

Calendar No. 28

114TH CONGRESS
1ST SESSION**S. 754**

To improve cybersecurity in the United States through enhanced sharing of information about cybersecurity threats, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 17, 2015

Mr. BURR, from the Select Committee on Intelligence, reported the following original bill; which was read twice and placed on the calendar

A BILL

To improve cybersecurity in the United States through enhanced sharing of information about cybersecurity threats, and for other purposes.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Cybersecurity Information Sharing Act of 2015”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.

Sec. 3. Sharing of information by the Federal Government.

Sec. 4. Authorizations for preventing, detecting, analyzing, and mitigating cybersecurity threats.

Sec. 5. Sharing of cyber threat indicators and defensive measures with the Federal Government.

Sec. 6. Protection from liability.

Sec. 7. Oversight of Government activities.

Sec. 8. Construction and preemption.

Sec. 9. Report on cybersecurity threats.

Sec. 10. Conforming amendments.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) AGENCY.—The term “agency” has the
4 meaning given the term in section 3502 of title 44,
5 United States Code.

6 (2) ANTITRUST LAWS.—The term “antitrust
7 laws”—

8 (A) has the meaning given the term in sec-
9 tion 1 of the Clayton Act (15 U.S.C. 12);

10 (B) includes section 5 of the Federal
11 Trade Commission Act (15 U.S.C. 45) to the
12 extent that section 5 of that Act applies to un-
13 fair methods of competition; and

14 (C) includes any State law that has the
15 same intent and effect as the laws under sub-
16 paragraphs (A) and (B).

17 (3) APPROPRIATE FEDERAL ENTITIES.—The
18 term “appropriate Federal entities” means the fol-
19 lowing:

20 (A) The Department of Commerce.

1 (B) The Department of Defense.

2 (C) The Department of Energy.

3 (D) The Department of Homeland Secu-
4 rity.

5 (E) The Department of Justice.

6 (F) The Department of the Treasury.

7 (G) The Office of the Director of National
8 Intelligence.

9 (4) CYBERSECURITY PURPOSE.—The term “cy-
10 bersecurity purpose” means the purpose of pro-
11 tecting an information system or information that is
12 stored on, processed by, or transiting an information
13 system from a cybersecurity threat or security vul-
14 nerability.

15 (5) CYBERSECURITY THREAT.—

16 (A) IN GENERAL.—Except as provided in
17 subparagraph (B), the term “cybersecurity
18 threat” means an action, not protected by the
19 First Amendment to the Constitution of the
20 United States, on or through an information
21 system that may result in an unauthorized ef-
22 fort to adversely impact the security, avail-
23 ability, confidentiality, or integrity of an infor-
24 mation system or information that is stored on,

1 processed by, or transiting an information sys-
2 tem.

3 (B) EXCLUSION.—The term “cybersecurity
4 threat” does not include any action that solely
5 involves a violation of a consumer term of serv-
6 ice or a consumer licensing agreement.

7 (6) CYBER THREAT INDICATOR.—The term
8 “cyber threat indicator” means information that is
9 necessary to describe or identify—

10 (A) malicious reconnaissance, including
11 anomalous patterns of communications that ap-
12 pear to be transmitted for the purpose of gath-
13 ering technical information related to a cyberse-
14 curity threat or security vulnerability;

15 (B) a method of defeating a security con-
16 trol or exploitation of a security vulnerability;

17 (C) a security vulnerability, including
18 anomalous activity that appears to indicate the
19 existence of a security vulnerability;

20 (D) a method of causing a user with legiti-
21 mate access to an information system or infor-
22 mation that is stored on, processed by, or
23 transiting an information system to unwittingly
24 enable the defeat of a security control or exploi-
25 tation of a security vulnerability;

1 (E) malicious cyber command and control;

2 (F) the actual or potential harm caused by
3 an incident, including a description of the infor-
4 mation exfiltrated as a result of a particular cy-
5 bersecurity threat;

6 (G) any other attribute of a cybersecurity
7 threat, if disclosure of such attribute is not oth-
8 erwise prohibited by law; or

9 (H) any combination thereof.

10 (7) DEFENSIVE MEASURE.—

11 (A) IN GENERAL.—Except as provided in
12 subparagraph (B), the term “defensive meas-
13 ure” means an action, device, procedure, signa-
14 ture, technique, or other measure applied to an
15 information system or information that is
16 stored on, processed by, or transiting an infor-
17 mation system that detects, prevents, or miti-
18 gates a known or suspected cybersecurity threat
19 or security vulnerability.

20 (B) EXCLUSION.—The term “defensive
21 measure” does not include a measure that de-
22 stroys, renders unusable, or substantially harms
23 an information system or data on an informa-
24 tion system not belonging to—

1 (i) the private entity operating the
2 measure; or

3 (ii) another entity or Federal entity
4 that is authorized to provide consent and
5 has provided consent to that private entity
6 for operation of such measure.

7 (8) ENTITY.—

8 (A) IN GENERAL.—Except as otherwise
9 provided in this paragraph, the term “entity”
10 means any private entity, non-Federal govern-
11 ment agency or department, or State, tribal, or
12 local government (including a political subdivi-
13 sion, department, or component thereof).

14 (B) INCLUSIONS.—The term “entity” in-
15 cludes a government agency or department of
16 the District of Columbia, the Commonwealth of
17 Puerto Rico, the Virgin Islands, Guam, Amer-
18 ican Samoa, the Northern Mariana Islands, and
19 any other territory or possession of the United
20 States.

21 (C) EXCLUSION.—The term “entity” does
22 not include a foreign power as defined in sec-
23 tion 101 of the Foreign Intelligence Surveil-
24 lance Act of 1978 (50 U.S.C. 1801).

1 (9) FEDERAL ENTITY.—The term “Federal en-
2 tity” means a department or agency of the United
3 States or any component of such department or
4 agency.

5 (10) INFORMATION SYSTEM.—The term “infor-
6 mation system”—

7 (A) has the meaning given the term in sec-
8 tion 3502 of title 44, United States Code; and

9 (B) includes industrial control systems,
10 such as supervisory control and data acquisition
11 systems, distributed control systems, and pro-
12 grammable logic controllers.

13 (11) LOCAL GOVERNMENT.—The term “local
14 government” means any borough, city, county, par-
15 ish, town, township, village, or other political sub-
16 division of a State.

17 (12) MALICIOUS CYBER COMMAND AND CON-
18 TROL.—The term “malicious cyber command and
19 control” means a method for unauthorized remote
20 identification of, access to, or use of, an information
21 system or information that is stored on, processed
22 by, or transiting an information system.

23 (13) MALICIOUS RECONNAISSANCE.—The term
24 “malicious reconnaissance” means a method for ac-
25 tively probing or passively monitoring an information

1 system for the purpose of discerning security
2 vulnerabilities of the information system, if such
3 method is associated with a known or suspected cy-
4 bersecurity threat.

5 (14) MONITOR.—The term “monitor” means to
6 acquire, identify, or scan, or to possess, information
7 that is stored on, processed by, or transiting an in-
8 formation system.

9 (15) PRIVATE ENTITY.—

10 (A) IN GENERAL.—Except as otherwise
11 provided in this paragraph, the term “private
12 entity” means any person or private group, or-
13 ganization, proprietorship, partnership, trust,
14 cooperative, corporation, or other commercial or
15 nonprofit entity, including an officer, employee,
16 or agent thereof.

17 (B) INCLUSION.—The term “private enti-
18 ty” includes a State, tribal, or local government
19 performing electric utility services.

20 (C) EXCLUSION.—The term “private enti-
21 ty” does not include a foreign power as defined
22 in section 101 of the Foreign Intelligence Sur-
23 veillance Act of 1978 (50 U.S.C. 1801).

24 (16) SECURITY CONTROL.—The term “security
25 control” means the management, operational, and

1 technical controls used to protect against an unau-
2 thORIZED effort to adversely affect the confidentiality,
3 integrity, and availability of an information system
4 or its information.

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

9 (18) TRIBAL.—The term “tribal” has the
10 meaning given the term “Indian tribe” in section 4
11 of the Indian Self-Determination and Education As-
12 sistance Act (25 U.S.C. 450b).

13 **SEC. 3. SHARING OF INFORMATION BY THE FEDERAL GOV-**
14 **ERNMENT.**

15 (a) IN GENERAL.—Consistent with the protection of
16 classified information, intelligence sources and methods,
17 and privacy and civil liberties, the Director of National
18 Intelligence, the Secretary of Homeland Security, the Sec-
19 retary of Defense, and the Attorney General, in consulta-
20 tion with the heads of the appropriate Federal entities,
21 shall develop and promulgate procedures to facilitate and
22 promote—

23 (1) the timely sharing of classified cyber threat
24 indicators in the possession of the Federal Govern-

1 ment with cleared representatives of relevant enti-
2 ties;

3 (2) the timely sharing with relevant entities of
4 cyber threat indicators or information in the posses-
5 sion of the Federal Government that may be declas-
6 sified and shared at an unclassified level;

7 (3) the sharing with relevant entities, or the
8 public if appropriate, of unclassified, including con-
9 trolled unclassified, cyber threat indicators in the
10 possession of the Federal Government; and

11 (4) the sharing with entities, if appropriate, of
12 information in the possession of the Federal Govern-
13 ment about cybersecurity threats to such entities to
14 prevent or mitigate adverse effects from such cyber-
15 security threats.

16 (b) DEVELOPMENT OF PROCEDURES.—

17 (1) IN GENERAL.—The procedures developed
18 and promulgated under subsection (a) shall—

19 (A) ensure the Federal Government has
20 and maintains the capability to share cyber
21 threat indicators in real time consistent with
22 the protection of classified information;

23 (B) incorporate, to the greatest extent
24 practicable, existing processes and existing roles
25 and responsibilities of Federal and non-Federal

1 entities for information sharing by the Federal
2 Government, including sector specific informa-
3 tion sharing and analysis centers;

4 (C) include procedures for notifying enti-
5 ties that have received a cyber threat indicator
6 from a Federal entity under this Act that is
7 known or determined to be in error or in con-
8 travention of the requirements of this Act or
9 another provision of Federal law or policy of
10 such error or contravention;

11 (D) include requirements for Federal enti-
12 ties receiving cyber threat indicators or defen-
13 sive measures to implement and utilize security
14 controls to protect against unauthorized access
15 to or acquisition of such cyber threat indicators
16 or defensive measures; and

17 (E) include procedures that require a Fed-
18 eral entity, prior to the sharing of a cyber
19 threat indicator—

20 (i) to review such cyber threat indi-
21 cator to assess whether such cyber threat
22 indicator contains any information that
23 such Federal entity knows at the time of
24 sharing to be personal information of or
25 identifying a specific person not directly

1 related to a cybersecurity threat and re-
2 move such information; or

3 (ii) to implement and utilize a tech-
4 nical capability configured to remove any
5 personal information of or identifying a
6 specific person not directly related to a cy-
7 bersecurity threat.

8 (2) COORDINATION.—In developing the proce-
9 dures required under this section, the Director of
10 National Intelligence, the Secretary of Homeland Se-
11 curity, the Secretary of Defense, and the Attorney
12 General shall coordinate with appropriate Federal
13 entities, including the National Laboratories (as de-
14 fined in section 2 of the Energy Policy Act of 2005
15 (42 U.S.C. 15801)), to ensure that effective proto-
16 cols are implemented that will facilitate and promote
17 the sharing of cyber threat indicators by the Federal
18 Government in a timely manner.

19 (c) SUBMITTAL TO CONGRESS.—Not later than 60
20 days after the date of the enactment of this Act, the Direc-
21 tor of National Intelligence, in consultation with the heads
22 of the appropriate Federal entities, shall submit to Con-
23 gress the procedures required by subsection (a).

1 **SEC. 4. AUTHORIZATIONS FOR PREVENTING, DETECTING,**
2 **ANALYZING, AND MITIGATING CYBERSECU-**
3 **RITY THREATS.**

4 (a) AUTHORIZATION FOR MONITORING.—

5 (1) IN GENERAL.—Notwithstanding any other
6 provision of law, a private entity may, for cybersecu-
7 rity purposes, monitor—

8 (A) an information system of such private
9 entity;

10 (B) an information system of another enti-
11 ty, upon the authorization and written consent
12 of such other entity;

13 (C) an information system of a Federal en-
14 tity, upon the authorization and written consent
15 of an authorized representative of the Federal
16 entity; and

17 (D) information that is stored on, proc-
18 essed by, or transiting an information system
19 monitored by the private entity under this para-
20 graph.

21 (2) CONSTRUCTION.—Nothing in this sub-
22 section shall be construed—

23 (A) to authorize the monitoring of an in-
24 formation system, or the use of any information
25 obtained through such monitoring, other than
26 as provided in this Act; or

1 (B) to limit otherwise lawful activity.

2 (b) AUTHORIZATION FOR OPERATION OF DEFENSIVE
3 MEASURES.—

4 (1) IN GENERAL.—Notwithstanding any other
5 provision of law, a private entity may, for cybersecu-
6 rity purposes, operate a defensive measure that is
7 applied to—

8 (A) an information system of such private
9 entity in order to protect the rights or property
10 of the private entity;

11 (B) an information system of another enti-
12 ty upon written consent of such entity for oper-
13 ation of such defensive measure to protect the
14 rights or property of such entity; and

15 (C) an information system of a Federal en-
16 tity upon written consent of an authorized rep-
17 resentative of such Federal entity for operation
18 of such defensive measure to protect the rights
19 or property of the Federal Government.

20 (2) CONSTRUCTION.—Nothing in this sub-
21 section shall be construed—

22 (A) to authorize the use of a defensive
23 measure other than as provided in this sub-
24 section; or

25 (B) to limit otherwise lawful activity.

1 (c) AUTHORIZATION FOR SHARING OR RECEIVING
2 CYBER THREAT INDICATORS OR DEFENSIVE MEAS-
3 URES.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2) and notwithstanding any other provision
6 of law, an entity may, for the purposes permitted
7 under this Act and consistent with the protection of
8 classified information, share with, or receive from,
9 any other entity or the Federal Government a cyber
10 threat indicator or defensive measure.

11 (2) LAWFUL RESTRICTION.—An entity receiving
12 a cyber threat indicator or defensive measure from
13 another entity or Federal entity shall comply with
14 otherwise lawful restrictions placed on the sharing or
15 use of such cyber threat indicator or defensive meas-
16 ure by the sharing entity or Federal entity.

17 (3) CONSTRUCTION.—Nothing in this sub-
18 section shall be construed—

19 (A) to authorize the sharing or receiving of
20 a cyber threat indicator or defensive measure
21 other than as provided in this subsection; or

22 (B) to limit otherwise lawful activity.

23 (d) PROTECTION AND USE OF INFORMATION.—

24 (1) SECURITY OF INFORMATION.—An entity
25 monitoring an information system, operating a de-

1 fensive measure, or providing or receiving a cyber
2 threat indicator or defensive measure under this sec-
3 tion shall implement and utilize a security control to
4 protect against unauthorized access to or acquisition
5 of such cyber threat indicator or defensive measure.

6 (2) REMOVAL OF CERTAIN PERSONAL INFORMA-
7 TION.—An entity sharing a cyber threat indicator
8 pursuant to this Act shall, prior to such sharing—

9 (A) review such cyber threat indicator to
10 assess whether such cyber threat indicator con-
11 tains any information that the entity knows at
12 the time of sharing to be personal information
13 of or identifying a specific person not directly
14 related to a cybersecurity threat and remove
15 such information; or

16 (B) implement and utilize a technical capa-
17 bility configured to remove any information
18 contained within such indicator that the entity
19 knows at the time of sharing to be personal in-
20 formation of or identifying a specific person not
21 directly related to a cybersecurity threat.

22 (3) USE OF CYBER THREAT INDICATORS AND
23 DEFENSIVE MEASURES BY ENTITIES.—

24 (A) IN GENERAL.—Consistent with this
25 Act, a cyber threat indicator or defensive meas-

1 ure shared or received under this section may,
2 for cybersecurity purposes—

3 (i) be used by an entity to monitor or
4 operate a defensive measure on—

5 (I) an information system of the
6 entity; or

7 (II) an information system of an-
8 other entity or a Federal entity upon
9 the written consent of that other enti-
10 ty or that Federal entity; and

11 (ii) be otherwise used, retained, and
12 further shared by an entity subject to—

13 (I) an otherwise lawful restriction
14 placed by the sharing entity or Fed-
15 eral entity on such cyber threat indi-
16 cator or defensive measure; or

17 (II) an otherwise applicable pro-
18 vision of law.

19 (B) CONSTRUCTION.—Nothing in this
20 paragraph shall be construed to authorize the
21 use of a cyber threat indicator or defensive
22 measure other than as provided in this section.

23 (4) USE OF CYBER THREAT INDICATORS BY
24 STATE, TRIBAL, OR LOCAL GOVERNMENT.—

25 (A) LAW ENFORCEMENT USE.—

1 (i) PRIOR WRITTEN CONSENT.—Ex-
2 cept as provided in clause (ii), a cyber
3 threat indicator shared with a State, tribal,
4 or local government under this section
5 may, with the prior written consent of the
6 entity sharing such indicator, be used by a
7 State, tribal, or local government for the
8 purpose of preventing, investigating, or
9 prosecuting any of the offenses described
10 in section 5(d)(5)(A)(vi).

11 (ii) ORAL CONSENT.—If exigent cir-
12 cumstances prevent obtaining written con-
13 sent under clause (i), such consent may be
14 provided orally with subsequent docu-
15 mentation of the consent.

16 (B) EXEMPTION FROM DISCLOSURE.—A
17 cyber threat indicator shared with a State, trib-
18 al, or local government under this section shall
19 be—

20 (i) deemed voluntarily shared informa-
21 tion; and

22 (ii) exempt from disclosure under any
23 State, tribal, or local law requiring disclo-
24 sure of information or records.

1 (C) STATE, TRIBAL, AND LOCAL REGU-
2 LATORY AUTHORITY.—

3 (i) IN GENERAL.—Except as provided
4 in clause (ii), a cyber threat indicator or
5 defensive measure shared with a State,
6 tribal, or local government under this Act
7 shall not be directly used by any State,
8 tribal, or local government to regulate, in-
9 cluding an enforcement action, the lawful
10 activity of any entity, including an activity
11 relating to monitoring, operating a defen-
12 sive measure, or sharing of a cyber threat
13 indicator.

14 (ii) REGULATORY AUTHORITY SPE-
15 CIFICALLY RELATING TO PREVENTION OR
16 MITIGATION OF CYBERSECURITY
17 THREATS.—A cyber threat indicator or de-
18 fensive measures shared as described in
19 clause (i) may, consistent with a State,
20 tribal, or local government regulatory au-
21 thority specifically relating to the preven-
22 tion or mitigation of cybersecurity threats
23 to information systems, inform the devel-
24 opment or implementation of a regulation
25 relating to such information systems.

1 (e) ANTITRUST EXEMPTION.—

2 (1) IN GENERAL.—Except as provided in sec-
3 tion 8(e), it shall not be considered a violation of
4 any provision of antitrust laws for 2 or more private
5 entities to exchange or provide a cyber threat indi-
6 cator, or assistance relating to the prevention, inves-
7 tigation, or mitigation of a cybersecurity threat, for
8 cybersecurity purposes under this Act.

9 (2) APPLICABILITY.—Paragraph (1) shall apply
10 only to information that is exchanged or assistance
11 provided in order to assist with—

12 (A) facilitating the prevention, investiga-
13 tion, or mitigation of a cybersecurity threat to
14 an information system or information that is
15 stored on, processed by, or transiting an infor-
16 mation system; or

17 (B) communicating or disclosing a cyber
18 threat indicator to help prevent, investigate, or
19 mitigate the effect of a cybersecurity threat to
20 an information system or information that is
21 stored on, processed by, or transiting an infor-
22 mation system.

23 (f) NO RIGHT OR BENEFIT.—The sharing of a cyber
24 threat indicator with an entity under this Act shall not

1 create a right or benefit to similar information by such
2 entity or any other entity.

3 **SEC. 5. SHARING OF CYBER THREAT INDICATORS AND DE-**
4 **FENSIVE MEASURES WITH THE FEDERAL**
5 **GOVERNMENT.**

6 (a) REQUIREMENT FOR POLICIES AND PROCE-
7 DURES.—

8 (1) INTERIM POLICIES AND PROCEDURES.—Not
9 later than 60 days after the date of the enactment
10 of this Act, the Attorney General, in coordination
11 with the heads of the appropriate Federal entities,
12 shall develop and submit to Congress interim policies
13 and procedures relating to the receipt of cyber
14 threat indicators and defensive measures by the
15 Federal Government.

16 (2) FINAL POLICIES AND PROCEDURES.—Not
17 later than 180 days after the date of the enactment
18 of this Act, the Attorney General shall, in coordina-
19 tion with the heads of the appropriate Federal enti-
20 ties, promulgate final policies and procedures relat-
21 ing to the receipt of cyber threat indicators and de-
22 fensive measures by the Federal Government.

23 (3) REQUIREMENTS CONCERNING POLICIES AND
24 PROCEDURES.—Consistent with the guidelines re-
25 quired by subsection (b), the policies and procedures

1 developed and promulgated under this subsection
2 shall—

3 (A) ensure that cyber threat indicators are
4 shared with the Federal Government by any en-
5 tity pursuant to section 4(c) through the real-
6 time process described in subsection (c) of this
7 section—

8 (i) are shared in an automated man-
9 ner with all of the appropriate Federal en-
10 tities;

11 (ii) are not subject to any delay, modi-
12 fication, or any other action that could im-
13 pede real-time receipt by all of the appro-
14 priate Federal entities; and

15 (iii) may be provided to other Federal
16 entities;

17 (B) ensure that cyber threat indicators
18 shared with the Federal Government by any en-
19 tity pursuant to section 4 in a manner other
20 than the real-time process described in sub-
21 section (c) of this section—

22 (i) are shared as quickly as operation-
23 ally practicable with all of the appropriate
24 Federal entities;

1 (ii) are not subject to any unnecessary
2 delay, interference, or any other action
3 that could impede receipt by all of the ap-
4 propriate Federal entities; and

5 (iii) may be provided to other Federal
6 entities;

7 (C) consistent with this Act, any other ap-
8 plicable provisions of law, and the fair informa-
9 tion practice principles set forth in appendix A
10 of the document entitled “National Strategy for
11 Trusted Identities in Cyberspace” and pub-
12 lished by the President in April 2011, govern
13 the retention, use, and dissemination by the
14 Federal Government of cyber threat indicators
15 shared with the Federal Government under this
16 Act, including the extent, if any, to which such
17 cyber threat indicators may be used by the Fed-
18 eral Government; and

19 (D) ensure there is—

20 (i) an audit capability; and

21 (ii) appropriate sanctions in place for
22 officers, employees, or agents of a Federal
23 entity who knowingly and willfully conduct
24 activities under this Act in an unauthor-
25 ized manner.

1 (4) GUIDELINES FOR ENTITIES SHARING CYBER
2 THREAT INDICATORS WITH FEDERAL GOVERN-
3 MENT.—

4 (A) IN GENERAL.—Not later than 60 days
5 after the date of the enactment of this Act, the
6 Attorney General shall develop and make pub-
7 licly available guidance to assist entities and
8 promote sharing of cyber threat indicators with
9 Federal entities under this Act.

10 (B) CONTENTS.—The guidelines developed
11 and made publicly available under subpara-
12 graph (A) shall include guidance on the fol-
13 lowing:

14 (i) Identification of types of informa-
15 tion that would qualify as a cyber threat
16 indicator under this Act that would be un-
17 likely to include personal information of or
18 identifying a specific person not directly
19 related to a cyber security threat.

20 (ii) Identification of types of informa-
21 tion protected under otherwise applicable
22 privacy laws that are unlikely to be directly
23 related to a cybersecurity threat.

24 (iii) Such other matters as the Attor-
25 ney General considers appropriate for enti-

1 ties sharing cyber threat indicators with
2 Federal entities under this Act.

3 (b) PRIVACY AND CIVIL LIBERTIES.—

4 (1) GUIDELINES OF ATTORNEY GENERAL.—Not
5 later than 60 days after the date of the enactment
6 of this Act, the Attorney General shall, in coordina-
7 tion with heads of the appropriate Federal entities
8 and in consultation with officers designated under
9 section 1062 of the National Security Intelligence
10 Reform Act of 2004 (42 U.S.C. 2000ee–1), develop,
11 submit to Congress, and make available to the public
12 interim guidelines relating to privacy and civil lib-
13 erties which shall govern the receipt, retention, use,
14 and dissemination of cyber threat indicators by a
15 Federal entity obtained in connection with activities
16 authorized in this Act.

17 (2) FINAL GUIDELINES.—

18 (A) IN GENERAL.—Not later than 180
19 days after the date of the enactment of this
20 Act, the Attorney General shall, in coordination
21 with heads of the appropriate Federal entities
22 and in consultation with officers designated
23 under section 1062 of the National Security In-
24 telligence Reform Act of 2004 (42 U.S.C.
25 2000ee–1) and such private entities with indus-

1 try expertise as the Attorney General considers
2 relevant, promulgate final guidelines relating to
3 privacy and civil liberties which shall govern the
4 receipt, retention, use, and dissemination of
5 cyber threat indicators by a Federal entity ob-
6 tained in connection with activities authorized
7 in this Act.

8 (B) PERIODIC REVIEW.—The Attorney
9 General shall, in coordination with heads of the
10 appropriate Federal entities and in consultation
11 with officers and private entities described in
12 subparagraph (A), periodically review the guide-
13 lines promulgated under subparagraph (A).

14 (3) CONTENT.—The guidelines required by
15 paragraphs (1) and (2) shall, consistent with the
16 need to protect information systems from cybersecu-
17 rity threats and mitigate cybersecurity threats—

18 (A) limit the impact on privacy and civil
19 liberties of activities by the Federal Government
20 under this Act;

21 (B) limit the receipt, retention, use, and
22 dissemination of cyber threat indicators con-
23 taining personal information of or identifying
24 specific persons, including by establishing—

1 (i) a process for the timely destruction
2 of such information that is known not to
3 be directly related to uses authorized under
4 this Act; and

5 (ii) specific limitations on the length
6 of any period in which a cyber threat indi-
7 cator may be retained;

8 (C) include requirements to safeguard
9 cyber threat indicators containing personal in-
10 formation of or identifying specific persons
11 from unauthorized access or acquisition, includ-
12 ing appropriate sanctions for activities by offi-
13 cers, employees, or agents of the Federal Gov-
14 ernment in contravention of such guidelines;

15 (D) include procedures for notifying enti-
16 ties and Federal entities if information received
17 pursuant to this section is known or determined
18 by a Federal entity receiving such information
19 not to constitute a cyber threat indicator;

20 (E) protect the confidentiality of cyber
21 threat indicators containing personal informa-
22 tion of or identifying specific persons to the
23 greatest extent practicable and require recipi-
24 ents to be informed that such indicators may

1 only be used for purposes authorized under this
2 Act; and

3 (F) include steps that may be needed so
4 that dissemination of cyber threat indicators is
5 consistent with the protection of classified and
6 other sensitive national security information.

7 (c) CAPABILITY AND PROCESS WITHIN THE DEPART-
8 MENT OF HOMELAND SECURITY.—

9 (1) IN GENERAL.—Not later than 90 days after
10 the date of the enactment of this Act, the Secretary
11 of Homeland Security, in coordination with the
12 heads of the appropriate Federal entities, shall de-
13 velop and implement a capability and process within
14 the Department of Homeland Security that—

15 (A) shall accept from any entity in real
16 time cyber threat indicators and defensive
17 measures, pursuant to this section;

18 (B) shall, upon submittal of the certifi-
19 cation under paragraph (2) that such capability
20 and process fully and effectively operates as de-
21 scribed in such paragraph, be the process by
22 which the Federal Government receives cyber
23 threat indicators and defensive measures under
24 this Act that are shared by a private entity with
25 the Federal Government through electronic mail

1 or media, an interactive form on an Internet
2 website, or a real time, automated process be-
3 tween information systems except—

4 (i) communications between a Federal
5 entity and a private entity regarding a pre-
6 viously shared cyber threat indicator; and

7 (ii) communications by a regulated en-
8 tity with such entity's Federal regulatory
9 authority regarding a cybersecurity threat;

10 (C) ensures that all of the appropriate
11 Federal entities receive in an automated man-
12 ner such cyber threat indicators shared through
13 the real-time process within the Department of
14 Homeland Security;

15 (D) is in compliance with the policies, pro-
16 cedures, and guidelines required by this section;
17 and

18 (E) does not limit or prohibit otherwise
19 lawful disclosures of communications, records,
20 or other information, including—

21 (i) reporting of known or suspected
22 criminal activity, by an entity to any other
23 entity or a Federal entity;

24 (ii) voluntary or legally compelled par-
25 ticipation in a Federal investigation; and

1 (iii) providing cyber threat indicators
2 or defensive measures as part of a statu-
3 tory or authorized contractual requirement.

4 (2) CERTIFICATION.—Not later than 10 days
5 prior to the implementation of the capability and
6 process required by paragraph (1), the Secretary of
7 Homeland Security shall, in consultation with the
8 heads of the appropriate Federal entities, certify to
9 Congress whether such capability and process fully
10 and effectively operates—

11 (A) as the process by which the Federal
12 Government receives from any entity a cyber
13 threat indicator or defensive measure under this
14 Act; and

15 (B) in accordance with the policies, proce-
16 dures, and guidelines developed under this sec-
17 tion.

18 (3) PUBLIC NOTICE AND ACCESS.—The Sec-
19 retary of Homeland Security shall ensure there is
20 public notice of, and access to, the capability and
21 process developed and implemented under paragraph
22 (1) so that—

23 (A) any entity may share cyber threat indi-
24 cators and defensive measures through such
25 process with the Federal Government; and

1 (B) all of the appropriate Federal entities
2 receive such cyber threat indicators and defen-
3 sive measures in real time with receipt through
4 the process within the Department of Home-
5 land Security.

6 (4) OTHER FEDERAL ENTITIES.—The process
7 developed and implemented under paragraph (1)
8 shall ensure that other Federal entities receive in a
9 timely manner any cyber threat indicators and de-
10 fensive measures shared with the Federal Govern-
11 ment through such process.

12 (5) REPORT ON DEVELOPMENT AND IMPLE-
13 MENTATION.—

14 (A) IN GENERAL.—Not later than 60 days
15 after the date of the enactment of this Act, the
16 Secretary of Homeland Security shall submit to
17 Congress a report on the development and im-
18 plementation of the capability and process re-
19 quired by paragraph (1), including a description
20 of such capability and process and the public
21 notice of, and access to, such process.

22 (B) CLASSIFIED ANNEX.—The report re-
23 quired by subparagraph (A) shall be submitted
24 in unclassified form, but may include a classi-
25 fied annex.

1 (d) INFORMATION SHARED WITH OR PROVIDED TO
2 THE FEDERAL GOVERNMENT.—

3 (1) NO WAIVER OF PRIVILEGE OR PROTEC-
4 TION.—The provision of cyber threat indicators and
5 defensive measures to the Federal Government
6 under this Act shall not constitute a waiver of any
7 applicable privilege or protection provided by law, in-
8 cluding trade secret protection.

9 (2) PROPRIETARY INFORMATION.—Consistent
10 with section 4(e)(2), a cyber threat indicator or de-
11 fensive measure provided by an entity to the Federal
12 Government under this Act shall be considered the
13 commercial, financial, and proprietary information of
14 such entity when so designated by the originating
15 entity or a third party acting in accordance with the
16 written authorization of the originating entity.

17 (3) EXEMPTION FROM DISCLOSURE.—Cyber
18 threat indicators and defensive measures provided to
19 the Federal Government under this Act shall be—

20 (A) deemed voluntarily shared information
21 and exempt from disclosure under section 552
22 of title 5, United States Code, and any State,
23 tribal, or local law requiring disclosure of infor-
24 mation or records; and

1 (B) withheld, without discretion, from the
2 public under section 552(b)(3)(B) of title 5,
3 United States Code, and any State, tribal, or
4 local provision of law requiring disclosure of in-
5 formation or records.

6 (4) EX PARTE COMMUNICATIONS.—The provi-
7 sion of a cyber threat indicator or defensive measure
8 to the Federal Government under this Act shall not
9 be subject to a rule of any Federal agency or depart-
10 ment or any judicial doctrine regarding ex parte
11 communications with a decisionmaking official.

12 (5) DISCLOSURE, RETENTION, AND USE.—

13 (A) AUTHORIZED ACTIVITIES.—Cyber
14 threat indicators and defensive measures pro-
15 vided to the Federal Government under this Act
16 may be disclosed to, retained by, and used by,
17 consistent with otherwise applicable provisions
18 of Federal law, any Federal agency or depart-
19 ment, component, officer, employee, or agent of
20 the Federal Government solely for—

21 (i) a cybersecurity purpose;

22 (ii) the purpose of identifying a cyber-
23 security threat, including the source of
24 such cybersecurity threat, or a security
25 vulnerability;

1 (iii) the purpose of identifying a cy-
2 bersecurity threat involving the use of an
3 information system by a foreign adversary
4 or terrorist;

5 (iv) the purpose of responding to, or
6 otherwise preventing or mitigating, an im-
7 minent threat of death, serious bodily
8 harm, or serious economic harm, including
9 a terrorist act or a use of a weapon of
10 mass destruction;

11 (v) the purpose of responding to, or
12 otherwise preventing or mitigating, a seri-
13 ous threat to a minor, including sexual ex-
14 ploitation and threats to physical safety; or

15 (vi) the purpose of preventing, inves-
16 tigating, disrupting, or prosecuting an of-
17 fense arising out of a threat described in
18 clause (iv) or any of the offenses listed
19 in—

20 (I) section 3559(c)(2)(F) of title
21 18, United States Code (relating to
22 serious violent felonies);

23 (II) sections 1028 through 1030
24 of such title (relating to fraud and
25 identity theft);

1 (III) chapter 37 of such title (re-
2 lating to espionage and censorship);
3 and

4 (IV) chapter 90 of such title (re-
5 lating to protection of trade secrets).

6 (B) PROHIBITED ACTIVITIES.—Cyber
7 threat indicators and defensive measures pro-
8 vided to the Federal Government under this Act
9 shall not be disclosed to, retained by, or used
10 by any Federal agency or department for any
11 use not permitted under subparagraph (A).

12 (C) PRIVACY AND CIVIL LIBERTIES.—
13 Cyber threat indicators and defensive measures
14 provided to the Federal Government under this
15 Act shall be retained, used, and disseminated by
16 the Federal Government—

17 (i) in accordance with the policies,
18 procedures, and guidelines required by sub-
19 sections (a) and (b);

20 (ii) in a manner that protects from
21 unauthorized use or disclosure any cyber
22 threat indicators that may contain personal
23 information of or identifying specific per-
24 sons; and

1 (iii) in a manner that protects the
2 confidentiality of cyber threat indicators
3 containing personal information of or iden-
4 tifying a specific person.

5 (D) FEDERAL REGULATORY AUTHORITY.—

6 (i) IN GENERAL.—Except as provided
7 in clause (ii), cyber threat indicators and
8 defensive measures provided to the Federal
9 Government under this Act shall not be di-
10 rectly used by any Federal, State, tribal,
11 or local government to regulate, including
12 an enforcement action, the lawful activities
13 of any entity, including activities relating
14 to monitoring, operating defensive meas-
15 ures, or sharing cyber threat indicators.

16 (ii) EXCEPTIONS.—

17 (I) REGULATORY AUTHORITY
18 SPECIFICALLY RELATING TO PREVEN-
19 TION OR MITIGATION OF CYBERSECU-
20 RITY THREATS.—Cyber threat indica-
21 tors and defensive measures provided
22 to the Federal Government under this
23 Act may, consistent with Federal or
24 State regulatory authority specifically
25 relating to the prevention or mitiga-

1 tion of cybersecurity threats to infor-
2 mation systems, inform the develop-
3 ment or implementation of regulations
4 relating to such information systems.

5 (II) PROCEDURES DEVELOPED
6 AND IMPLEMENTED UNDER THIS
7 ACT.—Clause (i) shall not apply to
8 procedures developed and imple-
9 mented under this Act.

10 **SEC. 6. PROTECTION FROM LIABILITY.**

11 (a) MONITORING OF INFORMATION SYSTEMS.—No
12 cause of action shall lie or be maintained in any court
13 against any private entity, and such action shall be
14 promptly dismissed, for the monitoring of information sys-
15 tems and information under section 4(a) that is conducted
16 in accordance with this Act.

17 (b) SHARING OR RECEIPT OF CYBER THREAT INDI-
18 CATORS.—No cause of action shall lie or be maintained
19 in any court against any entity, and such action shall be
20 promptly dismissed, for the sharing or receipt of cyber
21 threat indicators or defensive measures under section 4(c)
22 if—

23 (1) such sharing or receipt is conducted in ac-
24 cordance with this Act; and

1 (2) in a case in which a cyber threat indicator
2 or defensive measure is shared with the Federal
3 Government, the cyber threat indicator or defensive
4 measure is shared in a manner that is consistent
5 with section 5(c)(1)(B) and the sharing or receipt,
6 as the case may be, occurs after the earlier of—

7 (A) the date on which the interim policies
8 and procedures are submitted to Congress
9 under section 5(a)(1); or

10 (B) the date that is 60 days after the date
11 of the enactment of this Act.

12 (c) CONSTRUCTION.—Nothing in this section shall be
13 construed—

14 (1) to require dismissal of a cause of action
15 against an entity that has engaged in gross neg-
16 ligence or willful misconduct in the course of con-
17 ducting activities authorized by this Act; or

18 (2) to undermine or limit the availability of oth-
19 erwise applicable common law or statutory defenses.

20 **SEC. 7. OVERSIGHT OF GOVERNMENT ACTIVITIES.**

21 (a) BIENNIAL REPORT ON IMPLEMENTATION.—

22 (1) IN GENERAL.—Not later than 1 year after
23 the date of the enactment of this Act, and not less
24 frequently than once every 2 years thereafter, the
25 heads of the appropriate Federal entities shall joint-

1 ly submit and the Inspector General of the Depart-
2 ment of Homeland Security, the Inspector General
3 of the Intelligence Community, the Inspector Gen-
4 eral of the Department of Justice, the Inspector
5 General of the Department of Defense, and the In-
6 spector General of the Department of Energy, in
7 consultation with the Council of Inspectors General
8 on Financial Oversight, shall jointly submit to Con-
9 gress a detailed report concerning the implementa-
10 tion of this Act.

11 (2) CONTENTS.—Each report submitted under
12 paragraph (1) shall include the following:

13 (A) An assessment of the sufficiency of the
14 policies, procedures, and guidelines required by
15 section 5 in ensuring that cyber threat indica-
16 tors are shared effectively and responsibly with-
17 in the Federal Government.

18 (B) An evaluation of the effectiveness of
19 real-time information sharing through the capa-
20 bility and process developed under section 5(c),
21 including any impediments to such real-time
22 sharing.

23 (C) An assessment of the sufficiency of the
24 procedures developed under section 3 in ensur-
25 ing that cyber threat indicators in the posses-

1 sion of the Federal Government are shared in
2 a timely and adequate manner with appropriate
3 entities, or, if appropriate, are made publicly
4 available.

5 (D) An assessment of whether cyber threat
6 indicators have been properly classified and an
7 accounting of the number of security clearances
8 authorized by the Federal Government for the
9 purposes of this Act.

10 (E) A review of the type of cyber threat in-
11 dicators shared with the Federal Government
12 under this Act, including the following:

13 (i) The degree to which such informa-
14 tion may impact the privacy and civil lib-
15 erties of specific persons.

16 (ii) A quantitative and qualitative as-
17 sessment of the impact of the sharing of
18 such cyber threat indicators with the Fed-
19 eral Government on privacy and civil lib-
20 erties of specific persons.

21 (iii) The adequacy of any steps taken
22 by the Federal Government to reduce such
23 impact.

24 (F) A review of actions taken by the Fed-
25 eral Government based on cyber threat indica-

1 tors shared with the Federal Government under
2 this Act, including the appropriateness of any
3 subsequent use or dissemination of such cyber
4 threat indicators by a Federal entity under sec-
5 tion 5.

6 (G) A description of any significant viola-
7 tions of the requirements of this Act by the
8 Federal Government.

9 (H) A summary of the number and type of
10 entities that received classified cyber threat in-
11 dicators from the Federal Government under
12 this Act and an evaluation of the risks and ben-
13 efits of sharing such cyber threat indicators.

14 (3) RECOMMENDATIONS.—Each report sub-
15 mitted under paragraph (1) may include rec-
16 ommendations for improvements or modifications to
17 the authorities and processes under this Act.

18 (4) FORM OF REPORT.—Each report required
19 by paragraph (1) shall be submitted in unclassified
20 form, but may include a classified annex.

21 (b) REPORTS ON PRIVACY AND CIVIL LIBERTIES.—

22 (1) BIENNIAL REPORT FROM PRIVACY AND
23 CIVIL LIBERTIES OVERSIGHT BOARD.—Not later
24 than 2 years after the date of the enactment of this
25 Act and not less frequently than once every 2 years

1 thereafter, the Privacy and Civil Liberties Oversight
2 Board shall submit to Congress and the President a
3 report providing—

4 (A) an assessment of the effect on privacy
5 and civil liberties by the type of activities car-
6 ried out under this Act; and

7 (B) an assessment of the sufficiency of the
8 policies, procedures, and guidelines established
9 pursuant to section 5 in addressing concerns re-
10 lating to privacy and civil liberties.

11 (2) BIENNIAL REPORT OF INSPECTORS GEN-
12 ERAL.—

13 (A) IN GENERAL.—Not later than 2 years
14 after the date of the enactment of this Act and
15 not less frequently than once every 2 years
16 thereafter, the Inspector General of the Depart-
17 ment of Homeland Security, the Inspector Gen-
18 eral of the Intelligence Community, the Inspec-
19 tor General of the Department of Justice, the
20 Inspector General of the Department of De-
21 fense, and the Inspector General of the Depart-
22 ment of Energy shall, in consultation with the
23 Council of Inspectors General on Financial
24 Oversight, jointly submit to Congress a report
25 on the receipt, use, and dissemination of cyber

1 threat indicators and defensive measures that
2 have been shared with Federal entities under
3 this Act.

4 (B) CONTENTS.—Each report submitted
5 under subparagraph (A) shall include the fol-
6 lowing:

7 (i) A review of the types of cyber
8 threat indicators shared with Federal enti-
9 ties.

10 (ii) A review of the actions taken by
11 Federal entities as a result of the receipt
12 of such cyber threat indicators.

13 (iii) A list of Federal entities receiving
14 such cyber threat indicators.

15 (iv) A review of the sharing of such
16 cyber threat indicators among Federal en-
17 tities to identify inappropriate barriers to
18 sharing information.

19 (3) RECOMMENDATIONS.—Each report sub-
20 mitted under this subsection may include such rec-
21 ommendations as the Privacy and Civil Liberties
22 Oversight Board, with respect to a report submitted
23 under paragraph (1), or the Inspectors General re-
24 ferred to in paragraph (2)(A), with respect to a re-
25 port submitted under paragraph (2), may have for

1 improvements or modifications to the authorities
2 under this Act.

3 (4) FORM.—Each report required under this
4 subsection shall be submitted in unclassified form,
5 but may include a classified annex.

6 **SEC. 8. CONSTRUCTION AND PREEMPTION.**

7 (a) OTHERWISE LAWFUL DISCLOSURES.—Nothing in
8 this Act shall be construed—

9 (1) to limit or prohibit otherwise lawful disclo-
10 sures of communications, records, or other informa-
11 tion, including reporting of known or suspected
12 criminal activity, by an entity to any other entity or
13 the Federal Government under this Act; or

14 (2) to limit or prohibit otherwise lawful use of
15 such disclosures by any Federal entity, even when
16 such otherwise lawful disclosures duplicate or rep-
17 licate disclosures made under this Act.

18 (b) WHISTLE BLOWER PROTECTIONS.—Nothing in
19 this Act shall be construed to prohibit or limit the disclo-
20 sure of information protected under section 2302(b)(8) of
21 title 5, United States Code (governing disclosures of ille-
22 gality, waste, fraud, abuse, or public health or safety
23 threats), section 7211 of title 5, United States Code (gov-
24 erning disclosures to Congress), section 1034 of title 10,
25 United States Code (governing disclosure to Congress by

1 members of the military), section 1104 of the National
2 Security Act of 1947 (50 U.S.C. 3234) (governing disclo-
3 sure by employees of elements of the intelligence commu-
4 nity), or any similar provision of Federal or State law.

5 (c) PROTECTION OF SOURCES AND METHODS.—
6 Nothing in this Act shall be construed—

7 (1) as creating any immunity against, or other-
8 wise affecting, any action brought by the Federal
9 Government, or any agency or department thereof,
10 to enforce any law, executive order, or procedure
11 governing the appropriate handling, disclosure, or
12 use of classified information;

13 (2) to affect the conduct of authorized law en-
14 forcement or intelligence activities; or

15 (3) to modify the authority of a department or
16 agency of the Federal Government to protect classi-
17 fied information and sources and methods and the
18 national security of the United States.

19 (d) RELATIONSHIP TO OTHER LAWS.—Nothing in
20 this Act shall be construed to affect any requirement
21 under any other provision of law for an entity to provide
22 information to the Federal Government.

23 (e) PROHIBITED CONDUCT.—Nothing in this Act
24 shall be construed to permit price-fixing, allocating a mar-
25 ket between competitors, monopolizing or attempting to

1 monopolize a market, boycotting, or exchanges of price or
2 cost information, customer lists, or information regarding
3 future competitive planning.

4 (f) INFORMATION SHARING RELATIONSHIPS.—Nothing
5 in this Act shall be construed—

6 (1) to limit or modify an existing information
7 sharing relationship;

8 (2) to prohibit a new information sharing rela-
9 tionship;

10 (3) to require a new information sharing rela-
11 tionship between any entity and the Federal Govern-
12 ment; or

13 (4) to require the use of the capability and
14 process within the Department of Homeland Secu-
15 rity developed under section 5(c).

16 (g) PRESERVATION OF CONTRACTUAL OBLIGATIONS
17 AND RIGHTS.—Nothing in this Act shall be construed—

18 (1) to amend, repeal, or supersede any current
19 or future contractual agreement, terms of service
20 agreement, or other contractual relationship between
21 any entities, or between any entity and a Federal en-
22 tity; or

23 (2) to abrogate trade secret or intellectual prop-
24 erty rights of any entity or Federal entity.

1 (h) ANTI-TASKING RESTRICTION.—Nothing in this
2 Act shall be construed to permit the Federal Govern-
3 ment—

4 (1) to require an entity to provide information
5 to the Federal Government;

6 (2) to condition the sharing of cyber threat in-
7 dicators with an entity on such entity's provision of
8 cyber threat indicators to the Federal Government;
9 or

10 (3) to condition the award of any Federal
11 grant, contract, or purchase on the provision of a
12 cyber threat indicator to a Federal entity.

13 (i) NO LIABILITY FOR NON-PARTICIPATION.—Noth-
14 ing in this Act shall be construed to subject any entity
15 to liability for choosing not to engage in the voluntary ac-
16 tivities authorized in this Act.

17 (j) USE AND RETENTION OF INFORMATION.—Noth-
18 ing in this Act shall be construed to authorize, or to mod-
19 ify any existing authority of, a department or agency of
20 the Federal Government to retain or use any information
21 shared under this Act for any use other than permitted
22 in this Act.

23 (k) FEDERAL PREEMPTION.—

24 (1) IN GENERAL.—This Act supersedes any
25 statute or other provision of law of a State or polit-

1 ical subdivision of a State that restricts or otherwise
2 expressly regulates an activity authorized under this
3 Act.

4 (2) STATE LAW ENFORCEMENT.—Nothing in
5 this Act shall be construed to supersede any statute
6 or other provision of law of a State or political sub-
7 division of a State concerning the use of authorized
8 law enforcement practices and procedures.

9 (1) REGULATORY AUTHORITY.—Nothing in this Act
10 shall be construed—

11 (1) to authorize the promulgation of any regu-
12 lations not specifically authorized by this Act;

13 (2) to establish or limit any regulatory author-
14 ity not specifically established or limited under this
15 Act; or

16 (3) to authorize regulatory actions that would
17 duplicate or conflict with regulatory requirements,
18 mandatory standards, or related processes under an-
19 other provision of Federal law.

20 (m) AUTHORITY OF SECRETARY OF DEFENSE TO
21 RESPOND TO CYBER ATTACKS.—Nothing in this Act shall
22 be construed to limit the authority of the Secretary of De-
23 fense to develop, prepare, coordinate, or, when authorized
24 by the President to do so, conduct a military cyber oper-
25 ation in response to a malicious cyber activity carried out

1 against the United States or a United States person by
2 a foreign government or an organization sponsored by a
3 foreign government or a terrorist organization.

4 **SEC. 9. REPORT ON CYBERSECURITY THREATS.**

5 (a) REPORT REQUIRED.—Not later than 180 days
6 after the date of the enactment of this Act, the Director
7 of National Intelligence, in coordination with the heads of
8 other appropriate elements of the intelligence community,
9 shall submit to the Select Committee on Intelligence of
10 the Senate and the Permanent Select Committee on Intel-
11 ligence of the House of Representatives a report on cyber-
12 security threats, including cyber attacks, theft, and data
13 breaches.

14 (b) CONTENTS.—The report required by subsection
15 (a) shall include the following:

16 (1) An assessment of the current intelligence
17 sharing and cooperation relationships of the United
18 States with other countries regarding cybersecurity
19 threats, including cyber attacks, theft, and data
20 breaches, directed against the United States and
21 which threaten the United States national security
22 interests and economy and intellectual property, spe-
23 cifically identifying the relative utility of such rela-
24 tionships, which elements of the intelligence commu-

1 nity participate in such relationships, and whether
2 and how such relationships could be improved.

3 (2) A list and an assessment of the countries
4 and nonstate actors that are the primary threats of
5 carrying out a cybersecurity threat, including a
6 cyber attack, theft, or data breach, against the
7 United States and which threaten the United States
8 national security, economy, and intellectual property.

9 (3) A description of the extent to which the ca-
10 pabilities of the United States Government to re-
11 spond to or prevent cybersecurity threats, including
12 cyber attacks, theft, or data breaches, directed
13 against the United States private sector are de-
14 graded by a delay in the prompt notification by pri-
15 vate entities of such threats or cyber attacks, theft,
16 and breaches.

17 (4) An assessment of additional technologies or
18 capabilities that would enhance the ability of the
19 United States to prevent and to respond to cyberse-
20 curity threats, including cyber attacks, theft, and
21 data breaches.

22 (5) An assessment of any technologies or prac-
23 tices utilized by the private sector that could be rap-
24 idly fielded to assist the intelligence community in
25 preventing and responding to cybersecurity threats.

1 (c) FORM OF REPORT.—The report required by sub-
2 section (a) shall be made available in classified and unclas-
3 sified forms.

4 (d) INTELLIGENCE COMMUNITY DEFINED.—In this
5 section, the term “intelligence community” has the mean-
6 ing given that term in section 3 of the National Security
7 Act of 1947 (50 U.S.C. 3003).

8 **SEC. 10. CONFORMING AMENDMENTS.**

9 (a) PUBLIC INFORMATION.—Section 552(b) of title
10 5, United States Code, is amended—

11 (1) in paragraph (8), by striking “or” at the
12 end;

13 (2) in paragraph (9), by striking “wells.” and
14 inserting “wells; or”; and

15 (3) by inserting after paragraph (9) the fol-
16 lowing:

17 “(10) information shared with or provided to
18 the Federal Government pursuant to the Cybersecu-
19 rity Information Sharing Act of 2015.”.

20 (b) MODIFICATION OF LIMITATION ON DISSEMINA-
21 TION OF CERTAIN INFORMATION CONCERNING PENETRA-
22 TIONS OF DEFENSE CONTRACTOR NETWORKS.—Section
23 941(c)(3) of the National Defense Authorization Act for
24 Fiscal Year 2013 (Public Law 112–239; 10 U.S.C. 2224
25 note) is amended by inserting at the end the following:

1 “The Secretary may share such information with other
2 Federal entities if such information consists of cyber
3 threat indicators and defensive measures and such infor-
4 mation is shared consistent with the policies and proce-
5 dures promulgated by the Attorney General under section
6 5 of the Cybersecurity Information Sharing Act of 2015.”.

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114TH CONGRESS
1ST Session

S. 754

A BILL

To improve cybersecurity in the United States through enhanced sharing of information about cybersecurity threats, and for other purposes.

MARCH 17, 2015

Read twice and placed on the calendar