

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

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—116th Cong., 1st Sess.**

**S. 2556**

To amend the Federal Power Act to provide energy cybersecurity investment incentives, to establish a grant and technical assistance program for cybersecurity investments, and for other purposes.

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 \_\_\_\_\_

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 “Protecting Resources  
5 On The Electric grid with Cybersecurity Technology Act  
6 of 2019” or the “PROTECT Act of 2019”.

7 **SEC. 2. INCENTIVES FOR ADVANCED CYBERSECURITY**  
8 **TECHNOLOGY INVESTMENT.**

9 Part II of the Federal Power Act is amended by in-  
10 serting after section 219 (16 U.S.C. 824s) the following:

1 **“SEC. 219A. INCENTIVES FOR CYBERSECURITY INVEST-**  
2 **MENTS.**

3 “(a) DEFINITIONS.—In this section:

4 “(1) ADVANCED CYBERSECURITY TECH-  
5 NOLOGY.—The term ‘advanced cybersecurity tech-  
6 nology’ means any technology, operational capability,  
7 or service, including computer hardware, software,  
8 or a related asset, that enhances the security posture  
9 of public utilities through improvements in the abil-  
10 ity to protect against, detect, respond to, or recover  
11 from a cybersecurity threat (as defined in section  
12 102 of the Cybersecurity Act of 2015 (6 U.S.C.  
13 1501)).

14 “(2) ADVANCED CYBERSECURITY TECHNOLOGY  
15 INFORMATION.—The term ‘advanced cybersecurity  
16 technology information’ means information relating  
17 to advanced cybersecurity technology or proposed  
18 advanced cybersecurity technology that is generated  
19 by or provided to the Commission or another Fed-  
20 eral agency.

21 “(b) STUDY.—Not later than 180 days after the date  
22 of enactment of this section, the Commission, in consulta-  
23 tion with the Secretary of Energy, the North American  
24 Electric Reliability Corporation, the Electricity Subsector  
25 Coordinating Council, and the National Association of  
26 Regulatory Utility Commissioners, shall conduct a study

1 to identify incentive-based, including performance-based,  
2 rate treatments for the transmission and sale of electric  
3 energy subject to the jurisdiction of the Commission that  
4 could be used to encourage—

5 “(1) investment by public utilities in advanced  
6 cybersecurity technology; and

7 “(2) participation by public utilities in cyberse-  
8 curity threat information sharing programs.

9 “(c) INCENTIVE-BASED RATE TREATMENT.—Not  
10 later than 1 year after the completion of the study under  
11 subsection (b), the Commission shall establish, by rule, in-  
12 centive-based, including performance-based, rate treat-  
13 ments for the transmission of electric energy in interstate  
14 commerce and the sale of electric energy at wholesale in  
15 interstate commerce by public utilities for the purpose of  
16 benefitting consumers by encouraging—

17 “(1) investments by public utilities in advanced  
18 cybersecurity technology; and

19 “(2) participation by public utilities in cyberse-  
20 curity threat information sharing programs.

21 “(d) FACTORS FOR CONSIDERATION.—In issuing a  
22 rule pursuant to this section, the Commission may provide  
23 additional incentives beyond those identified in subsection  
24 (c) in any case in which the Commission determines that  
25 an investment in advanced cybersecurity technology or in-

1 formation sharing program costs will reduce cybersecurity  
2 risks to—

3 “(1) defense critical electric infrastructure (as  
4 defined in section 215A(a)) and other facilities sub-  
5 ject to the jurisdiction of the Commission that are  
6 critical to public safety, national defense, or home-  
7 land security, as determined by the Commission in  
8 consultation with—

9 “(A) the Secretary of Energy; and

10 “(B) appropriate Federal agencies; and

11 “(2) facilities of small or medium-sized public  
12 utilities with limited cybersecurity resources, as de-  
13 termined by the Commission.

14 “(e) RATEPAYER PROTECTION.—

15 “(1) IN GENERAL.—Any rate approved under a  
16 rule issued pursuant to this section, including any  
17 revisions to that rule, shall be subject to the require-  
18 ments of sections 205 and 206 that all rates,  
19 charges, terms, and conditions—

20 “(A) shall be just and reasonable; and

21 “(B) shall not be unduly discriminatory or  
22 preferential.

23 “(2) PROHIBITION OF DUPLICATE RECOVERY.—

24 Any rule issued pursuant to this section shall pre-  
25 clude rate treatments that allow unjust and unrea-

1       sonable double recovery for advanced cybersecurity  
2       technology.

3       “(f) SINGLE-ISSUE RATE FILINGS.—The Commis-  
4       sion shall permit public utilities to apply for incentive-  
5       based rate treatment under a rule issued under this sec-  
6       tion on a single-issue basis by submitting to the Commis-  
7       sion a tariff schedule under section 205 that permits re-  
8       covery of costs and incentives over the depreciable life of  
9       the applicable assets, without regard to changes in receipts  
10      or other costs of the public utility.

11      “(g) PROTECTION OF INFORMATION.—Advanced cy-  
12      bersecurity technology information that is provided to,  
13      generated by, or collected by the Federal Government  
14      under subsection (b), (c), or (f) shall be considered to be  
15      critical electric infrastructure information under section  
16      215A.”.

17      **SEC. 3. RURAL AND MUNICIPAL UTILITY ADVANCED CY-**  
18                                    **BERSECURITY GRANT AND TECHNICAL AS-**  
19                                    **SISTANCE PROGRAM.**

20      (a) DEFINITIONS.—In this section:

21           (1)    ADVANCED    CYBERSECURITY    TECH-  
22           NOLOGY.—The term “advanced cybersecurity tech-  
23           nology” means any technology, operational capa-  
24           bility, or service, including computer hardware, soft-  
25           ware, or a related asset, that enhances the security

1 posture of electric utilities through improvements in  
2 the ability to protect against, detect, respond to, or  
3 recover from a cybersecurity threat (as defined in  
4 section 102 of the Cybersecurity Act of 2015 (6  
5 U.S.C. 1501)).

6 (2) ELIGIBLE ENTITY.—The term “eligible enti-  
7 ty” means—

8 (A) a rural electric cooperative;

9 (B) a utility owned by a political subdivi-  
10 sion of a State, such as a municipally owned  
11 electric utility;

12 (C) a utility owned by any agency, author-  
13 ity, corporation, or instrumentality of 1 or more  
14 political subdivisions of a State;

15 (D) a not-for-profit entity that is in a part-  
16 nership with not fewer than 6 entities described  
17 in subparagraph (A), (B), or (C); and

18 (E) an investor-owned electric utility that  
19 sells less than 4,000,000 megawatt hours of  
20 electricity per year.

21 (3) PROGRAM.—The term “Program” means  
22 the Rural and Municipal Utility Advanced Cyberse-  
23 curity Grant and Technical Assistance Program es-  
24 tablished under subsection (b).

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

3           (b) ESTABLISHMENT.—Not later than 180 days after  
4           the date of enactment of this Act, the Secretary, in con-  
5           sultation with the Federal Energy Regulatory Commis-  
6           sion, the North American Electric Reliability Corporation,  
7           and the Electricity Subsector Coordinating Council, shall  
8           establish a program, to be known as the “Rural and Mu-  
9           nicipal Utility Advanced Cybersecurity Grant and Tech-  
10          nical Assistance Program”, to provide grants and tech-  
11          nical assistance to, and enter into cooperative agreements  
12          with, eligible entities to protect against, detect, respond  
13          to, and recover from cybersecurity threats.

14          (c) OBJECTIVES.—The objectives of the Program  
15          shall be—

16                (1) to deploy advanced cybersecurity tech-  
17                nologies for electric utility systems; and

18                (2) to increase the participation of eligible enti-  
19                ties in cybersecurity threat information sharing pro-  
20                grams.

21          (d) AWARDS.—

22                (1) IN GENERAL.—The Secretary—

23                    (A) shall award grants and provide tech-  
24                    nical assistance under the Program to eligible  
25                    entities on a competitive basis;

1 (B) shall develop criteria and a formula for  
2 awarding grants and providing technical assist-  
3 ance under the Program;

4 (C) may enter into cooperative agreements  
5 with eligible entities that can facilitate the ob-  
6 jectives described in subsection (c); and

7 (D) shall establish a process to ensure that  
8 all eligible entities are informed about and can  
9 become aware of opportunities to receive grants  
10 or technical assistance under the Program.

11 (2) PRIORITY FOR GRANTS AND TECHNICAL AS-  
12 SISTANCE.—In awarding grants and providing tech-  
13 nical assistance under the Program, the Secretary  
14 shall give priority to an eligible entity that, as deter-  
15 mined by the Secretary—

16 (A) has limited cybersecurity resources;

17 (B) owns assets critical to the reliability of  
18 the bulk power system; or

19 (C) owns defense critical electric infra-  
20 structure (as defined in section 215A(a) of the  
21 Federal Power Act (16 U.S.C. 824o-1(a))).

22 (e) PROTECTION OF INFORMATION.—Information  
23 provided to, or collected by, the Federal Government  
24 under this section—



1           (1) shall be exempt from disclosure under sec-  
2           tion 552(b)(3) of title 5, United States Code; and

3           (2) shall not be made available by any Federal  
4           agency, State, political subdivision of a State, or  
5           Tribal authority under any applicable law requiring  
6           public disclosure of information or records.

7           (f) FUNDING.—There is authorized to be appro-  
8           priated to carry out this section \$50,000,000 for each of  
9           fiscal years 2020 through 2024, to remain available until  
10          expended.