

116TH CONGRESS
2D SESSION

S. 3386

To require the Committee on Foreign Investment in the United States to consider whether a foreign person that is a party to a transaction undergoing review by the Committee is connected to a foreign country that has installed information and communications technology designed, developed, manufactured, or supplied by persons owned or controlled by, or subject to the jurisdiction or direction of, a foreign adversary, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 4, 2020

Mr. COTTON (for himself, Mr. CRUZ, Mr. HAWLEY, and Mr. RUBIO) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To require the Committee on Foreign Investment in the United States to consider whether a foreign person that is a party to a transaction undergoing review by the Committee is connected to a foreign country that has installed information and communications technology designed, developed, manufactured, or supplied by persons owned or controlled by, or subject to the jurisdiction or direction of, a foreign adversary, 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 “Protecting America
3 From Foreign Investors Compromised by the Chinese
4 Communist Party Act of 2020”.

5 **SEC. 2. SENSE OF CONGRESS.**

6 It is the sense of Congress that—

7 (1) foreign investment provides substantial eco-
8 nomic benefits to the United States, including the
9 promotion of economic growth, productivity, com-
10 petitiveness, and job creation, thereby enhancing na-
11 tional security;

12 (2) maintaining the commitment of the United
13 States to an open investment policy encourages
14 other countries to reciprocate and helps open new
15 foreign markets for United States businesses;

16 (3) it should continue to be the policy of the
17 United States to enthusiastically welcome and sup-
18 port foreign investment, consistent with the protec-
19 tion of national security;

20 (4) at the same time, the national security land-
21 scape has shifted in recent years, and so has the na-
22 ture of the investments that pose the greatest poten-
23 tial risk to national security; and

24 (5) those shifts warranted the modernization of
25 the authorities of the Committee on Foreign Invest-
26 ment in the United States under the Foreign Invest-

1 ment Risk Review Modernization Act of 2018 (sub-
2 title A of title XVII of Public Law 115–232; 132
3 Stat. 2173).

4 **SEC. 3. MODIFICATION OF REQUIREMENT FOR REGULA-**
5 **TIONS DEFINING “FOREIGN PERSON” FOR**
6 **PURPOSES OF COVERED TRANSACTIONS.**

7 (a) IN GENERAL.—Section 721(a)(4)(E) of the De-
8 fense Production Act of 1950 (50 U.S.C. 4565(a)(4)(E))
9 is amended by striking the third sentence and inserting
10 the following: “Such criteria shall take into consider-
11 ation—

12 “(i) how a foreign person is connected
13 to a foreign country or foreign government;

14 “(ii) whether that foreign country or
15 foreign government has installed, or al-
16 lowed others to install, within its territory
17 information and communications tech-
18 nology (including fifth-generation, or fu-
19 ture-generation, mobile telecommunications
20 infrastructure) that is designed, developed,
21 manufactured, or supplied by persons
22 owned or controlled by, or subject to the
23 jurisdiction or direction of, a foreign adver-
24 sary (as defined in Executive Order 13873
25 (50 U.S.C. 1701 note; relating to securing

1 the information and communications tech-
2 nology and services supply chain));

3 “(iii) whether the connection de-
4 scribed in clause (i) may affect the na-
5 tional security of the United States; and

6 “(iv) how the installation described in
7 clause (ii) may affect the national security
8 of the United States.”.

9 (b) REGULATIONS.—Not later than 180 days after
10 the date of the enactment of this Act, the Committee on
11 Foreign Investment in the United States shall prescribe
12 regulations to carry out the amendment made by sub-
13 section (a).

14 **SEC. 4. REPORT ON ALTERNATIVES TO FUTURE-GENERA-**
15 **TION MOBILE TELECOMMUNICATIONS INFRA-**
16 **STRUCTURE SUPPORTED BY THE GOVERN-**
17 **MENT OF THE PEOPLE’S REPUBLIC OF**
18 **CHINA.**

19 (a) IN GENERAL.—Not later than 180 days after the
20 date of the enactment of this Act, the President shall sub-
21 mit to the appropriate congressional committees a report
22 describing whether and how the United States Govern-
23 ment is coordinating with close trade and investment part-
24 ners of the United States to develop alternatives to fifth-
25 generation, or future-generation, mobile telecommuni-

1 cations infrastructure supported by the Government of the
2 People’s Republic of China.

3 (b) APPROPRIATE CONGRESSIONAL COMMITTEES
4 DEFINED.—In this section, the term “appropriate con-
5 gressional committees” means—

6 (1) the Committee on Commerce, Science, and
7 Transportation, the Committee on Banking, Hous-
8 ing, and Urban Affairs, and the Committee on For-
9 eign Relations of the Senate; and

10 (2) the Committee on Energy and Commerce,
11 the Committee on Financial Services, and the Com-
12 mittee on Foreign Affairs of the House of Rep-
13 resentatives.

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