

Calendar No. 580

118TH CONGRESS
2D SESSION**S. 914**

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

IN THE SENATE OF THE UNITED STATES

MARCH 22, 2023

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

NOVEMBER 21, 2024

Reported by Mr. MANCHIN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

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

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 “Energy Threat Anal-
5 ysis Center Establishment Act of 2023” or the “ETAC
6 Establishment Act of 2023”.

1 **SEC. 2. ENERGY THREAT ANALYSIS CENTER.**

2 (a) ESTABLISHMENT.—As part of the program devel-
 3 oped under section 40125(e) of the Infrastructure Invest-
 4 ment and Jobs Act (42 U.S.C. 18724(e)), there is estab-
 5 lished in the Department of Energy an energy threat anal-
 6 ysis center (referred to in this Act as the “Center”)—

7 (1) to enhance situational awareness of threats
 8 to the security of the energy sector;

9 (2) to analyze threats against the security of
 10 the energy sector;

11 (3) to identify relevant security threat mitiga-
 12 tion measures for energy systems; and

13 (4) to support relevant response and restoration
 14 activities for the energy sector under existing con-
 15 structs.

16 (b) FUNCTIONS.—The functions of the Center shall
 17 include—

18 (1) establishing an operational collaborative en-
 19 vironment, physical and virtual, for the government
 20 and industry—

21 (A) to develop actionable operational infor-
 22 mation relating to threats to the security of the
 23 energy sector; and

24 (B) to develop and offer meaningful threat
 25 mitigation advice and actions to enhance—

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

3 (ii) the resilience of the United States
4 energy sector;

5 (2) enabling an exchange of information on
6 threat activity among government and industry to
7 address energy security and resilience and shared
8 energy sector security threats relating to national se-
9 curity, public health, safety, and the economy;

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

14 (4) achieving a deeper understanding of the tac-
15 tics, capabilities, and activities of threat actors that
16 have the potential to impact systemic risks to the
17 energy sector; and

18 (5) facilitating increased information sharing
19 between government and industry of actual acute
20 threat activity, including incidents, in a secure set-
21 ting, physical and virtual, to facilitate the energy se-
22 curity and resilience of the United States.

23 (c) COORDINATION AND INTEGRATION.—In carrying
24 out the responsibilities of the Center, the Center shall—

25 (1) coordinate with—

1 (A) the Department of Homeland Security,
2 including the Cybersecurity and Infrastructure
3 Security Agency;

4 (B) the Department of Defense, including
5 United States Cyber Command, the National
6 Security Agency, and the Army Interagency
7 Training and Education Center of the National
8 Guard Bureau;

9 (C) the Department of Justice, including
10 the Federal Bureau of Investigation;

11 (D) the Office of the Director of National
12 Intelligence; and

13 (E) other Federal agencies and depart-
14 ments, as determined by the Secretary of En-
15 ergy;

16 (2) ensure that the processes used by the Cen-
17 ter are performed in collaboration with the activities
18 of the Department of Homeland Security and the
19 Department of Defense relating to cybersecurity, in-
20 cluding—

21 (A) the Joint Cyber Defense Collaborative
22 of the Cybersecurity and Infrastructure Secu-
23 rity Agency; and

1 ~~(B)~~ the Cybersecurity Collaboration Center
2 and Enduring Security Framework of the Na-
3 tional Security Agency;

4 ~~(3)~~ regularly consult with appropriate rep-
5 resentatives of non-Federal entities, such as—

6 ~~(A)~~ State, local, federally-recognized Trib-
7 al, and territorial governments;

8 ~~(B)~~ information sharing and analysis orga-
9 nizations, including information sharing and
10 analysis centers such as the Electricity Infor-
11 mation Sharing and Analysis Center operated
12 by the North American Electric Reliability Cor-
13 poration;

14 ~~(C)~~ owners and operators of energy sector
15 infrastructure; and

16 ~~(D)~~ other appropriate representatives or
17 entities, including private entities, such as man-
18 ufacturers and vendors, that contribute to the
19 energy sector, as determined by the Secretary
20 of Energy;

21 ~~(4)~~ leverage the capabilities and services of ad-
22 vanced technology providers, including—

23 ~~(A)~~ National Laboratories (as defined in
24 section 2 of the Energy Policy Act of 2005 (42
25 U.S.C. 15801)) with relevant capabilities;

1 ~~(B)~~ commercial threat intelligence produc-
2 tion 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 Center consistent with
7 applicable laws and regulations.

8 ~~(d) NO RIGHT OR BENEFIT.—~~

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

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

19 ~~(e) ENTITIES OF CONCERN.—~~No entity of concern
20 (as defined in section 10114(a) of the Research and Devel-
21 opment, Competition, and Innovation Act (Public Law
22 117–167)) shall participate in any manner in carrying out
23 the functions of the Center.

24 ~~(f) NONAPPLICABILITY OF FACA.—~~The Center shall
25 be exempt from complying with the requirements of chap-

1 ter 10 of title 5, United States Code (including regula-
2 tions).

3 (g) SUNSET.—The effectiveness of this section shall
4 terminate on the date that is 10 years after the date of
5 enactment of this Act.

6 **SECTION 1. SHORT TITLE.**

7 *This Act may be cited as the “Energy Threat Analysis*
8 *Program Act of 2024” or the “ETAP Act of 2024”.*

9 **SEC. 2. DEFINITIONS.**

10 *In this Act:*

11 (1) *DEPARTMENT.*—The term “Department”
12 *means the Department of Energy.*

13 (2) *PROGRAM.*—The term “Program” means the
14 *energy threat analysis program established under sec-*
15 *tion 3.*

16 (3) *SECRETARY.*—The term “Secretary” means
17 *the Secretary of Energy.*

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

19 (a) *IN GENERAL.*—As part of the program developed
20 *under section 40125(c) of the Infrastructure Investment and*
21 *Jobs Act (42 U.S.C. 18724(c)), the Secretary shall establish*
22 *an energy threat analysis program—*

23 (1) *to facilitate the establishment of 1 or more*
24 *operational collaboration facilities, known collectively*
25 *as the Energy Threat Analysis Center, and facilitate*

1 *public-private operational collaboration within those*
2 *facilities;*

3 (2) *to enhance situational awareness of threats to*
4 *the security of the energy sector;*

5 (3) *to analyze threats against the security of the*
6 *energy sector;*

7 (4) *to identify relevant security threat mitiga-*
8 *tion measures for energy systems;*

9 (5) *to support relevant response and restoration*
10 *activities for the energy sector under existing con-*
11 *structs;*

12 (6) *to inform research and development activities*
13 *in support of the security of critical energy systems,*
14 *technologies, and components;*

15 (7) *to conduct other security and resilience ef-*
16 *forts identified by the Secretary;*

17 (8) *to enhance and periodically test the emer-*
18 *gency response capabilities of the Department;*

19 (9) *to expand cooperation of the Department*
20 *with the intelligence community for energy sector-re-*
21 *lated threat collection and analysis;*

22 (10) *to enhance the tools of the Department and*
23 *the Electricity Information Sharing and Analysis*
24 *Center for monitoring the status of the energy sector;*
25 *and*

1 (11) to expand industry participation in the
2 *Electricity Information Sharing and Analysis Center.*

3 (b) *ADMINISTRATION.*—*The Program shall be—*

4 (1) *directed by the Secretary;*

5 (2) *managed by the Office of Cybersecurity, En-*
6 *ergy Security, and Emergency Response; and*

7 (3) *supported by the Office of Intelligence and*
8 *Counterintelligence.*

9 (c) *FUNCTIONS.*—*The functions of the Program shall*
10 *include—*

11 (1) *supporting public-private operational col-*
12 *laboration for the government and industry—*

13 (A) *to develop actionable operational infor-*
14 *mation relating to threats to the security of the*
15 *energy sector; and*

16 (B) *to develop and offer meaningful threat*
17 *mitigation advice and actions to enhance—*

18 (i) *the defense of, and response to secu-*
19 *rity threats to, the energy sector; and*

20 (ii) *the resilience of the United States*
21 *energy sector;*

22 (2) *enabling collaboration in the production and*
23 *exchange of information on threat activity among*
24 *government and industry to address energy security*
25 *and resilience and shared energy sector security*

1 *threats relating to national security, public health,*
2 *safety, and the economy;*

3 *(3) improving detailed understanding of na-*
4 *tional security risks associated with the energy sector*
5 *that are or could be exploited by adversaries, includ-*
6 *ing nation-states;*

7 *(4) achieving a deeper understanding of the tac-*
8 *tics, capabilities, and activities of threat actors that*
9 *have the potential to impact systemic risks to the en-*
10 *ergy sector; and*

11 *(5) facilitating increased collaboration between*
12 *government and industry, including the sharing of*
13 *information regarding actual acute threat activity,*
14 *including incidents, in a secure setting, physical and*
15 *virtual, to facilitate the energy security and resilience*
16 *of the United States.*

17 *(d) COORDINATION AND INTEGRATION.—In carrying*
18 *out the responsibilities of the Program, the Program shall—*

19 *(1) align priorities of and enable support from—*

20 *(A) the Department of Homeland Security,*
21 *including the Cybersecurity and Infrastructure*
22 *Security Agency;*

23 *(B) the Department of Defense, including*
24 *United States Cyber Command, the National Se-*
25 *curity Agency, and the Army Interagency Train-*

1 *ing and Education Center of the National Guard*
2 *Bureau;*

3 *(C) the Department of Justice, including the*
4 *Federal Bureau of Investigation;*

5 *(D) the Office of the Director of National*
6 *Intelligence; and*

7 *(E) other Federal agencies and departments,*
8 *as determined by the Secretary;*

9 *(2) ensure that the processes used by the Pro-*
10 *gram are performed in collaboration with the activi-*
11 *ties of the Department of Homeland Security and the*
12 *Department of Defense relating to cybersecurity, in-*
13 *cluding—*

14 *(A) the Joint Cyber Defense Collaborative of*
15 *the Cybersecurity and Infrastructure Security*
16 *Agency; and*

17 *(B) the Cybersecurity Collaboration Center*
18 *and Enduring Security Framework of the Na-*
19 *tional Security Agency;*

20 *(3) regularly consult with appropriate represent-*
21 *atives of non-Federal entities, such as—*

22 *(A) State, local, federally-recognized Tribal,*
23 *and territorial governments;*

24 *(B) information sharing and analysis orga-*
25 *nizations, including information sharing and*

1 *analysis centers such as the Electricity Informa-*
2 *tion Sharing and Analysis Center; and*

3 *(C) other appropriate representatives or en-*
4 *tities, including private entities, such as manu-*
5 *facturers and vendors, that contribute to the en-*
6 *ergy sector, as determined by the Secretary;*

7 *(4) leverage the existing capabilities and services*
8 *of advanced technology providers, including—*

9 *(A) National Laboratories with relevant ca-*
10 *pabilities;*

11 *(B) commercial threat intelligence produc-*
12 *tion and cyber incident response entities; and*

13 *(C) energy infrastructure vendors and inte-*
14 *grators; and*

15 *(5) as appropriate, protect information sub-*
16 *mitted to and shared by the Program consistent with*
17 *applicable laws, regulations, policies, and procedures.*

18 *(e) NO RIGHT OR BENEFIT.—*

19 *(1) IN GENERAL.—The provision of assistance or*
20 *information to governmental or private entities under*
21 *this section shall be at the sole and unreviewable dis-*
22 *cretion of the Secretary.*

23 *(2) CERTAIN ASSISTANCE OR INFORMATION.—*
24 *The provision of certain assistance or information to*
25 *a governmental or private entity pursuant to this sec-*

1 *tion shall not create a right or benefit, substantive or*
2 *procedural, for any other governmental or private en-*
3 *tity to similar assistance or information.*

4 *(f) ENTITIES OF CONCERN.—No entity of concern (as*
5 *defined in section 10114(a) of the Research and Develop-*
6 *ment, Competition, and Innovation Act (42 U.S.C.*
7 *18912(a))) shall participate in any manner in carrying out*
8 *the functions of the Program.*

9 *(g) TERMINATION.—The Program shall terminate on*
10 *the date that is 10 years after the date of enactment of this*
11 *Act.*

12 *(h) NONAPPLICABILITY OF FACCA.—The Program shall*
13 *be exempt from complying with the requirements of chapter*
14 *10 of title 5, United States Code (including regulations).*

15 *(i) EXEMPTION FROM DISCLOSURE.—Information*
16 *shared by or with the Federal Government or a State, Trib-*
17 *al, or local government under this Act shall be—*

18 *(1) deemed to be voluntarily shared information;*

19 *(2) exempt from disclosure under section 552 of*
20 *title 5, United States Code, or any provision of any*
21 *State, Tribal, or local freedom of information law,*
22 *open government law, open meetings law, open*
23 *records law, sunshine law, or similar law requiring*
24 *the disclosure of information or records; and*

1 (3) *withheld from the public, without discretion,*
2 *under section 552(b)(3) of title 5, United States Code,*
3 *or any provision of any State, Tribal, or local law re-*
4 *quiring the nondisclosure of sensitive information or*
5 *records.*

6 (j) *REPORT.—The Secretary shall submit to Congress*
7 *an annual report that describes, for the year covered by the*
8 *report—*

9 (1) *the achievements of the Program; and*

10 (2) *areas for improvement with respect to the ac-*
11 *tivities and operations of the Program.*

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

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Department of Energy.

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