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:

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

“(2) CRITICAL ELECTRIC INFRASTRUCTURE.—

The term ‘critical electric infrastructure’ means a system or asset of the bulk-power system, whether physical or virtual, the incapacity or destruction of which would negatively affect national security, economic security, public health or safety, or any combination of those matters.

“(3) CRITICAL ELECTRIC INFRASTRUCTURE IN-

“(A) In general.—The term ‘critical electric infrastructure information’ means information related to critical electric infrastructure, or proposed critical electric infrastructure, generated by or provided to the Commission or other Federal agency, other than classified national security information, that is designated as critical electric infrastructure information by the Commission under subsection (d)(2).

“(B) Inclusions.—The term ‘critical electric infrastructure information’ includes information that qualifies as critical energy infrastructure information under regulations promulgated by the Commission.

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

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

On page 117, between lines 14 and 15, insert the following:

“(6) Regional entity.—The term ‘regional entity’ has the meaning given the term in section 215.
On page 117, line 15, strike "(4)" and insert "(7)".

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

"(2) Written explanation.—As soon as practicable after notifying the Secretary under paragraph (1), the President shall—

"(A) provide to the Secretary, in writing, a record of the determination and an explanation of the reasons for the determination; and

"(B) promptly notify, in writing, congressional committees of relevant jurisdiction, including the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, of the contents of, and justification for, the directive or determination.

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

"(d) Protection and Sharing of Critical Electric Infrastructure.—

"(1) Protection of critical electric infrastructure.—Critical electric infrastructure information—
“(A) shall be exempt from disclosure under section 552(b)(3) of title 5, United States Code; and

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

“(2) Designation and sharing of critical electric infrastructure information.—Not later than 1 year after the date of enactment of this section, the Commission, in consultation with the Secretary of Energy, shall promulgate such regulations and issue such orders as necessary—

“(A) to designate critical electric infrastructure information;

“(B) to prohibit the unauthorized disclosure of critical electric infrastructure information; and

“(C) to ensure there are appropriate sanctions in place for Commissioners, officers, employees, or agents of the Commission who knowingly and willfully disclose critical electric infrastructure information in a manner that is not authorized under this section;
“(3) CONSIDERATIONS.—In promulgating regulations and issuing orders under paragraph (2), the Commission shall take into consideration the role of State commissions in—

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

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

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

“(4) NO REQUIRED SHARING OF INFORMATION.—Nothing in this section requires a person or entity in possession of critical electric infrastructure information to share the information with Federal, State, political subdivision, or tribal authorities, or any other person or entity.

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