

**Calendar No. 648**117<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 1316****[Report No. 117-257]**

To amend the Homeland Security Act of 2002 to authorize the Secretary of Homeland Security to make a declaration of a significant incident, and for other purposes.

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**IN THE SENATE OF THE UNITED STATES**

APRIL 22, 2021

Mr. PETERS (for himself and Mr. PORTMAN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

DECEMBER 14, 2022

Reported by Mr. PETERS, with an amendment

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

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**A BILL**

To amend the Homeland Security Act of 2002 to authorize the Secretary of Homeland Security to make a declaration of a significant incident, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Cyber Response and  
3 Recovery Act of 2021”.

4 **SEC. 2. DECLARATION OF A SIGNIFICANT INCIDENT.**

5 (a) **IN GENERAL.**—Title XXII of the Homeland Se-  
6 curity Act of 2002 (6 U.S.C. 651 et seq.) is amended by  
7 adding at the end the following:

8 **“Subtitle C—Declaration of a**  
9 **Significant Incident**

10 **“SEC. 2231. DEFINITIONS.**

11 “For the purposes of this subtitle:

12 “(1) **ASSET RESPONSE ACTIVITY.**—The term  
13 ‘asset response activity’ means an activity to support  
14 an entity impacted by an incident with the response  
15 to, remediation of, or recovery from, the incident, in-  
16 cluding—

17 “(A) furnishing technical and advisory as-  
18 sistance to the entity to protect the assets of  
19 the entity, mitigate vulnerabilities, and reduce  
20 the related impacts;

21 “(B) assessing potential risks to the crit-  
22 ical infrastructure sector or geographic region  
23 impacted by the incident, including potential  
24 cascading effects of the incident on other crit-  
25 ical infrastructure sectors or geographic re-  
26 gions;

1           “(C) developing courses of action to miti-  
2           gate the risks assessed under subparagraph  
3           (B);

4           “(D) facilitating information sharing and  
5           operational coordination with entities per-  
6           forming threat response activities; and

7           “(E) providing guidance on how best to  
8           use Federal resources and capabilities in a  
9           timely, effective manner to speed recovery from  
10          the incident.

11          “(2) DECLARATION.—The term ‘declaration’  
12          means a declaration of the Secretary under section  
13          2232(a)(1).

14          “(3) DIRECTOR.—The term ‘Director’ means  
15          the Director of the Cybersecurity and Infrastructure  
16          Security Agency.

17          “(4) FEDERAL AGENCY.—The term ‘Federal  
18          agency’ has the meaning given the term ‘agency’ in  
19          section 3502 of title 44, United States Code.

20          “(5) FUND.—The term ‘Fund’ means the  
21          Cyber Response and Recovery Fund established  
22          under section 2232(a).

23          “(6) INCIDENT.—The term ‘incident’ has the  
24          meaning given the term in section 3552 of title 44,  
25          United States Code.

1           “(7) RENEWAL.—The term ‘renewal’ means a  
2 renewal of a declaration under section 2232(d).

3           “(8) SIGNIFICANT INCIDENT.—The term ‘sig-  
4 nificant incident’—

5           “(A) means an incident or a group of re-  
6 lated incidents that results, or is likely to re-  
7 sult, in demonstrable harm to—

8           “(i) the national security interests,  
9 foreign relations, or economy of the United  
10 States; or

11           “(ii) the public confidence, civil lib-  
12 erties, or public health and safety of the  
13 people of the United States; and

14           “(B) does not include an incident or a por-  
15 tion of a group of related incidents that occurs  
16 on—

17           “(i) a national security system (as de-  
18 fined in section 3552 of title 44, United  
19 States Code); or

20           “(ii) an information system described  
21 in paragraph (2) or (3) of section 3553(e)  
22 of title 44, United States Code.

23 **“SEC. 2232. DECLARATION.**

24           “(a) IN GENERAL.—

1           “(1) **DECLARATION.**—The Secretary, in con-  
2           sultation with the National Cyber Director, may  
3           make a declaration of a significant incident in ac-  
4           cordance with this section if the Secretary deter-  
5           mines that—

6                   “(A) a specific significant incident—

7                           “(i) has occurred; or

8                           “(ii) is likely to occur imminently; and

9                   “(B) otherwise available resources, other  
10           than the Fund, are likely insufficient to respond  
11           effectively to, or to mitigate effectively, the spe-  
12           cific significant incident described in subpara-  
13           graph (A).

14           “(2) **PROHIBITION ON DELEGATION.**—The Sec-  
15           retary may not delegate the authority provided to  
16           the Secretary under paragraph (1).

17           “(b) **ASSET RESPONSE ACTIVITIES.**—Upon a dec-  
18           laration, the Director shall coordinate—

19                   “(1) the asset response activities of each Fed-  
20           eral agency in response to the specific significant in-  
21           cident associated with the declaration; and

22                   “(2) with appropriate entities, which may in-  
23           clude—

24                           “(A) public and private entities and State  
25           and local governments with respect to the asset

1 response activities of those entities and govern-  
2 ments; and

3 “(B) Federal, State, local, and Tribal law  
4 enforcement agencies with respect to investiga-  
5 tions and threat response activities of those law  
6 enforcement agencies.

7 “(e) DURATION.—Subject to subsection (d), a dec-  
8 laration shall terminate upon the earlier of—

9 “(1) a determination by the Secretary that the  
10 declaration is no longer necessary; or

11 “(2) the expiration of the 120-day period begin-  
12 ning on the date on which the Secretary makes the  
13 declaration.

14 “(d) RENEWAL.—The Secretary, without delegation,  
15 may renew a declaration as necessary.

16 “(e) PUBLICATION.—Not later than 72 hours after  
17 a declaration or a renewal, the Secretary shall publish the  
18 declaration or renewal in the Federal Register.

19 “(f) ADVANCE ACTIONS.—The Secretary—

20 “(1) shall assess the resources available to re-  
21 spond to a potential declaration; and

22 “(2) may take actions before and while a dec-  
23 laration is in effect to arrange or procure additional  
24 resources for asset response activities or technical  
25 assistance the Secretary determines necessary, which

1 may include entering into standby contracts with  
 2 private entities for cybersecurity services or incident  
 3 responders in the event of a declaration.

4 **“SEC. 2233. CYBER RESPONSE AND RECOVERY FUND.**

5 “(a) IN GENERAL.—There is established a Cyber Re-  
 6 sponse and Recovery Fund, which shall be available for—

7 “(1) the coordination of activities described in  
 8 section 2232(b);

9 “(2) response and recovery support for the spe-  
 10 cific significant incident associated with a declara-  
 11 tion to Federal, State, local, and Tribal, entities and  
 12 public and private entities on a reimbursable or non-  
 13 reimbursable basis, including through asset response  
 14 activities and technical assistance, such as—

15 “(A) vulnerability assessments and mitiga-  
 16 tion;

17 “(B) technical incident mitigation;

18 “(C) malware analysis;

19 “(D) analytic support;

20 “(E) threat detection and hunting; and

21 “(F) network protections;

22 “(3) as the Director determines appropriate,  
 23 grants for, or cooperative agreements with, Federal,  
 24 State, local, and Tribal public and private entities to

1 respond to, and recover from, the specific significant  
2 incident associated with a declaration, such as—

3 “(A) hardware or software to replace, up-  
4 date, improve, harden, or enhance the  
5 functionality of existing hardware, software, or  
6 systems; and

7 “(B) technical contract personnel support;  
8 and

9 “(4) advance actions taken by the Secretary  
10 under section 2232(f)(2).

11 “(b) DEPOSITS.—Money shall be deposited into the  
12 Fund from—

13 “(1) appropriations to the Fund for activities of  
14 the Fund;

15 “(2) reimbursement from Federal agencies for  
16 the activities described in paragraphs (1), (2), and  
17 (4) of subsection (a); and

18 “(3) any other income incident to activities of  
19 the Fund.

20 “(c) SUPPLEMENT NOT SUPPLANT.—Amounts in the  
21 Fund shall be used to supplement, not supplant, other  
22 Federal, State, local, or Tribal funding for activities in  
23 response to a declaration.



1 **“SEC. 2234. NOTIFICATION AND REPORTING.**

2       “(a) NOTIFICATION.—Upon a declaration or renewal,  
3 the Secretary shall immediately notify the National Cyber  
4 Director and appropriate congressional committees and in-  
5 clude in the notification—

6           “(1) an estimation of the planned duration of  
7 the declaration;

8           “(2) with respect to a notification of a declara-  
9 tion; the reason for the declaration; including infor-  
10 mation relating to the specific significant incident or  
11 imminent specific significant incident, including—

12           “(A) the operational or mission impact or  
13 anticipated impact of the specific significant in-  
14 cident on Federal and non-Federal entities;

15           “(B) if known, the perpetrator of the spe-  
16 cific significant incident; and

17           “(C) the scope of the Federal and non-  
18 Federal entities impacted or anticipated to be  
19 impacted by the specific significant incident;

20           “(3) with respect to a notification of a renewal,  
21 the reason for the renewal;

22           “(4) justification as to why available resources,  
23 other than the Fund, are insufficient to respond to  
24 or mitigate the specific significant incident; and

1           “(5) a description of the coordination activities  
2           described in section 2232(b) that the Secretary an-  
3           ticipates the Director to perform.

4           “(b) REPORT TO CONGRESS.—Not later than 180  
5           days after the date of a declaration or renewal, the Sec-  
6           retary shall submit to the appropriate congressional com-  
7           mittees a report that includes—

8           “(1) the reason for the declaration or renewal,  
9           including information and intelligence relating to the  
10          specific significant incident that led to the declara-  
11          tion or renewal;

12          “(2) the use of any funds from the Fund for  
13          the purpose of responding to the incidents or threat  
14          described in paragraph (1);

15          “(3) a description of the actions, initiatives, and  
16          projects undertaken by the Department and State  
17          and local governments and public and private enti-  
18          ties in responding to and recovering from the spe-  
19          cific significant incident described in paragraph (1);

20          “(4) an accounting of the specific obligations  
21          and outlays of the Fund; and

22          “(5) an analysis of—

23                  “(A) the impact of the specific significant  
24                  incident described in paragraph (1) on Federal  
25                  and non-Federal entities;

1           “(B) the impact of the declaration or re-  
 2           newal on the response to, and recovery from,  
 3           the specific significant incident described in  
 4           paragraph (1); and

5           “(C) the impact of the funds made avail-  
 6           able from the Fund as a result of the declara-  
 7           tion or renewal on the recovery from, and re-  
 8           sponse to, the specific significant incident de-  
 9           scribed in paragraph (1).

10          “(e) CLASSIFICATION.—Each notification made  
 11 under subsection (a) and each report submitted under sub-  
 12 section (b)—

13           “(1) shall be in an unclassified form; and

14           “(2) may include a classified annex.

15          “(d) CONSOLIDATED REPORT.—The Secretary shall  
 16 not be required to submit multiple reports under sub-  
 17 section (b) for multiple declarations or renewals if the Sec-  
 18 retary determines that the declarations or renewals sub-  
 19 stantively relate to the same specific significant incident.

20          “(e) EXEMPTION.—The requirements of subchapter  
 21 I of chapter 35 of title 44 (commonly known as the ‘Pa-  
 22 perwork Reduction Act’) shall not apply to the voluntary  
 23 collection of information by the Department during an in-  
 24 vestigation of, a response to, or an immediate post-re-

1 sponse review of, the specific significant incident leading  
2 to a declaration or renewal.

3 **“SEC. 2235. RULE OF CONSTRUCTION.**

4 “Nothing in this subtitle shall be construed to impair  
5 or limit the ability of the Director to carry out the author-  
6 ized activities of the Cybersecurity and Infrastructure Se-  
7 curity Agency.

8 **“SEC. 2236. AUTHORIZATION OF APPROPRIATIONS.**

9 “There are authorized to be appropriated to the Fund  
10 \$20,000,000 for fiscal year 2022, which shall remain  
11 available to be expended until September 30, 2028.

12 **“SEC. 2237. SUNSET.**

13 “The authorities granted to the Secretary or the Di-  
14 rector under this subtitle shall expire on the date that is  
15 7 years after the date of enactment of the Cyber Response  
16 and Recovery Act of 2021.”.

17 (b) CLERICAL AMENDMENT.—The table of contents  
18 in section 1(b) of the Homeland Security Act of 2002  
19 (Public Law 107–296; 116 Stat. 2135) is amended by  
20 adding at the end the following:

“Subtitle C—Declaration of a Significant Incident

“Sec. 2231. Definitions.

“Sec. 2232. Declaration.

“Sec. 2233. Cyber response and recovery fund.

“Sec. 2234. Notification and reporting.

“Sec. 2235. Rule of construction.

“Sec. 2236. Authorization of appropriations.

“Sec. 2237. Sunset.”.

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Cyber Response and Re-*  
 3 *covery Act of 2021”.*

4 **SEC. 2. DECLARATION OF A SIGNIFICANT INCIDENT.**

5 *(a) IN GENERAL.—Title XXII of the Homeland Secu-*  
 6 *rity Act of 2002 (6 U.S.C. 651 et seq.) is amended by add-*  
 7 *ing at the end the following:*

8 **“Subtitle C—Declaration of a**  
 9 **Significant Incident**

10 **“SEC. 2231. SENSE OF CONGRESS.**

11 *“It is the sense of Congress that—*

12 *“(1) the purpose of this subtitle is to authorize*  
 13 *the Secretary to declare that a significant incident*  
 14 *has occurred and to establish the authorities that are*  
 15 *provided under the declaration to respond to and re-*  
 16 *cover from the significant incident; and*

17 *“(2) the authorities established under this sub-*  
 18 *title are intended to enable the Secretary to provide*  
 19 *voluntary assistance to non-Federal entities impacted*  
 20 *by a significant incident.*

21 **“SEC. 2232. DEFINITIONS.**

22 *“For the purposes of this subtitle:*

23 *“(1) ASSET RESPONSE ACTIVITY.—The term*  
 24 *‘asset response activity’ means an activity to support*  
 25 *an entity impacted by an incident with the response*

1 to, remediation of, or recovery from, the incident, in-  
2 cluding—

3 “(A) furnishing technical and advisory as-  
4 sistance to the entity to protect the assets of the  
5 entity, mitigate vulnerabilities, and reduce the  
6 related impacts;

7 “(B) assessing potential risks to the critical  
8 infrastructure sector or geographic region im-  
9 pacted by the incident, including potential cas-  
10 cading effects of the incident on other critical in-  
11 frastructure sectors or geographic regions;

12 “(C) developing courses of action to miti-  
13 gate the risks assessed under subparagraph (B);

14 “(D) facilitating information sharing and  
15 operational coordination with entities per-  
16 forming threat response activities; and

17 “(E) providing guidance on how best to use  
18 Federal resources and capabilities in a timely,  
19 effective manner to speed recovery from the inci-  
20 dent.

21 “(2) *DECLARATION.*—The term ‘declaration’  
22 means a declaration of the Secretary under section  
23 2233(a)(1).

1           “(3) *DIRECTOR*.—The term ‘Director’ means the  
2           *Director of the Cybersecurity and Infrastructure Se-*  
3           *curity Agency.*

4           “(4) *FEDERAL AGENCY*.—The term ‘Federal  
5           *agency’ has the meaning given the term ‘agency’ in*  
6           *section 3502 of title 44, United States Code.*

7           “(5) *FUND*.—The term ‘Fund’ means the *Cyber*  
8           *Response and Recovery Fund established under sec-*  
9           *tion 2234(a).*

10           “(6) *INCIDENT*.—The term ‘incident’ has the  
11           *meaning given the term in section 3552 of title 44,*  
12           *United States Code.*

13           “(7) *RENEWAL*.—The term ‘renewal’ means a re-  
14           *newal of a declaration under section 2233(d).*

15           “(8) *SIGNIFICANT INCIDENT*.—The term ‘signifi-  
16           *cant incident’—*

17                   “(A) means an incident or a group of re-  
18                   *lated incidents that results, or is likely to result,*  
19                   *in demonstrable harm to—*

20                           “(i) the national security interests, for-  
21                           *ign relations, or economy of the United*  
22                           *States; or*

23                           “(ii) the public confidence, civil lib-  
24                           *erties, or public health and safety of the*  
25                           *people of the United States; and*

1           “(B) does not include an incident or a por-  
2           tion of a group of related incidents that occurs  
3           on—

4                   “(i) a national security system (as de-  
5                   fined in section 3552 of title 44, United  
6                   States Code); or

7                   “(ii) an information system described  
8                   in paragraph (2) or (3) of section 3553(e)  
9                   of title 44, United States Code.

10 **“SEC. 2233. DECLARATION.**

11           “(a) *IN GENERAL.*—

12                   “(1) *DECLARATION.*—The Secretary, in consulta-  
13                   tion with the National Cyber Director, may make a  
14                   declaration of a significant incident in accordance  
15                   with this section for the purpose of enabling the ac-  
16                   tivities described in this subtitle if the Secretary de-  
17                   termines that—

18                           “(A) a specific significant incident—

19                                   “(i) has occurred; or

20                                   “(ii) is likely to occur imminently; and

21                           “(B) otherwise available resources, other  
22                   than the Fund, are likely insufficient to respond  
23                   effectively to, or to mitigate effectively, the spe-  
24                   cific significant incident described in subpara-  
25                   graph (A).



1           “(2) *PROHIBITION ON DELEGATION.*—*The Sec-*  
2           *retary may not delegate the authority provided to the*  
3           *Secretary under paragraph (1).*

4           “(b) *ASSET RESPONSE ACTIVITIES.*—*Upon a declara-*  
5           *tion, the Director shall coordinate—*

6           “*(1) the asset response activities of each Federal*  
7           *agency in response to the specific significant incident*  
8           *associated with the declaration; and*

9           “*(2) with appropriate entities, which may in-*  
10          *clude—*

11           “*(A) public and private entities and State*  
12           *and local governments with respect to the asset*  
13           *response activities of those entities and govern-*  
14           *ments; and*

15           “*(B) Federal, State, local, and Tribal law*  
16           *enforcement agencies with respect to investiga-*  
17           *tions and threat response activities of those law*  
18           *enforcement agencies.*

19          “(c) *DURATION.*—*Subject to subsection (d), a declara-*  
20          *tion shall terminate upon the earlier of—*

21           “*(1) a determination by the Secretary that the*  
22           *declaration is no longer necessary; or*

23           “*(2) the expiration of the 120-day period begin-*  
24           *ning on the date on which the Secretary makes the*  
25           *declaration.*

1       “(d) *RENEWAL.*—*The Secretary, without delegation,*  
2 *may renew a declaration as necessary.*

3       “(e) *PUBLICATION.*—

4             “(1) *IN GENERAL.*—*Not later than 72 hours after*  
5 *a declaration or a renewal, the Secretary shall pub-*  
6 *lish the declaration or renewal in the Federal Reg-*  
7 *ister.*

8             “(2) *PROHIBITION.*—*A declaration or renewal*  
9 *published under paragraph (1) may not include the*  
10 *name of any affected individual or private company.*

11       “(f) *ADVANCE ACTIONS.*—

12             “(1) *IN GENERAL.*—*The Secretary—*

13               “(A) *shall assess the resources available to*  
14 *respond to a potential declaration; and*

15               “(B) *may take actions before and while a*  
16 *declaration is in effect to arrange or procure ad-*  
17 *ditional resources for asset response activities or*  
18 *technical assistance the Secretary determines*  
19 *necessary, which may include entering into*  
20 *standby contracts with private entities for cyber-*  
21 *security services or incident responders in the*  
22 *event of a declaration.*

23             “(2) *EXPENDITURE OF FUNDS.*—*Any expendi-*  
24 *ture made for the purpose of paragraph (1)(B) shall*  
25 *be made from amounts—*

1                   “(A) available in the Fund; or

2                   “(B) otherwise appropriated to the Depart-  
3                   ment.

4   **“SEC. 2234. CYBER RESPONSE AND RECOVERY FUND.**

5           “(a) *IN GENERAL.*—There is established a Cyber Re-  
6   sponse and Recovery Fund, which shall be available for—

7                   “(1) the coordination of activities described in  
8                   section 2233(b);

9                   “(2) response and recovery support for the spe-  
10                  cific significant incident associated with a declara-  
11                  tion to Federal, State, local, and Tribal, entities and  
12                  public and private entities on a reimbursable or non-  
13                  reimbursable basis, including through asset response  
14                  activities and technical assistance, such as—

15                           “(A) vulnerability assessments and mitiga-  
16                           tion;

17                           “(B) technical incident mitigation;

18                           “(C) malware analysis;

19                           “(D) analytic support;

20                           “(E) threat detection and hunting; and

21                           “(F) network protections;

22                   “(3) as the Director determines appropriate,  
23                  grants for, or cooperative agreements with, Federal,  
24                  State, local, and Tribal public and private entities to

1       respond to, and recover from, the specific significant  
2       incident associated with a declaration, such as—

3               “(A) hardware or software to replace, up-  
4               date, improve, harden, or enhance the  
5               functionality of existing hardware, software, or  
6               systems; and

7               “(B) technical contract personnel support;  
8               and

9               “(4) advance actions taken by the Secretary  
10       under section 2233(f)(1)(B).

11       “(b) *DEPOSITS AND EXPENDITURES.*—

12               “(1) *IN GENERAL.*—Amounts shall be deposited  
13       into the Fund from—

14               “(A) appropriations to the Fund for activi-  
15               ties of the Fund;

16               “(B) reimbursement from Federal agencies  
17               for the activities described in paragraphs (1),  
18               (2), and (4) of subsection (a); and

19               “(C) any other income incident to activities  
20               of the Fund.

21               “(2) *EXPENDITURES.*—Any expenditure from the  
22       Fund shall be made from amounts that are available  
23       in the Fund from a deposit described in paragraph  
24       (1).

1       “(c) *SUPPLEMENT NOT SUPPLANT.*—Amounts in the  
2 *Fund shall be used to supplement, not supplant, other Fed-*  
3 *eral, State, local, or Tribal funding for activities in re-*  
4 *sponse to a declaration.*

5       “**SEC. 2235. NOTIFICATION AND REPORTING.**

6       “(a) *NOTIFICATION.*—Upon a declaration or renewal,  
7 *the Secretary shall immediately notify the National Cyber*  
8 *Director and appropriate congressional committees and in-*  
9 *clude in the notification—*

10               “(1) *an estimation of the planned duration of*  
11 *the declaration;*

12               “(2) *with respect to a notification of a declara-*  
13 *tion, the reason for the declaration, including infor-*  
14 *mation relating to the specific significant incident or*  
15 *imminent specific significant incident, including—*

16                       “(A) *the operational or mission impact or*  
17 *anticipated impact of the specific significant in-*  
18 *cident on Federal and non-Federal entities;*

19                       “(B) *if known, the perpetrator of the spe-*  
20 *cific significant incident; and*

21                       “(C) *the scope of the Federal and non-Fed-*  
22 *eral entities impacted or anticipated to be im-*  
23 *acted by the specific significant incident;*

24               “(3) *with respect to a notification of a renewal,*  
25 *the reason for the renewal;*

1           “(4) justification as to why available resources,  
2           other than the Fund, are insufficient to respond to or  
3           mitigate the specific significant incident; and

4           “(5) a description of the coordination activities  
5           described in section 2233(b) that the Secretary antici-  
6           pates the Director to perform.

7           “(b) REPORT TO CONGRESS.—Not later than 180 days  
8           after the date of a declaration or renewal, the Secretary  
9           shall submit to the appropriate congressional committees a  
10          report that includes—

11           “(1) the reason for the declaration or renewal,  
12           including information and intelligence relating to the  
13           specific significant incident that led to the declaration  
14           or renewal;

15           “(2) the use of any funds from the Fund for the  
16           purpose of responding to the incident or threat de-  
17           scribed in paragraph (1);

18           “(3) a description of the actions, initiatives, and  
19           projects undertaken by the Department and State and  
20           local governments and public and private entities in  
21           responding to and recovering from the specific signifi-  
22           cant incident described in paragraph (1);

23           “(4) an accounting of the specific obligations  
24           and outlays of the Fund; and

25           “(5) an analysis of—

1           “(A) *the impact of the specific significant*  
2           *incident described in paragraph (1) on Federal*  
3           *and non-Federal entities;*

4           “(B) *the impact of the declaration or re-*  
5           *newal on the response to, and recovery from, the*  
6           *specific significant incident described in para-*  
7           *graph (1); and*

8           “(C) *the impact of the funds made available*  
9           *from the Fund as a result of the declaration or*  
10          *renewal on the recovery from, and response to,*  
11          *the specific significant incident described in*  
12          *paragraph (1).*

13          “(c) *CLASSIFICATION.—Each notification made under*  
14          *subsection (a) and each report submitted under subsection*  
15          *(b)—*

16                 “(1) *shall be in an unclassified form with appro-*  
17                 *priate markings to indicate information that is ex-*  
18                 *empt from disclosure under section 552 of title 5,*  
19                 *United States Code (commonly known as the ‘Free-*  
20                 *dom of Information Act’); and*

21                 “(2) *may include a classified annex.*

22          “(d) *CONSOLIDATED REPORT.—The Secretary shall*  
23          *not be required to submit multiple reports under subsection*  
24          *(b) for multiple declarations or renewals if the Secretary*

1 *determines that the declarations or renewals substantively*  
2 *relate to the same specific significant incident.*

3       “(e) *EXEMPTION.*—*The requirements of subchapter I*  
4 *of chapter 35 of title 44 (commonly known as the ‘Paper-*  
5 *work Reduction Act’)* shall not apply to the voluntary col-  
6 *lection of information by the Department during an inves-*  
7 *tigation of, a response to, or an immediate post-response*  
8 *review of, the specific significant incident leading to a dec-*  
9 *laration or renewal.*

10 **“SEC. 2236. RULE OF CONSTRUCTION.**

11       “*Nothing in this subtitle shall be construed to impair*  
12 *or limit the ability of the Director to carry out the author-*  
13 *ized activities of the Cybersecurity and Infrastructure Secu-*  
14 *rity Agency.*

15 **“SEC. 2237. AUTHORIZATION OF APPROPRIATIONS.**

16       “*There are authorized to be appropriated to the Fund*  
17 *\$20,000,000 for fiscal year 2022, which shall remain avail-*  
18 *able to be expended until September 30, 2028.*

19 **“SEC. 2238. SUNSET.**

20       “*The authorities granted to the Secretary or the Direc-*  
21 *tor under this subtitle shall expire on the date that is 7*  
22 *years after the date of enactment of the Cyber Response and*  
23 *Recovery Act of 2021.”.*

24       “(b) *CLERICAL AMENDMENT.*—*The table of contents in*  
25 *section 1(b) of the Homeland Security Act of 2002 (Public*



- 1 *Law 107–296; 116 Stat. 2135) is amended by adding at*
- 2 *the end the following:*

*“Subtitle C—Declaration of a Significant Incident*

- “Sec. 2231. Sense of Congress.*
- “Sec. 2232. Definitions.*
- “Sec. 2233. Declaration.*
- “Sec. 2234. Cyber response and recovery fund.*
- “Sec. 2235. Notification and reporting.*
- “Sec. 2236. Rule of construction.*
- “Sec. 2237. Authorization of appropriations.*
- “Sec. 2238. Sunset.”.*

Calendar No. 648

117<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 1316**

[Report No. 117-257]

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## **A BILL**

To amend the Homeland Security Act of 2002 to authorize the Secretary of Homeland Security to make a declaration of a significant incident, and for other purposes.

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DECEMBER 14, 2022

Reported with an amendment