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.

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.

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

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SEC. 2. REVIEW OF CIVIL NUCLEAR COMMERCE.

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

(b) CONSULTATION.—In developing the report required under subsection (a), the Secretary of Energy shall consult with—

(1) the Secretary of State;

(2) the Secretary of Commerce;

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

(4) the Nuclear Regulatory Commission.

(c) CONTENTS.—The report required under subsection (a) shall include—

(1) an assessment of—

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

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

(2) a comparison of the practices of the United States described in paragraph (1) to practices of for-
eign countries with respect to the civilian nuclear in-
dustry of such countries;

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

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

SEC. 3. IMPROVEMENTS TO PART 810 PROCESS.

(a) Clarification on Prohibition of Delegation.—Section 161 n. of the Atomic Energy Act of 1954
(42 U.S.C. 2201(n)) is amended by striking “57 b.” and
inserting “57 b. (only with respect to enrichment and re-
processing of special nuclear material)”.

(b) Expedited Procedures.—Section 57 of such
Act (42 U.S.C. 2077(d)) is amended by adding at the end
the following new subsection:

“(f) Expedited Procedures.—

“(1) Establishment.—In carrying out sub-
section b.(2), the Secretary of Energy shall establish
procedures for expedited consideration of requests
for authorizations regarding the transfer of a tech-
nology that involves a low-proliferation-risk reactor
activity described in paragraph (2) to a foreign
country described in paragraph (3).

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

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

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

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

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

“(A) that is not a nuclear-weapon state, as
defined by Article IX(3) of the Treaty on the
Non-Proliferation of Nuclear Weapons, signed
at Washington, London, and Moscow on July 1,
1968, other than the United Kingdom or
France; and
“(B) with respect to which the Secretary determines under subsection b.(2) that a transfer to the country of a technology that involves a low-proliferation-risk reactor activity described in paragraph (2) of this subsection will not be inimical to the interest of the United States.

“(4) CONCURRENCE AND CONSULTATION.—The Secretary of Energy shall establish the procedures under paragraph (1) with the concurrence of the Department of State and after consultation with the Nuclear Regulatory Commission, the Department of Commerce, and the Department of Defense.

“(5) TIMING AND AVAILABILITY.—The procedures established under paragraph (1) shall—

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

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

“(ii) the date on which the interagency review under subsection b. is completed; and

“(B) be publicly available.”.
(c) ASSURANCES.—Section 57 b.(2) of such Act (42 U.S.C. 2077(b)(2)) is amended by inserting after “mechanisms.” the following new sentence: “To the extent practicable, the Secretary of Energy shall continue to process such requests during such interagency review in a manner that enables the Secretary to make such determination as soon as practicable after the receipt of assurances by a foreign country to the Department of State, if any such assurances are required.”.

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

(1) the Secretary of Energy should continue the ongoing Process Improvement Plan for authorizations pursuant to section 57 b.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2077(b)(2)); and

(2) Congress is supportive of the progress made by the Secretary in such process and is especially interested in the continued work for the electronic submissions portal for such applications known as “e810”.

SEC. 4. RISK POOLING PROGRAM.

(a) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall carry out a review of, and submit to the Committee on Energy and Commerce of the House of Representatives
and the Committee on Environment and Public Works of the Senate a report on, the Secretary of Energy’s actions with respect to the program described in section 934(e) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17373(e)).

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

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

(2) a review of the Secretary of Energy’s methodology to collect information to determine and implement the formula; and

(3) an evaluation of the program described in section 934(e) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17373(e)), including the Secretary of Energy’s actions with respect to such program.