

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

Purpose: To improve the bill.

**IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.**

**S.** \_\_\_\_\_

To improve federal network security and authorize and enhance an existing intrusion detection and prevention system for civilian federal networks.

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

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Ms. AYOTTE (for herself, Mrs. McCASKILL, and Mr. JOHNSON)

Viz:

1 At the end, add the following:

2 **SEC. 8. DIRECTION TO AGENCIES.**

3 Section 3553 of title 44, United States Code, is  
4 amended by adding at the end the following:

5 “(h) DIRECTION TO AGENCIES.—

6 “(1) AUTHORITY.—

7 “(A) IN GENERAL.—Notwithstanding sec-  
8 tion 3554, and subject to subparagraph (B), in  
9 response to a known or reasonably suspected in-  
10 formation security threat, vulnerability, or inci-  
11 dent that represents a substantial threat to the

1 information security of an agency, the Secretary  
2 may issue a directive to the head of an agency  
3 to take any lawful action with respect to the op-  
4 eration of the information system, including  
5 such systems owned or operated by another en-  
6 tity on behalf of an agency, that collects, proc-  
7 esses, stores, transmits, disseminates, or other-  
8 wise maintains agency information, for the pur-  
9 pose of protecting the information system from,  
10 or mitigating, an information security threat.

11 “(B) EXCEPTION.—The authorities of the  
12 Secretary under this subsection shall not apply  
13 to a system described in paragraph (2) or (3)  
14 of subsection (e).

15 “(2) PROCEDURES FOR USE OF AUTHORITY.—  
16 The Secretary shall—

17 “(A) in coordination with the Director, es-  
18 tablish procedures governing the circumstances  
19 under which a directive may be issued under  
20 this subsection, which shall include—

21 “(i) thresholds and other criteria;

22 “(ii) privacy and civil liberties protec-  
23 tions; and

24 “(iii) providing notice to potentially  
25 affected third parties;

1           “(B) specify the reasons for the required  
2           action and the duration of the directive;

3           “(C) minimize the impact of a directive  
4           under this subsection by—

5                   “(i) adopting the least intrusive  
6                   means possible under the circumstances to  
7                   secure the agency information systems;  
8                   and

9                   “(ii) limiting directives to the shortest  
10                  period practicable;

11           “(D) notify the Director and the head of  
12           any affected agency immediately upon the  
13           issuance of a directive under this subsection;  
14           and

15           “(E) not later than February 1 of each  
16           year, submit to the appropriate congressional  
17           committees a report regarding the specific ac-  
18           tions the Secretary has taken pursuant to para-  
19           graph (1)(A).

20           “(3) IMMINENT THREATS.—

21                   “(A) IN GENERAL.—If the Secretary deter-  
22                   mines that there is an imminent threat to agen-  
23                   cy information systems and a directive under  
24                   this subsection is not reasonably likely to result  
25                   in a timely response to the threat, the Secretary

1           may authorize the use of protective capabilities  
2           under the control of the Secretary for commu-  
3           nications or other system traffic transiting to or  
4           from or stored on an agency information system  
5           without prior consultation with the affected  
6           agency for the purpose of ensuring the security  
7           of the information or information system or  
8           other agency information systems.

9           “(B) NOTICE.—The Secretary shall imme-  
10          diately notify the Director, the head and chief  
11          information officer (or equivalent official) of  
12          each agency to which specific actions were  
13          taken pursuant to subparagraph (A), and the  
14          appropriate congressional committees and au-  
15          thorizing committees of each such agencies of—

16                 “(i) any action taken under this sub-  
17                 section; and

18                 “(ii) the reasons for and duration and  
19                 nature of the action.

20          “(C) OTHER LAW.—Any action of the Sec-  
21          retary under this paragraph shall be consistent  
22          with applicable law.

23          “(D) LIMITATION ON DELEGATION.—The  
24          authority under this subsection may not be del-  
25          egated to an official in a position lower than an

1 Under Secretary of the Department of Home-  
2 land Security.

3 “(4) LIMITATION.—The Secretary may direct  
4 or authorize lawful action or protective capability  
5 under this subsection only to—

6 “(A) protect agency information from un-  
7 authorized access, use, disclosure, disruption,  
8 modification, or destruction; or

9 “(B) require the remediation of or protect  
10 against identified information security risks  
11 with respect to—

12 “(i) information collected or main-  
13 tained by or on behalf of an agency; or

14 “(ii) that portion of an information  
15 system used or operated by an agency or  
16 by a contractor of an agency or other orga-  
17 nization on behalf of an agency.

18 “(i) ANNUAL REPORT TO CONGRESS.—Not later  
19 than February 1 of each year, the Director shall submit  
20 to the appropriate congressional committees a report re-  
21 garding the specific actions the Director has taken pursu-  
22 ant to subsection (a)(5), including any actions taken pur-  
23 suant to section 11303(b)(5) of title 40.

1           “(j) APPROPRIATE CONGRESSIONAL COMMITTEES.—

2 In this section, the term ‘appropriate congressional com-

3 mittees’ means—

4           “(1) the Committee on Appropriations and the

5           Committee on Homeland Security and Governmental

6           Affairs of the Senate; and

7           “(2) the Committee on Appropriations and the

8           Committee on Homeland Security of the House of

9           Representatives.”.