

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—118th Cong., 2d Sess.**

**S. 914**

To establish an energy threat analysis program in the  
Department of Energy.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended  
to be proposed by Mr. RISCH (for himself and Mr. MANCHIN)

Viz:

1 Strike all after the enacting clause and insert the fol-  
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Energy Threat Anal-  
5 ysis Program Act of 2024” or the “ETAP Act of 2024”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) DEPARTMENT.—The term “Department”  
9 means the Department of Energy.

10 (2) PROGRAM.—The term “Program” means  
11 the energy threat analysis program established  
12 under section 3.

1           (3) SECRETARY.—The term “Secretary” means  
2           the Secretary of Energy.

3 **SEC. 3. ENERGY THREAT ANALYSIS PROGRAM.**

4           (a) IN GENERAL.—As part of the program developed  
5           under section 40125(c) of the Infrastructure Investment  
6           and Jobs Act (42 U.S.C. 18724(c)), the Secretary shall  
7           establish an energy threat analysis program—

8                   (1) to facilitate the establishment of 1 or more  
9                   operational collaboration facilities, known collectively  
10                  as the Energy Threat Analysis Center, and facilitate  
11                  public-private operational collaboration within those  
12                  facilities;

13                   (2) to enhance situational awareness of threats  
14                  to the security of the energy sector;

15                   (3) to analyze threats against the security of  
16                  the energy sector;

17                   (4) to identify relevant security threat mitiga-  
18                  tion measures for energy systems;

19                   (5) to support relevant response and restoration  
20                  activities for the energy sector under existing con-  
21                  structs;

22                   (6) to inform research and development activi-  
23                  ties in support of the security of critical energy sys-  
24                  tems, technologies, and components;

1           (7) to conduct other security and resilience ef-  
2           forts identified by the Secretary;

3           (8) to enhance and periodically test the emer-  
4           gency response capabilities of the Department;

5           (9) to expand cooperation of the Department  
6           with the intelligence community for energy sector-re-  
7           lated threat collection and analysis;

8           (10) to enhance the tools of the Department  
9           and the Electricity Information Sharing and Anal-  
10          ysis Center for monitoring the status of the energy  
11          sector; and

12          (11) to expand industry participation in the  
13          Electricity Information Sharing and Analysis Center.

14          (b) ADMINISTRATION.—The Program shall be—

15           (1) directed by the Secretary;

16           (2) managed by the Office of Cybersecurity,  
17          Energy Security, and Emergency Response; and

18           (3) supported by the Office of Intelligence and  
19          Counterintelligence.

20          (c) FUNCTIONS.—The functions of the Program shall  
21          include—

22           (1) supporting public-private operational col-  
23          laboration for the government and industry—

1 (A) to develop actionable operational infor-  
2 mation relating to threats to the security of the  
3 energy sector; and

4 (B) to develop and offer meaningful threat  
5 mitigation advice and actions to enhance—

6 (i) the defense of, and response to se-  
7 curity threats to, the energy sector; and

8 (ii) the resilience of the United States  
9 energy sector;

10 (2) enabling collaboration in the production and  
11 exchange of information on threat activity among  
12 government and industry to address energy security  
13 and resilience and shared energy sector security  
14 threats relating to national security, public health,  
15 safety, and the economy;

16 (3) improving detailed understanding of na-  
17 tional security risks associated with the energy sec-  
18 tor that are or could be exploited by adversaries, in-  
19 cluding nation-states;

20 (4) achieving a deeper understanding of the tac-  
21 tics, capabilities, and activities of threat actors that  
22 have the potential to impact systemic risks to the  
23 energy sector; and

24 (5) facilitating increased collaboration between  
25 government and industry, including the sharing of

1 information regarding actual acute threat activity,  
2 including incidents, in a secure setting, physical and  
3 virtual, to facilitate the energy security and resil-  
4 ience of the United States.

5 (d) COORDINATION AND INTEGRATION.—In carrying  
6 out the responsibilities of the Program, the Program  
7 shall—

8 (1) align priorities of and enable support  
9 from—

10 (A) the Department of Homeland Security,  
11 including the Cybersecurity and Infrastructure  
12 Security Agency;

13 (B) the Department of Defense, including  
14 United States Cyber Command, the National  
15 Security Agency, and the Army Interagency  
16 Training and Education Center of the National  
17 Guard Bureau;

18 (C) the Department of Justice, including  
19 the Federal Bureau of Investigation;

20 (D) the Office of the Director of National  
21 Intelligence; and

22 (E) other Federal agencies and depart-  
23 ments, as determined by the Secretary;

24 (2) ensure that the processes used by the Pro-  
25 gram are performed in collaboration with the activi-

1 ties of the Department of Homeland Security and  
2 the Department of Defense relating to cybersecurity,  
3 including—

4 (A) the Joint Cyber Defense Collaborative  
5 of the Cybersecurity and Infrastructure Secu-  
6 rity Agency; and

7 (B) the Cybersecurity Collaboration Center  
8 and Enduring Security Framework of the Na-  
9 tional Security Agency;

10 (3) regularly consult with appropriate rep-  
11 resentatives of non-Federal entities, such as—

12 (A) State, local, federally-recognized Trib-  
13 al, and territorial governments;

14 (B) information sharing and analysis orga-  
15 nizations, including information sharing and  
16 analysis centers such as the Electricity Infor-  
17 mation Sharing and Analysis Center; and

18 (C) other appropriate representatives or  
19 entities, including private entities, such as man-  
20 ufacturers and vendors, that contribute to the  
21 energy sector, as determined by the Secretary;

22 (4) leverage the existing capabilities and serv-  
23 ices of advanced technology providers, including—

24 (A) National Laboratories with relevant  
25 capabilities;

1 (B) commercial threat intelligence produc-  
2 tion and cyber incident response entities; and

3 (C) energy infrastructure vendors and inte-  
4 grators; and

5 (5) as appropriate, protect information sub-  
6 mitted to and shared by the Program consistent  
7 with applicable laws, regulations, policies, and proce-  
8 dures.

9 (e) NO RIGHT OR BENEFIT.—

10 (1) IN GENERAL.—The provision of assistance  
11 or information to governmental or private entities  
12 under this section shall be at the sole and  
13 unreviewable discretion of the Secretary.

14 (2) CERTAIN ASSISTANCE OR INFORMATION.—  
15 The provision of certain assistance or information to  
16 a governmental or private entity pursuant to this  
17 section shall not create a right or benefit, sub-  
18 stantive or procedural, for any other governmental  
19 or private entity to similar assistance or information.

20 (f) ENTITIES OF CONCERN.—No entity of concern  
21 (as defined in section 10114(a) of the Research and Devel-  
22 opment, Competition, and Innovation Act (42 U.S.C.  
23 18912(a))) shall participate in any manner in carrying out  
24 the functions of the Program.

1 (g) TERMINATION.—The Program shall terminate on  
2 the date that is 10 years after the date of enactment of  
3 this Act.

4 (h) NONAPPLICABILITY OF FACA.—The Program  
5 shall be exempt from complying with the requirements of  
6 chapter 10 of title 5, United States Code (including regu-  
7 lations).

8 (i) EXEMPTION FROM DISCLOSURE.—Information  
9 shared by or with the Federal Government or a State,  
10 Tribal, or local government under this Act shall be—

11 (1) deemed to be voluntarily shared informa-  
12 tion;

13 (2) exempt from disclosure under section 552 of  
14 title 5, United States Code, or any provision of any  
15 State, Tribal, or local freedom of information law,  
16 open government law, open meetings law, open  
17 records law, sunshine law, or similar law requiring  
18 the disclosure of information or records; and

19 (3) withheld from the public, without discretion,  
20 under section 552(b)(3) of title 5, United States  
21 Code, or any provision of any State, Tribal, or local  
22 law requiring the nondisclosure of sensitive informa-  
23 tion or records.



1           (j) REPORT.—The Secretary shall submit to Con-  
2 gress an annual report that describes, for the year covered  
3 by the report—

4           (1) the achievements of the Program; and

5           (2) areas for improvement with respect to the  
6 activities and operations of the Program.

7           (k) AUTHORIZATION OF APPROPRIATIONS.—There is  
8 authorized to be appropriated to the Secretary to carry  
9 out section 40125(c)(2) of the Infrastructure Investment  
10 and Jobs Act (42 U.S.C. 18724(c)(2)) \$50,000,000 for  
11 the period of fiscal years 2025 through 2029.