

114TH CONGRESS  
2D SESSION

# S. 3018

To provide for the establishment of a pilot program to identify security vulnerabilities of certain entities in the energy sector.

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IN THE SENATE OF THE UNITED STATES

JUNE 6, 2016

Mr. KING (for himself, Mr. RISCH, Ms. COLLINS, and Mr. HEINRICH) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To provide for the establishment of a pilot program to identify security vulnerabilities of certain entities in the energy sector.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Securing Energy Infra-  
5 structure Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) COVERED ENTITY.—The term “covered en-  
9 tity” means an entity identified pursuant to section

1 9(a) of Executive Order 13636 of February 12,  
2 2013 (78 Fed. Reg. 11742), relating to identifica-  
3 tion of critical infrastructure where a cybersecurity  
4 incident could reasonably result in catastrophic re-  
5 gional or national effects on public health or safety,  
6 economic security, or national security.

7 (2) EXPLOIT.—The term “exploit” means a  
8 software tool designed to take advantage of a secu-  
9 rity vulnerability.

10 (3) INDUSTRIAL CONTROL SYSTEM.—

11 (A) IN GENERAL.—The term “industrial  
12 control system” means an operational tech-  
13 nology used to measure, control, or manage in-  
14 dustrial functions.

15 (B) INCLUSIONS.—The term “industrial  
16 control system” includes supervisory control  
17 and data acquisition systems, distributed con-  
18 trol systems, and programmable logic or embed-  
19 ded controllers.

20 (4) NATIONAL LABORATORY.—The term “Na-  
21 tional Laboratory” has the meaning given the term  
22 in section 2 of the Energy Policy Act of 2005 (42  
23 U.S.C. 15801).

24 (5) PROGRAM.—The term “Program” means  
25 the pilot program established under section 3.

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

3           (7) SECURITY VULNERABILITY.—The term “se-  
4           curity vulnerability” means any attribute of hard-  
5           ware, software, process, or procedure that could en-  
6           able or facilitate the defeat of a security control.

7   **SEC. 3. PILOT PROGRAM FOR SECURING ENERGY INFRA-**  
8           **STRUCTURE.**

9           Not later than 60 days after the date of enactment  
10          of this Act, the Secretary shall establish a 2-year control  
11          systems implementation pilot program within the National  
12          Laboratories for the purposes of—

13               (1) studying the covered entities in the energy  
14               sector that voluntarily participate in the Program to  
15               identify new classes of security vulnerabilities of the  
16               covered entities; and

17               (2) researching, developing, testing, and imple-  
18               menting technology platforms and standards to iso-  
19               late and defend industrial control systems of covered  
20               entities from security vulnerabilities and exploits in  
21               the most critical systems of the covered entities, in-  
22               cluding—

23                       (A) analog and nondigital control systems;

24                       (B) purpose-built control systems; and

25                       (C) physical controls.

1 **SEC. 4. WORKING GROUP.**

2 (a) ESTABLISHMENT.—The Secretary shall establish  
3 a working group—

4 (1) to evaluate the technology platforms and  
5 standards used in the Program under section 3(2);  
6 and

7 (2) to develop a national cyber-informed engi-  
8 neering strategy to isolate and defend covered enti-  
9 ties from security vulnerabilities and exploits in the  
10 most critical systems of the covered entities.

11 (b) MEMBERSHIP.—The working group established  
12 under subsection (a) shall be composed of not fewer than  
13 10 members, to be appointed by the Secretary, at least  
14 1 member of which shall represent each of the following:

15 (1) The Department of Energy.

16 (2) The energy industry, including electric utili-  
17 ties and manufacturers recommended by the Energy  
18 Sector coordinating councils.

19 (3)(A) The Department of Homeland Security;  
20 or

21 (B) the Industrial Control Systems Cyber  
22 Emergency Response Team.

23 (4) The North American Electric Reliability  
24 Corporation.

25 (5) The Nuclear Regulatory Commission.

1           (6)(A) The Office of the Director of National  
2 Intelligence; or

3           (B) the intelligence community (as defined in  
4 section 3 of the National Security Act of 1947 (50  
5 U.S.C. 3003)).

6           (7)(A) The Department of Defense; or

7           (B) the Assistant Secretary of Defense for  
8 Homeland Security and America's Security Affairs.

9           (8) A State or regional energy agency.

10          (9) A national research body or academic insti-  
11 tution.

12          (10) The National Laboratories.

13 **SEC. 5. REPORT.**

14          Not later than 2 years after the date on which funds  
15 are first disbursed under the Program, the Secretary shall  
16 submit to the appropriate committees of Congress a final  
17 report that—

18           (1) describes the results of the Program;

19           (2) includes an analysis of the feasibility of  
20 each method studied under the Program; and

21           (3) describes the results of the evaluations con-  
22 ducted by the working group established under sec-  
23 tion 4(a).

1 **SEC. 6. NO NEW REGULATORY AUTHORITY.**

2 Nothing in this Act authorizes the Secretary or the  
3 head of any other Federal agency to issue new regulations.

4 **SEC. 7. EXEMPTION FROM DISCLOSURE.**

5 Information shared by or with the Federal Govern-  
6 ment or a State, tribal, or local government under this  
7 Act shall be—

8 (1) deemed to be voluntarily shared informa-  
9 tion; and

10 (2) exempt from disclosure under any provision  
11 of Federal, State, tribal, or local freedom of infor-  
12 mation law, open government law, open meetings  
13 law, open records law, sunshine law, or similar law  
14 requiring the disclosure of information or records.

15 **SEC. 8. PROTECTION FROM LIABILITY.**

16 (a) IN GENERAL.—A cause of action against a cov-  
17 ered entity for engaging in the voluntary activities author-  
18 ized under section 3—

19 (1) shall not lie or be maintained in any court;  
20 and

21 (2) shall be promptly dismissed by the applica-  
22 ble court.

23 (b) VOLUNTARY ACTIVITIES.—Nothing in this Act  
24 subjects any covered entity to liability for not engaging  
25 in the voluntary activities authorized under section 3.

1 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) PILOT PROGRAM.—There is authorized to be ap-  
3 propriated \$10,000,000 to carry out section 3.

4 (b) WORKING GROUP AND REPORT.—There is au-  
5 thorized to be appropriated \$1,500,000 to carry out sec-  
6 tions 4 and 5.

7 (c) AVAILABILITY.—Amounts made available under  
8 subsections (a) and (b) shall remain available until ex-  
9 pended.

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