

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide for critical electric infrastructure security.

IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.

(no.) _____

To provide for the modernization of the energy policy of the United States, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. FLAKE

Viz:

1 On page 117, between lines 3 and 4, insert the following:
2

3 “(2) CRITICAL ELECTRIC INFRASTRUCTURE.—
4 The term ‘critical electric infrastructure’ means a
5 system or asset of the bulk-power system, whether
6 physical or virtual, the incapacity or destruction of
7 which would negatively affect national security, economic
8 security, public health or safety, or any combination
9 of those matters.

10 “(3) CRITICAL ELECTRIC INFRASTRUCTURE INFORMATION.—
11

1 “(A) IN GENERAL.—The term ‘critical
2 electric infrastructure information’ means infor-
3 mation related to critical electric infrastructure,
4 or proposed critical electric infrastructure, gen-
5 erated by or provided to the Commission or
6 other Federal agency, other than classified na-
7 tional security information, that is designated
8 as critical electric infrastructure information by
9 the Commission under subsection (d)(2).

10 “(B) INCLUSIONS.—The term ‘critical elec-
11 tric infrastructure information’ includes infor-
12 mation that qualifies as critical energy infra-
13 structure information under regulations promul-
14 gated by the Commission.

15 On page 117, line 4, strike “(2)” and insert “(4)”.

16 On page 117, line 12, strike “(3)” and insert “(5)”.

17 On page 117, between lines 14 and 15, insert the fol-
18 lowing:

19 “(6) REGIONAL ENTITY.—The term ‘regional
20 entity’ has the meaning given the term in section
21 215.

1 On page 117, line 15, strike “(4)” and insert “(7)”.

2 On page 118, strike lines 3 through 7 and insert the
3 following:

4 “(2) WRITTEN EXPLANATION.—As soon as
5 practicable after notifying the Secretary under para-
6 graph (1), the President shall—

7 “(A) provide to the Secretary, in writing,
8 a record of the determination and an expla-
9 nation of the reasons for the determination; and

10 “(B) promptly notify, in writing, congres-
11 sional committees of relevant jurisdiction, in-
12 cluding the Committee on Energy and Com-
13 merce of the House of Representatives and the
14 Committee on Energy and Natural Resources of
15 the Senate, of the contents of, and justification
16 for, the directive or determination.

17 On page 120, strike line 6 and insert the following:
18 exceed a total duration of 90 days.

19 “(d) PROTECTION AND SHARING OF CRITICAL ELEC-
20 TRIC INFRASTRUCTURE.—

21 “(1) PROTECTION OF CRITICAL ELECTRIC IN-
22 FRASTRUCTURE.—Critical electric infrastructure in-
23 formation—

1 “(A) shall be exempt from disclosure under
2 section 552(b)(3) of title 5, United States Code;
3 and

4 “(B) shall not be made available by any
5 State, political subdivision, or tribal authority
6 pursuant to any State, political subdivision, or
7 tribal law requiring disclosure of information or
8 records.

9 “(2) DESIGNATION AND SHARING OF CRITICAL
10 ELECTRIC INFRASTRUCTURE INFORMATION.—Not
11 later than 1 year after the date of enactment of this
12 section, the Commission, in consultation with the
13 Secretary of Energy, shall promulgate such regula-
14 tions and issue such orders as necessary—

15 “(A) to designate critical electric infra-
16 structure information;

17 “(B) to prohibit the unauthorized disclo-
18 sure of critical electric infrastructure informa-
19 tion; and

20 “(C) to ensure there are appropriate sanc-
21 tions in place for Commissioners, officers, em-
22 ployees, or agents of the Commission who
23 knowingly and willfully disclose critical electric
24 infrastructure information in a manner that is
25 not authorized under this section;

1 “(3) CONSIDERATIONS.—In promulgating regu-
2 lations and issuing orders under paragraph (2), the
3 Commission shall take into consideration the role of
4 State commissions in—

5 “(A) reviewing the prudence and cost of
6 investments;

7 “(B) determining the rates and terms of
8 conditions for electric services; and

9 “(C) ensuring the safety and reliability of
10 the bulk-power system and distribution facilities
11 within the respective jurisdictions of the State
12 commissions.

13 “(4) NO REQUIRED SHARING OF INFORMA-
14 TION.—Nothing in this section requires a person or
15 entity in possession of critical electric infrastructure
16 information to share the information with Federal,
17 State, political subdivision, or tribal authorities, or
18 any other person or entity.

19 “(5) DISCLOSURE OF NONCRITICAL ELECTRIC
20 INFRASTRUCTURE INFORMATION.—In carrying out
21 this section, the Commission shall segregate critical
22 electric infrastructure information within documents
23 and electronic communications, wherever feasible, to
24 facilitate disclosure of information that is not des-

1 ignated as critical electric infrastructure informa-
2 tion.”