

116TH CONGRESS
1ST SESSION

H. R. 4998

AN ACT

To prohibit certain Federal 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,*

3 **SECTION 1. SHORT TITLE.**

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

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

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

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

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

25 (2) is capable of—

1 (A) routing or redirecting user data traffic
2 or permitting visibility into any user data or
3 packets that such equipment or service trans-
4 mits or otherwise handles;

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

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

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

19 (1) A specific determination made by any exec-
20 utive branch interagency body with appropriate na-
21 tional security expertise, including the Federal Ac-
22 quisition Security Council established under section
23 1322(a) of title 41, United States Code.

24 (2) A specific determination made by the De-
25 partment of Commerce pursuant to Executive Order

1 No. 13873 (84 Fed. Reg. 22689; relating to secur-
2 ing the information and communications technology
3 and services supply chain).

4 (3) The communications equipment or service
5 being covered telecommunications equipment or serv-
6 ices, as defined in section 889(f)(3) of the John S.
7 McCain National Defense Authorization Act for Fis-
8 cal Year 2019 (Public Law 115–232; 132 Stat.
9 1918).

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

12 (d) UPDATING OF LIST.—

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

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

graph that provided the basis for a determination by the Commission under subsection (b)(1) with respect to any communications equipment or service is reversed, the Commission shall remove such equipment or service from such list, except that the Commission may not remove such equipment or service from such list if any other determination described in any such paragraph provides a basis for inclusion on such list by the Commission under subsection (b)(1) with respect to such equipment or service.

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

SEC. 3. PROHIBITION ON USE OF CERTAIN FEDERAL SUBSIDIES.

(a) IN GENERAL.—

(1) PROHIBITION.—A Federal subsidy that is made available through a program administered by the Commission and that provides funds to be used for the capital expenditures necessary for the provi-

1 sion of advanced communications service may not be
2 used to—

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

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

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

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

1 required to revisit such action, but only to the extent such
2 action is consistent with this section.

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

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

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

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

15 (2) makes all of the certifications required by
16 subsection (d)(4).

17 (c) USE OF FUNDS.—

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

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

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

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

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

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

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

1 (i) in the case of any covered commu-
2 nications equipment or service that is on
3 the initial list published under section 2(a),
4 August 14, 2018; or

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

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

17 (d) IMPLEMENTATION.—

18 (1) SUGGESTED REPLACEMENTS.—

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

1 tions equipment, application and management
2 software and services.

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

11 (2) APPLICATION PROCESS.—

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

15 (B) COST ESTIMATE.—

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

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

1 (I) update the initial reimburse-
2 ment cost estimate submitted under
3 clause (i); and

4 (II) submit additional supporting
5 materials substantiating an updated
6 cost estimate submitted under sub-
7 clause (I).

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

15 (3) APPLICATION REVIEW PROCESS.—

16 (A) DEADLINE.—

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

23 (ii) ADDITIONAL TIME NEEDED BY
24 COMMISSION.—If the Commission deter-
25 mines that, because an excessive number of

1 applications have been filed at one time,
2 the Commission needs additional time for
3 employees of the Commission to process
4 the applications, the Commission may ex-
5 tend the deadline described in clause (i) for
6 not more than 45 days.

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

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

24 (4) CERTIFICATIONS.—An applicant for a reim-
25 bursement under the Program shall, in the applica-

1 tion of the applicant, certify to the Commission
2 that—

3 (A) as of the date of the submission of the
4 application, the applicant—

5 (i) has developed a plan for—

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

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

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

23 (B) beginning on the date of the approval
24 of the application, the applicant—

1 (i) will not purchase, rent, lease, or
2 otherwise obtain covered communications
3 equipment or services, using reimburse-
4 ment funds or any other funds (including
5 funds derived from private sources); and

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

13 (5) DISTRIBUTION OF REIMBURSEMENT
14 FUNDS.—

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

22 (B) NOTIFICATION.—If, at any time dur-
23 ing the implementation of the Program, the
24 Commission determines that \$1,000,000,000
25 will not be sufficient to fully fund all approved

1 applications for reimbursements under the Pro-
2 gram, the Commission shall immediately no-
3 tify—

4 (i) the Committee on Energy and
5 Commerce and the Committee on Appro-
6 priations of the House of Representatives;
7 and

8 (ii) the Committee on Commerce,
9 Science, and Transportation and the Com-
10 mittee on Appropriations of the Senate.

11 (6) REMOVAL, REPLACEMENT, AND DISPOSAL
12 TERM.—

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

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

1 (i) finds that the supply of replace-
2 ment communications equipment or serv-
3 ices needed by the recipients to achieve the
4 purposes of the Program is inadequate to
5 meet the needs of the recipients; and

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

8 (I) the Committee on Energy and
9 Commerce of the House of Represent-
10 atives; and

11 (II) the Committee on Com-
12 merce, Science, and Transportation of
13 the Senate.

14 (C) INDIVIDUAL EXTENSION.—

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

23 (ii) GRANT.—The Commission may
24 grant a petition filed under clause (i) by
25 extending, for the recipient that filed the

1 petition, the deadline described in subpara-
2 graph (A) or, if the Commission has grant-
3 ed an extension of such deadline under
4 subparagraph (B), such deadline as so ex-
5 tended, for a period of not more than 6
6 months if the Commission finds that, due
7 to no fault of such recipient, such recipient
8 is unable to complete the permanent re-
9 moval, replacement, and disposal described
10 in subparagraph (A).

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

22 (8) STATUS UPDATES.—

23 (A) IN GENERAL.—Not less frequently
24 than once every 90 days beginning on the date
25 on which the Commission approves an applica-

tion for a reimbursement under the Program, the recipient of the reimbursement shall submit to the Commission a status update on the work of the recipient to permanently remove, replace, and dispose of the covered communications equipment or services identified under paragraph (4)(A)(i).

(B) PUBLIC POSTING.—Not earlier than 30 days after the date on which the Commission receives a status update under subparagraph (A), the Commission shall make such status update public on the website of the Commission.

(C) REPORTS TO CONGRESS.—Not less frequently than once every 180 days beginning on the date on which the Commission first makes funds available to a recipient of a reimbursement under the Program, the Commission shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on—

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

1 (ii) the work by recipients of reim-
2 bursements under the Program to perma-
3 nently remove, replace, and dispose of cov-
4 ered communications equipment or services
5 identified under paragraph (4)(A)(i).

6 (e) MEASURES TO AVOID WASTE, FRAUD, AND
7 ABUSE.—

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

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

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

23 (A) regular audits and reviews of reim-
24 bursements under the Program to confirm that

1 recipients of such reimbursements are com-
2 plying with this Act; and

3 (B) random field investigations to ensure
4 that recipients of reimbursements under the
5 Program are performing the work such recipi-
6 ents are required to perform under the commit-
7 ments made in the applications of such recipi-
8 ents for reimbursements under the Program, in-
9 cluding the permanent removal, replacement,
10 and disposal of the covered communications
11 equipment or services identified under sub-
12 section (d)(4)(A)(i).

13 (4) FINAL CERTIFICATION.—

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

20 (i) has fully complied with (or is in
21 the process of complying with) all terms
22 and conditions of the Program;

23 (ii) has fully complied with (or is in
24 the process of complying with) the commit-

ments made in the application of the recipient for the reimbursement;

(iii) has permanently removed from the communications network of the recipient, replaced, and disposed of (or is in the process of permanently removing, replacing, and disposing of) all covered communications equipment or services that were in the network of the recipient as of the date of the submission of the application of the recipient for the reimbursement; and

(iv) has fully complied with (or is in the process of complying with) the timeline submitted by the recipient under subparagraph (A)(ii) of paragraph (4) of subsection (d) and the other requirements of such paragraph.

(B) UPDATED CERTIFICATION.—If, at the time when a recipient of a reimbursement under the Program submits a certification under subparagraph (A), the recipient has not fully complied as described in clause (i), (ii), or (iv) of such subparagraph or has not completed the permanent removal, replacement, and disposal described in clause (iii) of such subparagraph,

1 the Commission shall require the recipient to
2 file an updated certification when the recipient
3 has fully complied as described in such clause
4 (i), (ii), or (iv) or completed such permanent re-
5 moval, replacement, and disposal.

6 (f) EFFECT OF REMOVAL OF EQUIPMENT OR SERV-
7 ICE FROM LIST.—

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

15 (A) return to the Commission any reim-
16 bursement funds received for the removal, re-
17 placement, and disposal of such equipment or
18 service and be released from any requirement
19 under this section to remove, replace, or dispose
20 of such equipment or service; or

21 (B) retain any reimbursement funds re-
22 ceived for the removal, replacement, and dis-
23 posal of such equipment or service and remain
24 subject to the requirements of this section to
25 remove, replace, and dispose of such equipment

1 or service as if such equipment or service con-
2 tinued to be on the list published under section
3 2(a).

4 (2) ASSURANCES.—In the case of an assurance
5 relating to the removal, replacement, or disposal of
6 any equipment or service with respect to which the
7 recipient returns to the Commission reimbursement
8 funds under paragraph (1)(A), such assurance may
9 be satisfied by making an assurance that such funds
10 have been returned.

11 (g) RULEMAKING.—

12 (1) COMMENCEMENT.—Not later than 90 days
13 after the date of the enactment of this Act, the
14 Commission shall commence a rulemaking to imple-
15 ment this section.

16 (2) COMPLETION.—The Commission shall com-
17 plete the rulemaking under paragraph (1) not later
18 than 1 year after the date of the enactment of this
19 Act.

20 (h) RULE OF CONSTRUCTION REGARDING TIMING OF
21 REIMBURSEMENT.—Nothing in this section shall be con-
22 strued to prohibit the Commission from making a reim-
23 bursement under the Program to a provider of advanced
24 communications service before the provider incurs the cost
25 of the permanent removal, replacement, and disposal of

1 the covered communications equipment or service for
2 which the application of the provider has been approved
3 under this section.

4 (i) EDUCATION EFFORTS.—The Commission shall
5 engage in education efforts with providers of advanced
6 communications service to—

7 (1) encourage such providers to participate in
8 the Program; and

9 (2) assist such providers in submitting applica-
10 tions for the Program.

11 (j) SEPARATE FROM FEDERAL UNIVERSAL SERVICE
12 PROGRAMS.—The Program shall be separate from any
13 Federal universal service program established under sec-
14 tion 254 of the Communications Act of 1934 (47 U.S.C.
15 254).

16 **SEC. 5. REPORTS ON COVERED COMMUNICATIONS EQUIP-**
17 **MENT OR SERVICES.**

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

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

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

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

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

25 (1) a detailed justification for such action;

1 (2) information about whether such covered
2 communications equipment or service has subse-
3 quently been removed and replaced pursuant to sec-
4 tion 4; and

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

9 (d) PROCEEDING.—The Commission shall implement
10 this section as part of the rulemaking required by section
11 4(g).

12 **SEC. 6. HOLD HARMLESS.**

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

1 **SEC. 7. ENFORCEMENT.**

2 (a) VIOLATIONS.—A violation of this Act or a regula-
3 tion promulgated under this Act shall be treated as a vio-
4 lation of the Communications Act of 1934 (47 U.S.C. 151
5 et seq.) or a regulation promulgated under such Act, re-
6 spectively. The Commission shall enforce this Act and the
7 regulations promulgated under this Act in the same man-
8 ner, by the same means, and with the same jurisdiction,
9 powers, and duties as though all applicable terms and pro-
10 visions of the Communications Act of 1934 were incor-
11 porated into and made a part of this Act.

12 (b) ADDITIONAL PENALTIES.—

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

20 (A) shall repay to the Commission all reim-
21 bursement funds provided to the recipient
22 under the Program;

23 (B) shall be barred from further participa-
24 tion in the Program;

25 (C) shall be referred to all appropriate law
26 enforcement agencies or officials for further ac-

1 tion under applicable criminal and civil laws;
2 and

3 (D) may be barred by the Commission
4 from participation in other programs of the
5 Commission, including the Federal universal
6 service support programs established under sec-
7 tion 254 of the Communications Act of 1934
8 (47 U.S.C. 254).

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

13 (A) the Commission provides the recipient
14 with notice of the violation; and

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

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

1 **SEC. 8. NTIA PROGRAM FOR PREVENTING FUTURE**
2 **VULNERABILITIES.**

3 (a) FUTURE VULNERABILITY PROGRAM.—

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

15 (2) ACTIVITIES.—In carrying out the program
16 established under paragraph (1), the Assistant Sec-
17 retary shall—

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

23 (B) engage with trusted providers of ad-
24 vanced communications service and trusted sup-
25 pliers of communications equipment or services,

1 in particular such providers and suppliers
2 that—

3 (i) are small businesses; or

4 (ii) primarily serve rural areas;

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

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

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

24 (D) ensure that the activities carried out
25 through the program are consistent with and,

1 to the extent practicable, integrated with, ongoing
2 activities of the Department of Homeland
3 Security and the Department of Commerce.

4 (3) SCOPE OF PROGRAM.—The program established
5 under paragraph (1) shall involve only the
6 sharing of information regarding supply chain security
7 risks by the Federal Government to trusted providers
8 of advanced communications service and
9 trusted suppliers of communications equipment or
10 services, and not the sharing of such information by
11 such providers and suppliers to the Federal Government.
12

13 (b) REPRESENTATION ON CSRIC OF INTERESTS OF
14 PUBLIC AND CONSUMERS.—

15 (1) IN GENERAL.—The Commission shall appoint
16 to the Communications Security, Reliability,
17 and Interoperability Council (or any successor thereof),
18 and to each subcommittee, workgroup, or other
19 subdivision of the Council (or any such successor),
20 at least one member to represent the interests of the
21 public and consumers.

22 (2) INITIAL APPOINTMENTS.—The Commission
23 shall make the initial appointments required by
24 paragraph (1) not later than 180 days after the date
25 of the enactment of this Act. Any member so ap-

1 pointed shall be in addition to the members of the
2 Council, or the members of the subdivision of the
3 Council to which the appointment is being made, as
4 the case may be, as of the date of the enactment of
5 this Act.

6 (c) DEFINITIONS.—In this section:

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

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

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

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

1 by, controlled by, or subject to the influence of a for-
2 eign adversary.

3 **SEC. 9. DEFINITIONS.**

4 In this Act:

5 (1) **ADVANCED COMMUNICATIONS SERVICE.**—

6 The term “advanced communications service” has
7 the meaning given the term “advanced telecommuni-
8 cations capability” in section 706 of the Tele-
9 communications Act of 1996 (47 U.S.C. 1302).

10 (2) **APPROPRIATE NATIONAL SECURITY AGEN-**
11 **CY.**—The term “appropriate national security agen-
12 cy” means—

13 (A) the Department of Homeland Security;

14 (B) the Department of Defense;

15 (C) the Office of the Director of National
16 Intelligence;

17 (D) the National Security Agency; and

18 (E) the Federal Bureau of Investigation.

19 (3) **COMMISSION.**—The term “Commission”
20 means the Federal Communications Commission.

21 (4) **COMMUNICATIONS EQUIPMENT OR SERV-**
22 **ICE.**—The term “communications equipment or serv-
23 ice” means any equipment or service that is essential
24 to the provision of advanced communications service.

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

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

9 (A) the customers of such provider; and

10 (B) the customers of any affiliate (as de-
11 fined in section 3 of the Communications Act of
12 1934 (47 U.S.C. 153)) of such provider.

13 (7) EXECUTIVE BRANCH INTERAGENCY
14 BODY.—The term “executive branch interagency
15 body” means an interagency body established in the
16 executive branch.

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

19 (9) PROGRAM.—The term “Program” means
20 the Secure and Trusted Communications Networks
21 Reimbursement Program established under section
22 4(a).

23 (10) PROVIDER OF ADVANCED COMMUNICA-
24 TIONS SERVICE.—The term “provider of advanced
25 communications service” means a person who pro-

1 vides advanced communications service to United
2 States customers.

3 (11) RECIPIENT.—The term “recipient” means
4 any provider of advanced communications service the
5 application of which for a reimbursement under the
6 Program has been approved by the Commission, re-
7 gardless of whether the provider has received reim-
8 bursement funds.

9 (12) REIMBURSEMENT FUNDS.—The term “re-
10 imbursement funds” means any reimbursement re-
11 ceived under the Program.

12 **SEC. 10. SEVERABILITY.**

13 If any provision of this Act, or the application of such
14 a provision to any person or circumstance, is held to be
15 unconstitutional, the remaining provisions of this Act, and
16 the application of such provisions to any person or cir-
17 cumstance, shall not be affected thereby.

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

19 The budgetary effects of this Act, for the purpose of
20 complying with the Statutory Pay-As-You-Go Act of 2010,
21 shall be determined by reference to the latest statement
22 titled “Budgetary Effects of PAYGO Legislation” for this
23 Act, submitted for printing in the Congressional Record
24 by the Chairman of the House Budget Committee, pro-

- 1 vided that such statement has been submitted prior to the
- 2 vote on passage.

Passed the House of Representatives December 16,
2019.

Attest:

Clerk.

116TH CONGRESS
1ST SESSION

H. R. 4998

AN ACT

To prohibit certain Federal 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.