

115TH CONGRESS  
2D SESSION

# H. R. 6351

To amend the Atomic Energy Act of 1954 to improve the process by which the Secretary of Energy authorizes the transfer of civilian nuclear commerce technology and assistance, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 12, 2018

Mr. JOHNSON of Ohio introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Atomic Energy Act of 1954 to improve the process by which the Secretary of Energy authorizes the transfer of civilian nuclear commerce technology and assistance, 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.**

4 This Act may be cited as the “Advancing U.S. Civil  
5 Nuclear Competitiveness and Jobs Act”.

1 **SEC. 2. REVIEW OF CIVIL NUCLEAR COMMERCE.**

2 (a) REPORT.—Not later than 180 days after the date  
3 of enactment of this Act, the Secretary of Energy shall  
4 develop and submit to Congress a report on United States  
5 civil nuclear commerce.

6 (b) CONSULTATION.—In developing the report re-  
7 quired under subsection (a), the Secretary of Energy shall  
8 consult with—

9 (1) the Secretary of State;

10 (2) the Secretary of Commerce;

11 (3) the Administrator of the Environmental  
12 Protection Agency; and

13 (4) the Nuclear Regulatory Commission.

14 (c) CONTENTS.—The report required under sub-  
15 section (a) shall include—

16 (1) an assessment of—

17 (A) current legal, regulatory, policy, and  
18 commercial practices of the United States with  
19 respect to the civilian nuclear industry of the  
20 United States; and

21 (B) the impacts of such practices on such  
22 civilian nuclear industry in the United States  
23 and in international markets;

24 (2) a comparison of the practices of the United  
25 States described in paragraph (1) to practices of for-

1       eign countries with respect to the civilian nuclear in-  
2       dustry of such countries;

3               (3) recommendations to improve the competi-  
4       tiveness of United States civil nuclear commerce;  
5       and

6               (4) options on how to apply section 170 of the  
7       Atomic Energy Act of 1954 (42 U.S.C. 2210) (com-  
8       monly known as the “Price-Anderson Act”) with re-  
9       spect to advanced nuclear technologies.

10 **SEC. 3. IMPROVEMENTS TO PART 810 PROCESS.**

11       (a) CLARIFICATION ON PROHIBITION OF DELEGA-  
12       TION.—Section 161 n. of the Atomic Energy Act of 1954  
13       (42 U.S.C. 2201(n)) is amended by striking “57 b.” and  
14       inserting “57 b. (only with respect to enrichment and re-  
15       processing of special nuclear material)”.

16       (b) EXPEDITED PROCEDURES.—Section 57 of such  
17       Act (42 U.S.C. 2077(d)) is amended by adding at the end  
18       the following new subsection:

19               “(f) EXPEDITED PROCEDURES.—

20                       “(1) ESTABLISHMENT.—In carrying out sub-  
21       section b.(2), the Secretary of Energy shall establish  
22       procedures for expedited consideration of requests  
23       for authorizations regarding the transfer of a tech-  
24       nology that involves a low-proliferation-risk reactor

1 activity described in paragraph (2) to a foreign  
2 country described in paragraph (3).

3 “(2) ACTIVITIES.—A low-proliferation-risk reac-  
4 tor activity described in this paragraph is an activity  
5 that meets each of following criteria:

6 “(A) The activity is listed in section  
7 810.2(b) of title 10, Code of Federal Regula-  
8 tions, as in effect on March 25, 2015.

9 “(B) The activity is not an activity requir-  
10 ing a specific authorization pursuant to section  
11 810.7(c) of such title, as in effect on such date.

12 “(C) The Secretary determines that the  
13 transfer (or retransfer) of a technology that in-  
14 volves the activity will not result in a significant  
15 increase of the risk of proliferation beyond such  
16 risk that exists at the time that the authoriza-  
17 tion is requested.

18 “(3) FOREIGN COUNTRIES.—A foreign country  
19 described in this paragraph is a foreign country—

20 “(A) that is not a nuclear-weapon state, as  
21 defined by Article IX(3) of the Treaty on the  
22 Non-Proliferation of Nuclear Weapons, signed  
23 at Washington, London, and Moscow on July 1,  
24 1968, other than the United Kingdom or  
25 France; and

1           “(B) with respect to which the Secretary  
2 determines under subsection b.(2) that a trans-  
3 fer to the country of a technology that involves  
4 a low-proliferation-risk reactor activity de-  
5 scribed in paragraph (2) of this subsection will  
6 not be inimical to the interest of the United  
7 States.

8           “(4) CONCURRENCE AND CONSULTATION.—The  
9 Secretary of Energy shall establish the procedures  
10 under paragraph (1) with the concurrence of the De-  
11 partment of State and after consultation with the  
12 Nuclear Regulatory Commission, the Department of  
13 Commerce, and the Department of Defense.

14           “(5) TIMING AND AVAILABILITY.—The proce-  
15 dures established under paragraph (1) shall—

16           “(A) ensure that each request is approved  
17 or denied by not later than 45 days after the  
18 later of—

19           “(i) the date on which the foreign  
20 country transmits any required assurances  
21 to the Department of State; or

22           “(ii) the date on which the inter-  
23 agency review under subsection b. is com-  
24 pleted; and

25           “(B) be publicly available.”.

1           (c) ASSURANCES.—Section 57 b.(2) of such Act (42  
2 U.S.C. 2077(b)(2)) is amended by inserting after “mecha-  
3 nisms.” the following new sentence: “To the extent prac-  
4 ticable, the Secretary of Energy shall continue to process  
5 such requests during such interagency review in a manner  
6 that enables the Secretary to make such determination as  
7 soon as practicable after the receipt of assurances by a  
8 foreign country to the Department of State, if any such  
9 assurances are required.”.

10           (d) SENSE OF CONGRESS ON e810.—It is the sense  
11 of Congress that—

12           (1) the Secretary of Energy should continue the  
13 ongoing Process Improvement Plan for authoriza-  
14 tions pursuant to section 57 b.(2) of the Atomic En-  
15 ergy Act of 1954 (42 U.S.C. 2077(b)(2)); and

16           (2) Congress is supportive of the progress made  
17 by the Secretary in such process and is especially in-  
18 terested in the continued work for the electronic sub-  
19 missions portal for such applications known as  
20 “e810”.

21 **SEC. 4. RISK POOLING PROGRAM.**

22           (a) REPORT.—Not later than 1 year after the date  
23 of enactment of this Act, the Comptroller General shall  
24 carry out a review of, and submit to the Committee on  
25 Energy and Commerce of the House of Representatives

1 and the Committee on Environment and Public Works of  
2 the Senate a report on, the Secretary of Energy's actions  
3 with respect to the program described in section 934(e)  
4 of the Energy Independence and Security Act of 2007 (42  
5 U.S.C. 17373(e)).

6 (b) CONTENTS.—The report described in subsection  
7 (a) shall include—

8 (1) an assessment of the Secretary of Energy's  
9 actions to determine the risk-informed assessment  
10 formula under section 934(e)(2)(C) of the Energy  
11 Independence and Security Act of 2007;

12 (2) a review of the Secretary of Energy's meth-  
13 odology to collect information to determine and im-  
14 plement the formula; and

15 (3) an evaluation of the program described in  
16 section 934(e) of the Energy Independence and Se-  
17 curity Act of 2007 (42 U.S.C. 17373(e)), including  
18 the Secretary of Energy's actions with respect to  
19 such program.

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