

115TH CONGRESS
1ST SESSION

H. R. 431

To enable civilian research and development of advanced nuclear energy technologies by private and public institutions, to expand theoretical and practical knowledge of nuclear physics, chemistry, and materials science, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 11, 2017

Mr. WEBER of Texas (for himself, Mr. KNIGHT, Mr. SMITH of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LUCAS, Mr. LIPINSKI, Mr. CULBERSON, Mr. TONKO, Mr. BRIDENSTINE, Mr. PERLMUTTER, Mr. SCHWEIKERT, Mr. GARAMENDI, Mr. PETERS, Mr. HULTGREN, and Mr. ROHRABACHER) introduced the following bill; which was referred to the Committee on Science, Space, and Technology

A BILL

To enable civilian research and development of advanced nuclear energy technologies by private and public institutions, to expand theoretical and practical knowledge of nuclear physics, chemistry, and materials science, 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 “Nuclear Energy Inno-
5 vation Capabilities Act of 2017”.

1 **SEC. 2. NUCLEAR ENERGY INNOVATION CAPABILITIES.**

2 (a) NUCLEAR ENERGY.—Section 951 of the Energy
3 Policy Act of 2005 (42 U.S.C. 16271) is amended to read
4 as follows:

5 **“SEC. 951. NUCLEAR ENERGY.**

6 “(a) MISSION.—

7 “(1) IN GENERAL.—The Secretary shall carry
8 out programs of civilian nuclear research, develop-
9 ment, demonstration, and commercial application,
10 including activities under this subtitle.

11 “(2) CONSIDERATIONS.—The programs carried
12 out under paragraph (1) shall take into consider-
13 ation the following objectives:

14 “(A) Providing research infrastructure to
15 promote scientific progress and enable users
16 from academia, the National Laboratories, and
17 the private sector to make scientific discoveries
18 relevant for nuclear, chemical, and materials
19 science engineering.

20 “(B) Maintaining nuclear energy research
21 and development programs at the National
22 Laboratories and institutions of higher edu-
23 cation, including infrastructure at the National
24 Laboratories and institutions of higher edu-
25 cation.

1 “(C) Providing the technical means to re-
2 duce the likelihood of nuclear proliferation.

3 “(D) Increasing confidence margins for
4 public safety of nuclear energy systems.

5 “(E) Reducing the environmental impact
6 of activities relating to nuclear energy.

7 “(F) Supporting technology transfer from
8 the National Laboratories to the private sector.

9 “(G) Enabling the private sector to part-
10 ner with the National Laboratories to dem-
11 onstrate novel reactor concepts for the purpose
12 of resolving technical uncertainty associated
13 with the objectives described in subparagraphs
14 (A) through (F).

15 “(b) DEFINITIONS.—In this subtitle:

16 “(1) ADVANCED NUCLEAR REACTOR.—The
17 term ‘advanced nuclear reactor’ means—

18 “(A) a nuclear fission reactor with signifi-
19 cant improvements over the most recent genera-
20 tion of nuclear fission reactors, which may in-
21 clude—

22 “(i) inherent safety features;

23 “(ii) lower waste yields;

24 “(iii) greater fuel utilization;

25 “(iv) superior reliability;

1 “(v) resistance to proliferation;
2 “(vi) increased thermal efficiency; and
3 “(vii) the ability to integrate into elec-
4 tric and nonelectric applications; or
5 “(B) a nuclear fusion reactor.

6 “(2) COMMISSION.—The term ‘Commission’
7 means the Nuclear Regulatory Commission.

8 “(3) FAST NEUTRON.—The term ‘fast neutron’
9 means a neutron with kinetic energy above 100
10 kiloelectron volts.

11 “(4) NATIONAL LABORATORY.—

12 “(A) IN GENERAL.—Except as provided in
13 subparagraph (B), the term ‘National Labora-
14 tory’ has the meaning given the term in section
15 2.

16 “(B) LIMITATION.—With respect to the
17 Lawrence Livermore National Laboratory, the
18 Los Alamos National Laboratory, and the
19 Sandia National Laboratories, the term ‘Na-
20 tional Laboratory’ means only the civilian ac-
21 tivities of the laboratory.

22 “(5) NEUTRON FLUX.—The term ‘neutron flux’
23 means the intensity of neutron radiation measured
24 as a rate of flow of neutrons applied over an area.

1 “(6) NEUTRON SOURCE.—The term ‘neutron
2 source’ means a research machine that provides neu-
3 tron irradiation services for—

4 “(A) research on materials sciences and
5 nuclear physics; and

6 “(B) testing of advanced materials, nuclear
7 fuels, and other related components for reactor
8 systems.”.

9 (b) NUCLEAR ENERGY RESEARCH PROGRAMS.—

10 (1) IN GENERAL.—Section 952 of the Energy
11 Policy Act of 2005 (42 U.S.C. 16272) is amended—

12 (A) by striking subsection (c); and

13 (B) by redesignating subsections (d) and
14 (e) as subsections (c) and (d), respectively.

15 (2) CONFORMING AMENDMENT.—Section
16 641(b)(1) of the Energy Policy Act of 2005 (42
17 U.S.C. 16021(b)(1)) is amended by striking “section
18 942(d)” and inserting “section 952(c)”.

19 (c) ADVANCED FUEL CYCLE INITIATIVE.—Section
20 953(a) of the Energy Policy Act of 2005 (42 U.S.C.
21 16273(a)) is amended by striking “, acting through the
22 Director of the Office of Nuclear Energy, Science and
23 Technology,”.

24 (d) UNIVERSITY NUCLEAR SCIENCE AND ENGINEER-
25 ING SUPPORT.—Section 954(d)(4) of the Energy Policy

1 Act of 2005 (42 U.S.C. 16274(d)(4)) is amended by strik-
2 ing “as part of a taking into consideration effort that em-
3 phasizes” and inserting “that emphasize”.

4 (e) DEPARTMENT OF ENERGY CIVILIAN NUCLEAR
5 INFRASTRUCTURE AND FACILITIES.—Section 955 of the
6 Energy Policy Act of 2005 (42 U.S.C. 16275) is amend-
7 ed—

8 (1) by striking subsections (c) and (d); and

9 (2) by adding at the end the following:

10 “(c) VERSATILE NEUTRON SOURCE.—

11 “(1) MISSION NEED.—

12 “(A) IN GENERAL.—Not later than De-
13 cember 31, 2017, the Secretary shall determine
14 the mission need for a versatile reactor-based
15 fast neutron source, which shall operate as a
16 national user facility.

17 “(B) CONSULTATIONS REQUIRED.—In car-
18 rying out subparagraph (A), the Secretary shall
19 consult with the private sector, institutions of
20 higher education, the National Laboratories,
21 and relevant Federal agencies to ensure that
22 the user facility described in subparagraph (A)
23 will meet the research needs of the largest prac-
24 ticable majority of prospective users.

1 “(2) ESTABLISHMENT.—As soon as practicable
2 after determining the mission need under paragraph
3 (1)(A), the Secretary shall submit to the appropriate
4 committees of Congress a detailed plan for the es-
5 tablishment of the user facility.

6 “(3) FACILITY REQUIREMENTS.—

7 “(A) CAPABILITIES.—The Secretary shall
8 ensure that the user facility will provide, at a
9 minimum, the following capabilities:

10 “(i) Fast neutron spectrum irradi-
11 tion capability.

12 “(ii) Capacity for upgrades to accom-
13 modate new or expanded research needs.

14 “(B) CONSIDERATIONS.—In carrying out
15 the plan submitted under paragraph (2), the
16 Secretary shall consider the following:

17 “(i) Capabilities that support experi-
18 mental high-temperature testing.

19 “(ii) Providing a source of fast neu-
20 trons at a neutron flux, higher than that
21 at which current research facilities operate,
22 sufficient to enable research for an optimal
23 base of prospective users.

1 “(iii) Maximizing irradiation flexibility
2 and irradiation volume to accommodate as
3 many concurrent users as possible.

4 “(iv) Capabilities for irradiation with
5 neutrons of a lower energy spectrum.

6 “(v) Multiple loops for fuels and ma-
7 terials testing in different coolants.

8 “(vi) Additional pre-irradiation and
9 post-irradiation examination capabilities.

10 “(vii) Lifetime operating costs and
11 lifecycle costs.

12 “(4) DEADLINE FOR ESTABLISHMENT.—The
13 Secretary shall, to the maximum extent practicable,
14 complete construction of, and approve the start of
15 operations for, the user facility by not later than De-
16 cember 31, 2025.

17 “(5) REPORTING.—The Secretary shall include
18 in the annual budget request of the Department an
19 explanation for any delay in the progress of the De-
20 partment in completing the user facility by the dead-
21 line described in paragraph (4).

22 “(6) COORDINATION.—The Secretary shall le-
23 verage the best practices for management, construc-
24 tion, and operation of national user facilities from
25 the Office of Science.”.

1 (f) SECURITY OF NUCLEAR FACILITIES.—Section
2 956 of the Energy Policy Act of 2005 (42 U.S.C. 16276)
3 is amended by striking “, acting through the Director of
4 the Office of Nuclear Energy, Science and Technology,”.

5 (g) HIGH-PERFORMANCE COMPUTATION AND SUP-
6 PORTIVE RESEARCH.—Section 957 of the Energy Policy
7 Act of 2005 (42 U.S.C. 16277) is amended to read as
8 follows:

9 **“SEC. 957. HIGH-PERFORMANCE COMPUTATION AND SUP-**
10 **PORTIVE RESEARCH.**

11 “(a) MODELING AND SIMULATION.—The Secretary
12 shall carry out a program to enhance the capabilities of
13 the United States to develop new reactor technologies
14 through high-performance computation modeling and sim-
15 ulation techniques.

16 “(b) COORDINATION.—In carrying out the program
17 under subsection (a), the Secretary shall coordinate with
18 relevant Federal agencies as described by the National
19 Strategic Computing Initiative established by Executive
20 Order 13702 (80 Fed. Reg. 46177 (July 29, 2015)), while
21 taking into account the following objectives:

22 “(1) Using expertise from the private sector, in-
23 stitutions of higher education, and the National
24 Laboratories to develop computational software and
25 capabilities that prospective users may access to ac-

1 celerate research and development of advanced nu-
 2 clear reactor systems and reactor systems for space
 3 exploration.

4 “(2) Developing computational tools to simulate
 5 and predict nuclear phenomena that may be vali-
 6 dated through physical experimentation.

7 “(3) Increasing the utility of the research infra-
 8 structure of the Department by coordinating with
 9 the Advanced Scientific Computing Research pro-
 10 gram within the Office of Science.

11 “(4) Leveraging experience from the Energy In-
 12 novation Hub for Modeling and Simulation.

13 “(5) Ensuring that new experimental and com-
 14 putational tools are accessible to relevant research
 15 communities, including private sector entities en-
 16 gaged in nuclear energy technology development.

17 “(c) SUPPORTIVE RESEARCH ACTIVITIES.—The Sec-
 18 retary shall consider support for additional research activi-
 19 ties to maximize the utility of the research facilities of the
 20 Department, including physical processes—

21 “(1) to simulate degradation of materials and
 22 behavior of fuel forms; and

23 “(2) for validation of computational tools.”.

24 (h) ENABLING NUCLEAR ENERGY INNOVATION.—
 25 Subtitle E of title IX of the Energy Policy Act of 2005

1 (42 U.S.C. 16271 et seq.) is amended by adding at the
2 end the following:

3 **“SEC. 958. ENABLING NUCLEAR ENERGY INNOVATION.**

4 “(a) NATIONAL REACTOR INNOVATION CENTER.—

5 There is authorized a program to enable the testing and
6 demonstration of reactor concepts to be proposed and
7 funded, in whole or in part, by the private sector.

8 “(b) TECHNICAL EXPERTISE.—In carrying out the
9 program under subsection (a), the Secretary shall leverage
10 the technical expertise of relevant Federal agencies and
11 the National Laboratories in order to minimize the time
12 required to enable construction and operation of privately
13 funded experimental reactors at National Laboratories or
14 other Department-owned sites.

15 “(c) OBJECTIVES.—The reactors described in sub-
16 section (b) shall operate to meet the following objectives:

17 “(1) Enabling physical validation of advanced
18 nuclear reactor concepts.

19 “(2) Resolving technical uncertainty and in-
20 creasing practical knowledge relevant to safety, resil-
21 ience, security, and functionality of advanced nuclear
22 reactor concepts.

23 “(3) General research and development to im-
24 prove nascent technologies.

1 “(d) SHARING TECHNICAL EXPERTISE.—In carrying
2 out the program under subsection (a), the Secretary may
3 enter into a memorandum of understanding with the
4 Chairman of the Commission in order to share technical
5 expertise and knowledge through—

6 “(1) enabling the testing and demonstration of
7 advanced nuclear reactor concepts to be proposed
8 and funded, in whole or in part, by the private sec-
9 tor;

10 “(2) operating a database to store and share
11 data and knowledge relevant to nuclear science and
12 engineering between Federal agencies and the pri-
13 vate sector;

14 “(3) developing and testing electric and non-
15 electric integration and energy conversion systems
16 relevant to advanced nuclear reactors;

17 “(4) leveraging expertise from the Commission
18 with respect to safety analysis; and

19 “(5) enabling technical staff of the Commission
20 to actively observe and learn about technologies de-
21 veloped under the program.

22 “(e) AGENCY COORDINATION.—The Chairman of the
23 Commission and the Secretary shall enter into a memo-
24 randum of understanding regarding the following:

25 “(1) Ensuring that—

1 “(A) the Department has sufficient tech-
2 nical expertise to support the timely research,
3 development, demonstration, and commercial
4 application by the civilian nuclear industry of
5 safe and innovative advanced nuclear reactor
6 technology; and

7 “(B) the Commission has sufficient tech-
8 nical expertise to support the evaluation of ap-
9 plications for licenses, permits, and design cer-
10 tifications and other requests for regulatory ap-
11 proval for advanced nuclear reactors.

12 “(2) The use of computers and software codes
13 to calculate the behavior and performance of ad-
14 vanced nuclear reactors based on mathematical mod-
15 els of the physical behavior of advanced nuclear re-
16 actors.

17 “(3) Ensuring that—

18 “(A) the Department maintains and devel-
19 ops the facilities necessary to enable the timely
20 research, development, demonstration, and com-
21 mercial application by the civilian nuclear in-
22 dustry of safe and innovative reactor tech-
23 nology; and

1 “(B) the Commission has access to the fa-
2 cilities described in subparagraph (A), as need-
3 ed.

4 “(f) REPORTING REQUIREMENTS.—

5 “(1) IN GENERAL.—Not later than 180 days
6 after the date of enactment of the Nuclear Energy
7 Innovation Capabilities Act of 2017, the Secretary,
8 in consultation with the National Laboratories, rel-
9 evant Federal agencies, and other stakeholders, shall
10 submit to the appropriate committees of Congress a
11 report assessing the capabilities of the Department
12 to authorize, host, and oversee privately funded ex-
13 perimental advanced nuclear reactors as described in
14 subsection (b).

15 “(2) CONTENTS.—The report submitted under
16 paragraph (1) shall address—

17 “(A) the safety review and oversight capa-
18 bilities of the Department, including options to
19 leverage expertise from the Commission and the
20 National Laboratories;

21 “(B) options to regulate privately proposed
22 and funded experimental reactors hosted by the
23 Department;

1 “(C) potential sites capable of hosting pri-
2 vately funded experimental advanced nuclear re-
3 actors;

4 “(D) the efficacy of the available contrac-
5 tual mechanisms of the Department to partner
6 with the private sector and Federal agencies,
7 including cooperative research and development
8 agreements, strategic partnership projects, and
9 agreements for commercializing technology;

10 “(E) the liability of the Federal Govern-
11 ment with respect to the disposal of low-level
12 radioactive waste, spent nuclear fuel, or high-
13 level radioactive waste (as those terms are de-
14 fined in section 2 of the Nuclear Waste Policy
15 Act of 1982 (42 U.S.C. 10101));

16 “(F) the impact on the aggregate inven-
17 tory in the United States of low-level radio-
18 active waste, spent nuclear fuel, or high-level
19 radioactive waste (as those terms are defined in
20 section 2 of the Nuclear Waste Policy Act of
21 1982 (42 U.S.C. 10101));

22 “(G) potential cost structures relating to
23 physical security, decommissioning, liability,
24 and other long-term project costs; and

1 “(H) other challenges or considerations
2 identified by the Secretary.

3 “(3) UPDATES.—Once every 2 years, the Sec-
4 retary shall update relevant provisions of the report
5 submitted under paragraph (1) and submit to the
6 appropriate committees of Congress the update.

7 “(g) SAVINGS CLAUSES.—

8 “(1) LICENSING REQUIREMENT.—Nothing in
9 this section authorizes the Secretary or any person
10 to construct or operate a nuclear reactor for the pur-
11 pose of demonstrating the suitability for commercial
12 application of the nuclear reactor unless licensed by
13 the Commission in accordance with section 202 of
14 the Energy Reorganization Act of 1974 (42 U.S.C.
15 5842).

16 “(2) FINANCIAL PROTECTION.—Any activity
17 carried out under this section that involves the risk
18 of public liability shall be subject to the financial
19 protection or indemnification requirements of section
20 170 of the Atomic Energy Act of 1954 (42 U.S.C.
21 2210) (commonly known as the ‘Price-Anderson
22 Act’).”.

23 (i) BUDGET PLAN.—Subtitle E of title IX of the En-
24 ergy Policy Act of 2005 (42 U.S.C. 16271 et seq.) (as

1 amended by subsection (h)) is amended by adding at the
2 end the following:

3 **“SEC. 959. BUDGET PLAN.**

4 “(a) IN GENERAL.—Not later than 1 year after the
5 date of enactment of the Nuclear Energy Innovation Ca-
6 pabilities Act of 2017, the Secretary shall submit to the
7 Committee on Energy and Natural Resources of the Sen-
8 ate and the Committee on Science, Space, and Technology
9 of the House of Representatives 2 alternative 10-year
10 budget plans for civilian nuclear energy research and de-
11 velopment by the Secretary, as described in subsections
12 (b) through (d).

13 “(b) BUDGET PLAN ALTERNATIVE 1.—One of the
14 budget plans submitted under subsection (a) shall assume
15 constant annual funding for 10 years at the appropriated
16 level for the civilian nuclear energy research and develop-
17 ment of the Department for fiscal year 2016.

18 “(c) BUDGET PLAN ALTERNATIVE 2.—One of the
19 budget plans submitted under subsection (a) shall be an
20 unconstrained budget.

21 “(d) INCLUSIONS.—Each alternative budget plan
22 submitted under subsection (a) shall include—

23 “(1) a prioritized list of the programs, projects,
24 and activities of the Department to best support the

1 development of advanced nuclear reactor tech-
2 nologies;

3 “(2) realistic budget requirements for the De-
4 partment to implement sections 955(c), 957, and
5 958; and

6 “(3) the justification of the Department for
7 continuing or terminating existing civilian nuclear
8 energy research and development programs.”.

9 (j) CONFORMING AMENDMENTS.—The table of con-
10 tents for the Energy Policy Act of 2005 is amended by
11 striking the item relating to section 957 and inserting the
12 following:

“957. High-performance computation and supportive research.

“958. Enabling nuclear energy innovation.

“959. Budget plan.”.

