied with (or is in
20 the process of complying with) the commit-
21 ments made in the application of the re-
22 cipient for the reimbursement;

23 (iii) has permanently removed from
24 the communications network of the recipi-
25 ent, replaced, and disposed of (or is in the

1 process of permanently removing, replac-
2 ing, and disposing of) all covered commu-
3 nications equipment or services that were
4 in the network of the recipient as of the
5 date of the submission of the application of
6 the recipient for the reimbursement; and

7 (iv) has fully complied with (or is in
8 the process of complying with) the timeline
9 submitted by the recipient under subpara-
10 graph (A)(ii) of paragraph (4) of sub-
11 section (d) and the other requirements of
12 such paragraph.

13 (B) UPDATED CERTIFICATION.—If, at the
14 time when a recipient of a reimbursement under
15 the Program submits a certification under sub-
16 paragraph (A), the recipient has not fully com-
17 plied as described in clause (i), (ii), or (iv) of
18 such subparagraph or has not completed the
19 permanent removal, replacement, and disposal
20 described in clause (iii) of such subparagraph,
21 the Commission shall require the recipient to
22 file an updated certification when the recipient
23 has fully complied as described in such clause
24 (i), (ii), or (iv) or completed such permanent re-
25 moval, replacement, and disposal.

1 (f) EFFECT OF REMOVAL OF EQUIPMENT OR SERV-
2 ICE FROM LIST.—

3 (1) IN GENERAL.—If, after the date on which
4 a recipient of a reimbursement under the Program
5 submits the application for the reimbursement, any
6 covered communications equipment or service that is
7 in the network of the recipient as of such date is re-
8 moved from the list published under section 2(a),
9 the recipient may—

10 (A) return to the Commission any reim-
11 bursement funds received for the removal, re-
12 placement, and disposal of such equipment or
13 service and be released from any requirement
14 under this section to remove, replace, or dispose
15 of such equipment or service; or

16 (B) retain any reimbursement funds re-
17 ceived for the removal, replacement, and dis-
18 posal of such equipment or service and remain
19 subject to the requirements of this section to
20 remove, replace, and dispose of such equipment
21 or service as if such equipment or service con-
22 tinued to be on the list published under section
23 2(a).

24 (2) ASSURANCES.—In the case of an assurance
25 relating to the removal, replacement, or disposal of

1 any equipment or service with respect to which the
2 recipient returns to the Commission reimbursement
3 funds under paragraph (1)(A), such assurance may
4 be satisfied by making an assurance that such funds
5 have been returned.

6 (g) RULEMAKING.—

7 (1) COMMENCEMENT.—Not later than 90 days
8 after the date of the enactment of this Act, the
9 Commission shall commence a rulemaking to imple-
10 ment this section.

11 (2) COMPLETION.—The Commission shall com-
12 plete the rulemaking under paragraph (1) not later
13 than 1 year after the date of the enactment of this
14 Act.

15 (h) RULE OF CONSTRUCTION REGARDING TIMING OF
16 REIMBURSEMENT.—Nothing in this section shall be con-
17 strued to prohibit the Commission from making a reim-
18 bursement under the Program to a provider of advanced
19 communications service before the provider incurs the cost
20 of the permanent removal, replacement, and disposal of
21 the covered communications equipment or service for
22 which the application of the provider has been approved
23 under this section.

1 (i) EDUCATION EFFORTS.—The Commission shall
2 engage in education efforts with providers of advanced
3 communications service to—

4 (1) encourage such providers to participate in
5 the Program; and

6 (2) assist such providers in submitting applica-
7 tions for the Program.

8 (j) SEPARATE FROM FEDERAL UNIVERSAL SERVICE
9 PROGRAMS.—The Program shall be separate from any
10 Federal universal service program established under sec-
11 tion 254 of the Communications Act of 1934 (47 U.S.C.
12 254).

13 **SEC. 5. REPORTS ON COVERED COMMUNICATIONS EQUIP-**
14 **MENT OR SERVICES.**

15 (a) IN GENERAL.—Each provider of advanced com-
16 munications service shall submit an annual report to the
17 Commission, in a form to be determined by the Commis-
18 sion, regarding whether such provider has purchased,
19 rented, leased, or otherwise obtained any covered commu-
20 nications equipment or service on or after—

21 (1) in the case of any covered communications
22 equipment or service that is on the initial list pub-
23 lished under section 2(a), August 14, 2018; or

24 (2) in the case of any covered communications
25 equipment or service that is not on the initial list

1 published under section 2(a), the date that is 60
2 days after the date on which the Commission places
3 such equipment or service on the list required by
4 such section.

5 (b) RULE OF CONSTRUCTION.—If a provider of ad-
6 vanced communications service certifies to the Commis-
7 sion that such provider does not have any covered commu-
8 nications equipment or service in the network of such pro-
9 vider, such provider is not required to submit a report
10 under subsection (a) after making such certification, un-
11 less such provider later purchases, rents, leases, or other-
12 wise obtains any covered communications equipment or
13 service.

14 (c) JUSTIFICATION.—If a provider of advanced com-
15 munications service indicates in a report under subsection
16 (a) that such provider has purchased, rented, leased, or
17 otherwise obtained any covered communications equip-
18 ment or service as described in such subsection, such pro-
19 vider shall include in such report—

- 20 (1) a detailed justification for such action;
- 21 (2) information about whether such covered
22 communications equipment or service has subse-
23 quently been removed and replaced pursuant to sec-
24 tion 4; and

1 (3) information about whether such provider
2 plans to continue to purchase, rent, lease, or other-
3 wise obtain, or install or use, such covered commu-
4 nications equipment or service and, if so, why.

5 (d) PROCEEDING.—The Commission shall implement
6 this section as part of the rulemaking required by section
7 4(g).

8 **SEC. 6. HOLD HARMLESS.**

9 In the case of a person who is a winner of the Con-
10 nect America Fund Phase II auction, has not yet been
11 authorized to receive Connect America Fund Phase II sup-
12 port, and demonstrates an inability to reasonably meet the
13 build-out and service obligations of such person under
14 Connect America Fund Phase II without using equipment
15 or services prohibited under this Act, such person may
16 withdraw the application of such person for Connect
17 America Fund Phase II support without being found in
18 default or subject to forfeiture. The Commission may set
19 a deadline to make such a withdrawal that is not earlier
20 than the date that is 60 days after the date of the enact-
21 ment of this Act.

22 **SEC. 7. ENFORCEMENT.**

23 (a) VIOLATIONS.—A violation of this Act or a regula-
24 tion promulgated under this Act shall be treated as a vio-
25 lation of the Communications Act of 1934 (47 U.S.C. 151

1 et seq.) or a regulation promulgated under such Act, re-
2 spectively. The Commission shall enforce this Act and the
3 regulations promulgated under this Act in the same man-
4 ner, by the same means, and with the same jurisdiction,
5 powers, and duties as though all applicable terms and pro-
6 visions of the Communications Act of 1934 were incor-
7 porated into and made a part of this Act.

8 (b) ADDITIONAL PENALTIES.—

9 (1) IN GENERAL.—Except as provided in para-
10 graph (2), in addition to penalties under the Com-
11 munications Act of 1934, a recipient of a reimburse-
12 ment under the Program found to have violated sec-
13 tion 4, the regulations promulgated under such sec-
14 tion, or the commitments made by the recipient in
15 the application for the reimbursement—

16 (A) shall repay to the Commission all reim-
17 bursement funds provided to the recipient
18 under the Program;

19 (B) shall be barred from further participa-
20 tion in the Program;

21 (C) shall be referred to all appropriate law
22 enforcement agencies or officials for further ac-
23 tion under applicable criminal and civil laws;
24 and

1 (D) may be barred by the Commission
2 from participation in other programs of the
3 Commission, including the Federal universal
4 service support programs established under sec-
5 tion 254 of the Communications Act of 1934
6 (47 U.S.C. 254).

7 (2) NOTICE AND OPPORTUNITY TO CURE.—The
8 penalties described in paragraph (1) shall not apply
9 to a recipient of a reimbursement under the Pro-
10 gram unless—

11 (A) the Commission provides the recipient
12 with notice of the violation; and

13 (B) the recipient fails to cure the violation
14 within 180 days after the Commission provides
15 such notice.

16 (c) RECOVERY OF FUNDS.—The Commission shall
17 immediately take action to recover all reimbursement
18 funds awarded to a recipient of a reimbursement under
19 the Program in any case in which such recipient is re-
20 quired to repay reimbursement funds under subsection
21 (b)(1)(A).

22 **SEC. 8. NTIA PROGRAM FOR PREVENTING FUTURE**
23 **VULNERABILITIES.**

24 (a) FUTURE VULNERABILITY PROGRAM.—

1 (1) ESTABLISHMENT.—Not later than 120 days
2 after the date of the enactment of this Act, including
3 an opportunity for notice and comment, the Assist-
4 ant Secretary, in cooperation with the Director of
5 National Intelligence, the Director of the Federal
6 Bureau of Investigation, the Secretary of Homeland
7 Security, and the Commission, shall establish a pro-
8 gram to share information regarding supply chain
9 security risks with trusted providers of advanced
10 communications service and trusted suppliers of
11 communications equipment or services.

12 (2) ACTIVITIES.—In carrying out the program
13 established under paragraph (1), the Assistant Sec-
14 retary shall—

15 (A) conduct regular briefings and other
16 events to share information with trusted pro-
17 viders of advanced communications service and
18 trusted suppliers of communications equipment
19 or services;

20 (B) engage with trusted providers of ad-
21 vanced communications service and trusted sup-
22 pliers of communications equipment or services,
23 in particular such providers and suppliers
24 that—

25 (i) are small businesses; or

1 (ii) primarily serve rural areas;

2 (C) not later than 180 days after the date
3 of the enactment of this Act, submit to the
4 Committee on Energy and Commerce of the
5 House of Representatives and the Committee
6 on Commerce, Science, and Transportation of
7 the Senate a plan for—

8 (i) declassifying material, when fea-
9 sible, to help share information regarding
10 supply chain security risks with trusted
11 providers of advanced communications
12 service and trusted suppliers of commu-
13 nications equipment or services; and

14 (ii) expediting and expanding the pro-
15 vision of security clearances to facilitate in-
16 formation sharing regarding supply chain
17 security risks with trusted providers of ad-
18 vanced communications service and trusted
19 suppliers of communications equipment or
20 services; and

21 (D) ensure that the activities carried out
22 through the program are consistent with and,
23 to the extent practicable, integrated with, ongo-
24 ing activities of the Department of Homeland
25 Security and the Department of Commerce.

1 (3) SCOPE OF PROGRAM.—The program estab-
2 lished under paragraph (1) shall involve only the
3 sharing of information regarding supply chain secu-
4 rity risks by the Federal Government to trusted pro-
5 viders of advanced communications service and
6 trusted suppliers of communications equipment or
7 services, and not the sharing of such information by
8 such providers and suppliers to the Federal Govern-
9 ment.

10 (b) REPRESENTATION ON CSRIC OF INTERESTS OF
11 PUBLIC AND CONSUMERS.—

12 (1) IN GENERAL.—The Commission shall ap-
13 point to the Communications Security, Reliability,
14 and Interoperability Council (or any successor there-
15 of), and to each subcommittee, workgroup, or other
16 subdivision of the Council (or any such successor),
17 at least one member to represent the interests of the
18 public and consumers.

19 (2) INITIAL APPOINTMENTS.—The Commission
20 shall make the initial appointments required by
21 paragraph (1) not later than 180 days after the date
22 of the enactment of this Act. Any member so ap-
23 pointed shall be in addition to the members of the
24 Council, or the members of the subdivision of the
25 Council to which the appointment is being made, as

1 the case may be, as of the date of the enactment of
2 this Act.

3 (c) DEFINITIONS.—In this section:

4 (1) ASSISTANT SECRETARY.—The term “Assist-
5 ant Secretary” means the Assistant Secretary of
6 Commerce for Communications and Information.

7 (2) FOREIGN ADVERSARY.—The term “foreign
8 adversary” means any foreign government or foreign
9 nongovernment person engaged in a long-term pat-
10 tern or serious instances of conduct significantly ad-
11 verse to the national security of the United States
12 or security and safety of United States persons.

13 (3) SUPPLY CHAIN SECURITY RISK.—The term
14 “supply chain security risk” includes specific risk
15 and vulnerability information related to equipment
16 and software.

17 (4) TRUSTED.—The term “trusted” means,
18 with respect to a provider of advanced communica-
19 tions service or a supplier of communications equip-
20 ment or service, that the Assistant Secretary has de-
21 termined that such provider or supplier is not owned
22 by, controlled by, or subject to the influence of a for-
23 eign adversary.

24 **SEC. 9. DEFINITIONS.**

25 In this Act:

1 (1) ADVANCED COMMUNICATIONS SERVICE.—

2 The term “advanced communications service” has
3 the meaning given the term “advanced telecommuni-
4 cations capability” in section 706 of the Tele-
5 communications Act of 1996 (47 U.S.C. 1302).

6 (2) APPROPRIATE NATIONAL SECURITY AGEN-
7 CY.—The term “appropriate national security agen-
8 cy” means—

9 (A) the Department of Homeland Security;

10 (B) the Department of Defense;

11 (C) the Office of the Director of National
12 Intelligence;

13 (D) the National Security Agency; and

14 (E) the Federal Bureau of Investigation.

15 (3) COMMISSION.—The term “Commission”
16 means the Federal Communications Commission.

17 (4) COMMUNICATIONS EQUIPMENT OR SERV-
18 ICE.—The term “communications equipment or serv-
19 ice” means any equipment or service that is essential
20 to the provision of advanced communications service.

21 (5) COVERED COMMUNICATIONS EQUIPMENT OR
22 SERVICE.—The term “covered communications
23 equipment or service” means any communications
24 equipment or service that is on the list published by
25 the Commission under section 2(a).

1 (6) CUSTOMERS.—The term “customers”
2 means, with respect to a provider of advanced com-
3 munications service—

4 (A) the customers of such provider; and

5 (B) the customers of any affiliate (as de-
6 fined in section 3 of the Communications Act of
7 1934 (47 U.S.C. 153)) of such provider.

8 (7) EXECUTIVE BRANCH INTERAGENCY
9 BODY.—The term “executive branch interagency
10 body” means an interagency body established in the
11 executive branch.

12 (8) PERSON.—The term “person” means an in-
13 dividual or entity.

14 (9) PROGRAM.—The term “Program” means
15 the Secure and Trusted Communications Networks
16 Reimbursement Program established under section
17 4(a).

18 (10) PROVIDER OF ADVANCED COMMUNICA-
19 TIONS SERVICE.—The term “provider of advanced
20 communications service” means a person who pro-
21 vides advanced communications service to United
22 States customers.

23 (11) RECIPIENT.—The term “recipient” means
24 any provider of advanced communications service the
25 application of which for a reimbursement under the

1 Program has been approved by the Commission, re-
2 gardless of whether the provider has received reim-
3 bursement funds.

4 (12) REIMBURSEMENT FUNDS.—The term “re-
5 imbursement funds” means any reimbursement re-
6 ceived under the Program.

7 **SEC. 10. SEVERABILITY.**

8 If any provision of this Act, or the application of such
9 a provision to any person or circumstance, is held to be
10 unconstitutional, the remaining provisions of this Act, and
11 the application of such provisions to any person or cir-
12 cumstance, shall not be affected thereby.

13 **SEC. 11. DETERMINATION OF BUDGETARY EFFECTS.**

14 The budgetary effects of this Act, for the purpose of
15 complying with the Statutory Pay-As-You-Go Act of 2010,
16 shall be determined by reference to the latest statement
17 titled “Budgetary Effects of PAYGO Legislation” for this
18 Act, submitted for printing in the Congressional Record
19 by the Chairman of the House Budget Committee, pro-
20 vided that such statement has been submitted prior to the
21 vote on passage.

Amend the title so as to read: “A bill to prohibit cer-
tain Federal subsidies from being used to purchase com-
munications equipment or services posing national secu-
rity risks, to provide for the establishment of a reim-
bursement program for the replacement of communica-

tions equipment or services posing such risks, and for other purposes.”.