S. 1625

To promote the deployment of commercial fifth-generation mobile networks and the sharing of information with communications providers in the United States regarding security risks to the networks of those providers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 22, 2019

Mr. WICKER (for himself, Mr. COTTON, Mr. WARNER, and Mr. MARKEY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To promote the deployment of commercial fifth-generation mobile networks and the sharing of information with communications providers in the United States regarding security risks to the networks of those providers, 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 “United States 5G
5 Leadership Act of 2019”.

6 SEC. 2. DEFINITIONS.

7 In this Act:
(1) 3GPP.—The term “3GPP” means the Third Generation Partnership Project.

(2) 5G NETWORK.—The term “5G network” means a fifth-generation mobile network as described by 3GPP Release 15 or higher.

(3) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Committee on Armed Services of the Senate;

(C) the Select Committee on Intelligence of the Senate;

(D) the Committee on Homeland Security and Governmental Affairs of the Senate;

(E) the Committee on Energy and Commerce of the House of Representatives;

(F) the Committee on Armed Services of the House of Representatives;

(G) the Permanent Select Committee on Intelligence of the House of Representatives; and

(H) the Committee on Homeland Security of the House of Representatives.
(4) **APPROPRIATE NATIONAL SECURITY AGENCY.**—The term “appropriate national security agency” means—

(A) the Department of Homeland Security;

(B) the Department of Defense;

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

(D) the National Security Agency; and

(E) the Federal Bureau of Investigation.

(5) **CLOUD COMPUTING.**—The term “cloud computing” has the meaning given the term in Special Publication 800–145 of the National Institute of Standards and Technology, entitled “The NIST Definition of Cloud Computing”, published September 2011, or any successor publication.

(6) **COMMISSION.**—The term “Commission” means the Federal Communications Commission.

(7) **COMMUNICATIONS NETWORK.**—The term “communications network” means—

(A) a system enabling the transmission, between or among points specified by the user, of information of the user’s choosing;

(B) cloud computing resources; and

(C) a network or system used to access cloud computing resources.
(8) COMMUNICATIONS PROVIDER.—The term “communications provider”—

(A) means any provider of interstate or international communication by wire or radio;

and

(B) includes a telecommunications carrier.

(9) COVERED COMPANY.—The term “covered company” means—

(A) Huawei Technologies Co., Limited;

(B) Zhongxing Telecommunications Equipment Corporation;

(C) a subsidiary or affiliate of a company described in subparagraph (A) or (B);

(D) any communications provider domiciled in the People’s Republic of China (or a subsidiary or affiliate of such a company), excluding a communications provider that—

(i) is domiciled in the People’s Republic of China; and

(ii) is a subsidiary of a company that is not domiciled in the People’s Republic of China; and

(E) any entity posing a national security risk.
(10) **ENTITY POSING A NATIONAL SECURITY RISK.**—The term “entity posing a national security risk” means an entity that the Commission determines poses a national security risk under section 4(c).

(11) **SUPPLY CHAIN SECURITY TRUST FUND.**—The term “Supply Chain Security Trust Fund” means the trust fund established under section 6.

(12) **TELECOMMUNICATIONS CARRIER.**—The term “telecommunications carrier” has the meaning given the term in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

(13) **TRUSTED SUPPLIER.**—The term “trusted supplier” means a supplier of equipment and services for communications networks that the Secretary of Homeland Security determines would be appropriate to further the purposes of section 8.

(14) **UNITED STATES COMMUNICATIONS PROVIDER.**—The term “United States communications provider”—

   (A) means a communications provider domiciled in the United States; and

   (B) does not include a covered company.
It is the policy of the United States—

(1) to promote the timely deployment of robust, secure, and resilient commercial 5G networks;

(2) to promote the development of the information and communications technology industry of the United States in order to supply technology and equipment to deploy commercial 5G networks;

(3) that the Federal Government should—

(A) support but not build or operate 5G networks; and

(B) identify additional capacity in the low-bands, mid-bands, and high-bands of the electromagnetic spectrum for licensed and unlicensed use, emphasizing harmonization with global allocations; and

(4) that communications networks deployed in the United States should not incorporate any hardware or software produced by, or any services offered by—

(A) a covered company; or

(B) any other company that is subject to extrajudicial direction from a foreign government.
SEC. 4. PROHIBITION OF COMMUNICATIONS EQUIPMENT AND SERVICES POSING NATIONAL SECURITY RISKS.

(a) Prohibition.—Except as provided in subsection (b)(2), funds from a universal service support program established under section 254 of the Communications Act of 1934 (47 U.S.C. 254) may not be used to purchase communications equipment and services from—

(1) a covered company; or

(2) any other company that is subject to extrajudicial direction from a foreign government.

(b) Completion of Pending Proceeding.—

(1) In general.—Not later than 90 days after the date of enactment of this Act, the Commission shall adopt a Report and Order in the proceeding captioned “Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs” (WC Docket No. 18–89).

(2) Exemptions.—In implementing paragraph (1), the Commission may exempt types or categories of equipment, services, or components thereof that do not pose an undue risk of sabotage to or subversion of the design, integrity, manufacturing, production, distribution, installation, operation, or maintenance of communications networks in the United States.
(c) Entities Posing a National Security Risk.—In determining, for purposes of subparagraph (E) of the definition of the term “covered company”, which entities are entities posing a national security risk, the Commission shall rely solely upon a determination made—

(1) by—

(A) an appropriate national security agency;

(B) an interagency body that includes appropriate national security expertise, including the Federal Acquisition Security Council established under section 1322 of title 41, United States Code; or

(C) Congress; or

(2) under Executive Order 13873 (84 Fed. Reg. 22689; relating to securing the information and communications technology and services supply chain) or any implementing regulations.

SEC. 5. EQUIPMENT REPLACEMENT GRANTS.

(a) In General.—The Commission shall make grants to United States communications providers using amounts—

(1) made available from the Supply Chain Security Trust Fund; or
(2) borrowed under subsection (d) of this section.

(b) Equipment To Be Replaced.—Amounts from a grant under subsection (a)—

(1) may be used only to replace communications equipment and services obtained from a covered company or another entity posing a national security risk, under such terms and conditions as the Commission shall establish; and

(2) may not be used to replace any equipment purchased on or after August 14, 2018.

(c) Grant Eligibility.—

(1) In general.—A communications provider with not more than 6,000,000 customers shall be eligible to receive a grant under subsection (a).

(2) Definition of customer.—For purposes of paragraph (1), the term “customer”, with respect to a communications provider, means the United States customers of—

(A) the communications provider; or

(B) any parent, subsidiary, or affiliate of the communications provider.

(d) Borrowing Authority.—

(1) In general.—Prior to the deposit of funds into the Supply Chain Security Trust Fund, the
Commission may borrow from the Treasury such sums as may be necessary, but not to exceed the amount specified in section 6(b)(1), to implement this section.

(2) REIMBURSEMENT.—The Commission shall reimburse the Treasury for any amounts borrowed under paragraph (1), without interest, from funds deposited into the Supply Chain Security Trust Fund.

SEC. 6. SUPPLY CHAIN SECURITY TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the “Supply Chain Security Trust Fund”.

(b) USE OF FUND.—As amounts are deposited into the Supply Chain Security Trust Fund, such amounts shall be used to make the following deposits or payments:

(1) REPAYMENT OF AMOUNT BORROWED FOR EQUIPMENT REPLACEMENT.—An amount not to exceed $700,000,000 shall be available to the Commission to reimburse the general fund of the Treasury for any amounts borrowed under section 5.

(2) EQUIPMENT REPLACEMENT.—$700,000,000, reduced by the amount borrowed under section 5, shall be available to the Commission to carry out that section.
(c) Deposits Into Fund.—Section 309(j)(8) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)) is amended—

(1) in subparagraph (A), by striking “and (G)” and inserting “(G), and (H)”; 
(2) in subparagraph (C)(i), by striking “and (G)” and inserting “(G), and (H)”; and 
(3) by adding at the end the following:

“(H) Certain Proceeds Designated For Supply Chain Security Trust Fund.—
Notwithstanding subparagraph (A) and except as provided in subparagraph (B), the proceeds (including deposits and upfront payments from successful bidders), not to exceed $700,000,000, from the use of a system of competitive bidding under this subsection shall be deposited in the Supply Chain Security Trust Fund established under section 6 of the United States 5G Leadership Act of 2019.”.

SEC. 7. REPORT ON DEPLOYMENT AND AVAILABILITY OF 5G NETWORKS.

(a) In General.—Not later than 180 days after the date of enactment of this Act, and biennially thereafter, the Assistant Secretary of Commerce for Communications and Information, in consultation with the Secretary of
Homeland Security, the Chairman of the Commission, the Secretary of Defense, and the Director of National Intelligence, after providing notice and an opportunity for public comment, shall submit to the appropriate congressional committees a report that identifies—

(1) steps to ensure the secure deployment and availability of 5G networks, with a particular focus on the threat posed by equipment and services produced or provided by covered companies; and

(2) any new statutory authority required to ensure the security of 5G networks in the United States.

SEC. 8. INFORMATION SHARING WITH COMMUNICATIONS PROVIDERS AND TRUSTED SUPPLIERS.

(a) Establishment of Joint Program.—Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Director of National Intelligence, the Director of the Federal Bureau of Investigation, the Secretary of Commerce, and the Chairman of the Commission, shall establish a joint program to share information regarding security, risks, and vulnerabilities with United States communication providers and trusted suppliers.

(b) Duties of Program.—The program established under subsection (a) shall—
(1) conduct regular briefings and other events to share information with United States communications providers and trusted suppliers;

(2) prioritize engagement with communications providers that—

(A) are small businesses; or

(B) primarily serve rural areas;

(3) as determined appropriate by the Secretary of Homeland Security, facilitate information sharing with United States communications providers and trusted suppliers by providing temporary security clearances to selected citizens of the United States;

(4) develop recommendations for United States communications providers to better secure their networks; and

(5) as determined appropriate by the Commission, in consultation with the Assistant Secretary of Commerce for Communications and Information, convene a working group of communications providers to engage in regular briefings and other events regarding national security risks posed to communications networks.
SEC. 9. PROMOTING UNITED STATES LEADERSHIP IN COMMUNICATIONS STANDARDS-SETTING BODIES.

(a) IN GENERAL.—The Secretary of State, the Secretary of Commerce, and the Chairman of the Commission shall prioritize the use of Federal funds to enhance representation of the United States at international forums that set standards for 5G networks and for future generations of wireless communications networks, including—

(1) the International Telecommunication Union (commonly known as “ITU”);

(2) the International Organization for Standardization (commonly known as “ISO”); and

(3) the voluntary standards organizations that develop protocols for wireless devices and other equipment, such as the 3GPP and the Institute of Electrical and Electronics Engineers.

(b) BRIEFING.—Not later than 60 days after the date of enactment of this Act, the Secretary of State, the Secretary of Commerce, and the Chairman of the Commission shall brief the Committee on Commerce, Science, and Transportation of the Senate, the Select Committee on Intelligence of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Permanent Select Committee on Intelligence of the House of Representatives on a strategy to carry out subsection (a).