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MARKUP OF H.R. 1320, NUCLEAR UTILIZATION OF
KEYNOTE ENERGY ACT; H.R. 6140, ADVANCED
NUCLEAR FUEL AVAILABILITY ACT; H.R. _____,
ADVANCING U.S. CIVIL NUCLEAR COMPETITIVENESS
AND JOBS ACT; AND H.R. 6141, TO REQUIRE THE
SECRETARY OF ENERGY TO DEVELOP A REPORT ON A
PILOT PROGRAM TO SITE, CONSTRUCT, AND
OPERATE MICRO-REACTORS AT CRITICAL NATIONAL
SECURITY LOCATIONS, AND FOR OTHER PURPOSES
THURSDAY, JUNE 21, 2018

House of Representatives

Subcommittee on Energy

Committee on Energy and Commerce

Washington, D.C.

The subcommittee met, pursuant to call, at 10:00 a.m., in
Room 2123 Rayburn House Office Building, Hon. Fred Upton [chairman
of the subcommittee] presiding.

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26 Members present: Representatives Upton, Olson, Barton,
27 Shimkus, Latta, Harper, McKinley, Kinzinger, Griffith, Johnson,
28 Long, Bucshon, Flores, Mullin, Hudson, Cramer, Walberg, Duncan,
29 Walden (ex officio), Rush, McNerney, Peters, Green, Doyle,
30 Castor, Sarbanes, Welch, Tonko, Loeb sack, Schrader, Kennedy,
31 Butterfield, and Pallone (ex officio).

32 Staff present: Jennifer Barblan, Chief Counsel, Oversight
33 & Investigations; Mike Bloomquist, Deputy Staff Director;
34 Samantha Bopp, Staff Assistant; Daniel Butler, Staff Assistant;
35 Karen Christian, General Counsel; Kelly Collins, Legislative
36 Clerk, Energy/Environment; Margaret Tucker Fogarty, Staff
37 Assistant; Adam Fromm, Director of Outreach and Coalitions; Ali
38 Fulling, Legislative Clerk, Oversight & Investigations, Digital
39 Commerce and Consumer Protection; Theresa Gambo, Human
40 Resources/Office Administrator; Jordan Haverly, Policy
41 Coordinator, Environment; Peter Kielty, Deputy General Counsel;
42 Mary Martin, Chief Counsel, Energy/Environment; Sarah Matthews,
43 Press Secretary; Brandon Mooney, Deputy Chief Counsel, Energy;
44 Mark Ratner, Policy Coordinator; Peter Spencer, Professional
45 Staff Member, Energy; Austin Stonebraker, Press Assistant;
46 Madeline Vey, Policy Coordinator, Digital Commerce and Consumer
47 Protection; Evan Viau, Legislative Clerk, Communications &
48 Technology; Hamlin Wade, Special Advisor, External Affairs; Andy
49 Zach, Senior Professional Staff Member, Environment; Jeff
50 Carroll, Minority Staff Director; Elizabeth Ertel, Minority

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51 Deputy Clerk; Rick Kessler, Minority Senior Advisor and Staff
52 Director, Energy and Environment; John Marshall, Minority Policy
53 Coordinator; Dan Miller, Minority Policy Analyst; Alexander
54 Ratner, Minority Policy Analyst; Tim Robinson, Minority Chief
55 Counsel; Tuley Wright, Minority Energy and Environment Policy
56 Advisor; and Catherine Zander, Minority Environment Fellow.

57 Mr. Upton. Good morning, everybody. Welcome to the
58 Subcommittee on Energy markup of four bills addressing the
59 development, deployment, competitiveness, and regulation of
60 nuclear energy technologies.

61 You know, throughout this Congress we have repeatedly heard
62 about the immense challenges facing all parts of our nation's
63 nuclear industry. And while individual states have taken steps
64 to preserve specific nuclear power plants, the underlying
65 intellectual and industrial nuclear infrastructure is at risk
66 of further atrophy in the absence of a coherent and defined policy
67 from the federal government.

68 The bills today take some important steps to establish that
69 policy. At a hearing on these four bills last month, the
70 Department of Energy's Office of Nuclear Energy, the National
71 Nuclear Security Administration, and industry leaders discussed
72 the urgent need to take action now due to the time-consuming and
73 complex requirements associated with licensing and developing
74 nuclear facilities.

75 So the bills before us address that need. They have been
76 developed in coordination with feedback from members of this
77 committee, the Department of Energy and NRC, and a broad range
78 of stakeholders. I look forward to continuing bipartisan
79 collaboration to advance these four proposals. The first
80 proposal that we are going to consider this morning is the
81 committee print titled Advancing U.S. Civil Nuclear

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Competitiveness and Jobs Act offered by Congressman Johnson. This bill will assist our U.S. nuclear industry's ability to compete successfully in an increasingly competitive global market. The proposal provides a more predictable and efficient authorization process for the review and approval of low proliferation risks and technologies, and such steps will help level the playing field for American companies in the international competition of nuclear energy.

The next bill, H.R. 1320, the Nuclear Utilization of Keynote Energy, or NUKE Act, is a bipartisan bill sponsored by Representative Kinzinger and Doyle to make targeted reforms to the NRC's fee structure and streamline certain licensing and regulatory actions. This bill will increase transparency, predictability, and efficiency in the regulatory process which, for sure, will benefit our constituents who fund the NRC through user fees embedded in the cost of nuclear generated electricity.

The more efficient streamlined decisionmaking process established by this legislation will lay the groundwork for more predictable timing for our current and future nuclear infrastructure. Advanced Nuclear Fuel Availability Act, H.R. 6140, is a bipartisan bill introduced by Representatives Flores and McNerney to direct the Secretary of Energy to establish a program to make high-assay, low-enriched uranium available for use in the first of a kind advanced nuclear reactor design. This fuel will enable the development and deployment of a new

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107 generation of innovative nuclear technologies in the U.S.

108 And, lastly, H.R. 6141, a bipartisan bill again sponsored
109 by Representatives Hudson, Peters, Wilson, and Norcross directs
110 the Secretary of Energy in collaboration with the NRC, Department
111 of Defense, and GSA to identify key components of a pilot program
112 to site, construct, and operate very small nuclear reactors known
113 as microreactors to provide energy resilience for
114 mission-critical national security functions. Such a pilot
115 program could capture some of the unique and revolutionary
116 characteristics of tomorrow's nuclear reactor designs and provide
117 additional benefits for revitalizing the U.S. nuclear industry.

118 More work remains to be done to reassert the global
119 leadership of American nuclear know-how for the next generation,
120 but this legislation before us today is a good and essential step
121 towards a multifaceted strategy.

122 I yield for an opening statement to the ranking member of
123 the subcommittee, my friend Mr. Rush from Chicago.

124 Mr. Rush. I want to thank you, Mr. Chairman.

125 Mr. Chairman, before I get into this suite of nuclear bills
126 that is before us today, I just want to reiterate my position
127 that I touched on in yesterday's hearing. As I mentioned, Mr.
128 Chairman, Ranking Member Pallone and I along with all 24
129 Democratic members of the full committee, sent a letter to
130 Chairman Walden and Health Subcommittee Chairman Burgess on
131 yesterday requesting an immediate hearing on the Trump

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administration's misguided policy of separating immigrant children from their parents at our southern border. While the President, Mr. Chairman, may have suddenly shifted his stance and signed an executive order undoing this abominable policy for the time being, who knows when he might change his mind on a whim and reverse himself once again. Mr. Chairman, it is critical that we hear from key Administration officials on how this loathsome policy came about. More importantly, as the elected representatives we need answers on how many of these children were ripped from their parents, where are all of these children now, and what is the Administration's procedure for assuring that all of these babies will indeed be reunited with their parents.

This is an important issue that is of the utmost concern to many, if not all, Americans regardless of their political leanings or religious affiliations, so hopefully we can schedule this hearing sooner rather than later.

With that being said, Mr. Chairman, as I stated in the hearing on these four nuclear bills, it is my desire that we work with the majority side to attempt to find consensus so that these bills are forwarded on the full committee with bipartisan support.

Mr. Chairman, the most problematic of these three bills, four bills, rather, for me is the Advancing U.S. Civil Nuclear Competitiveness and Jobs Act. This bill will, among other things, revise DOE's review of the Part 810 process by expediting procedures for transferring civilian nuclear technology

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157 including to foreign powers. I can tell you, Mr. Chairman that
158 I have even less confidence in the Trump administration than I
159 had a few weeks ago when we held a hearing on this bill so I do
160 not see the wisdom in this moving this bill at this time.

161 With that Mr. Chairman, I yield back the balance of time.

162 Mr. Upton. The gentleman's time is expired. The chair
163 would recognize for an opening statement the chairman of the full
164 committee, Mr. Walden.

165 The Chairman. I thank the gentleman from Michigan for his
166 leadership and for acknowledging me on these energy issues. Good
167 job to the committee. This morning we are going to continue to
168 advance our legislative efforts to modernize the Department of
169 Energy to better reflect the Department's current national and
170 energy security missions. Now throughout this Congress, as
171 you all know, we have sought specific DOE authorities to update
172 in light of an ever-changing energy landscape and evolving
173 national security threats. Today's subcommittee markup
174 continues these efforts; also includes modernizing nuclear
175 policies that Congress originally embedded in DOE's predecessor
176 agency, the Atomic Energy Commission. When the Atomic Energy
177 Act was amended in 1954, those authorities now reside at both
178 DOE and the Nuclear Regulatory Commission.

179 Our nation's expertise in nuclear energy from safely
180 operating reactors to the application of technology to the strong
181 regulatory regime is the best in the world. However, our foreign

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competitors are making strategic investments to directly support their respective nuclear interests to gain an advantage in emerging markets. So we should recognize that foreign government support for expansion of their nuclear industries into new markets is driven by more than economic interest. There are profound national security and strategic implications for dominance in the civil nuclear space and so we must appropriately consider the implications of losing our leadership position in developing markets and align our national policy accordingly. The thoughtful legislative proposals we will consider this morning target specific challenges facing America's nuclear scientists, innovators, suppliers, and reactor operators. So the bills will help deploy advanced nuclear technologies, enhance our nuclear supplier industry's ability to effectively compete in global markets, and establish transparency and predictability in our regulatory framework. Each of these bills can help reinvigorate different components of our nuclear ecosystem and in doing so the legislation will facilitate innovation and competition which provides the dual benefits of both being good for consumers while protecting our national security interests.

So I really want to thank members on both sides of the aisle who worked on these bills, including Representatives Kinzinger and Doyle, Hudson, Peters, Flores and McNerney, and Johnson. Your leadership has really made a difference and we are going to move these common sense, bipartisan policies forward. It is

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207 appreciated.

208 Thank you for your work and I look forward to supporting
209 this effort. I yield back the balance of my time.

210 Mr. Upton. The gentleman yields back. The chair would
211 recognize the ranking member of the full committee, Mr. Pallone.

212 Mr. Pallone. Thank you, Mr. Chairman.

213 Today the subcommittee will markup our four nuclear energy
214 bills. At the legislative hearing in May, I expressed concern
215 with two of the proposals before us. First, the Advancing U.S.
216 Civil Nuclear Competitiveness and Jobs Act makes changes to the
217 Part 810 process by which the Secretary of Energy authorizes the
218 transfer of nuclear energy technology and assistance to foreign
219 countries.

220 The bill establishes a brief 30-day timeframe for the
221 Secretary to approve the transfer of certain nuclear technologies
222 to countries that are not nuclear weapon states and I am
223 uncomfortable with expediting the review process for Part 810
224 at a time when there is so much global uncertainty with regard
225 to nuclear proliferation.

226 H.R. 1320 introduced by Representatives Kinzinger and Doyle
227 makes several major changes to the NRC budgeting process and fee
228 structure and I have concerns with the provision of the bill that
229 sets up an expedited timeline for NRC review of nuclear reactors
230 because inflexible deadlines could jeopardize the environmental
231 and safety review process for more complex applications. And

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232 I am also concerned with a provision requiring NRC to issue a
233 construction permit for a nuclear facility even if an entity has
234 filed a formal request for a hearing objecting to the project.

235 And I think stakeholders should have a chance to voice their
236 concerns publicly before a project permit is issued.

237 But despite those concerns, I appreciate our colleagues'
238 efforts to address the financial strain currently facing the
239 nuclear industry and I want to continue to work with them on this
240 bill.

241 But if I could just say I want to reiterate in the time I
242 have left what Ranking Member Bobby Rush said about the children
243 separation. I would strongly request that this committee hold
244 a hearing immediately on the President's family separation policy
245 that has led to more than 2,300 children being separated from
246 their parents. I hope yesterday's executive order puts an end
247 to the barbaric separation of families.

248 But I am concerned that these families will continue to face
249 inhumane treatment at the hands of the Trump administration.
250 All of us on this committee should demand that the Administration
251 must now immediately reunite each of the more 2,300 children who
252 have already been separated from their parents. I actually saw
253 some of them this Sunday on Father's Day and I think the Department
254 HHS has been sending conflicting signals as to whether it will
255 reunite these families.

256 I know that every Democrat on this committee made a request

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257 to Chairman Walden and Burgess for a hearing as soon as possible,
258 so I was just going to ask if I could, Mr. Chairman -- well, I
259 guess he left. All right, well. All right, let me just say that
260 we are hoping and I am going to follow up with both Chairman Walden
261 and Chairman Burgess to see if we can have a hearing as soon as
262 possible because I think this policy has created real trauma for
263 thousands of kids and we have to get answers from the Department
264 of Health and Human Services.

265 Thank you, Mr. Chairman.

266 Mr. Upton. Thank you.

267 I would note for all members that their opening statements
268 could be made part of the record as a UC. Are there other members
269 wishing to give an opening statement?

270 Seeing none on the Republican side, on the Democratic side?

271 The gentleman from California is recognized for an opening
272 statement.

273 Mr. Peters. Thank you, Mr. Chairman, just briefly. I
274 appreciate having my bill, H.R. 6141, on the agenda for the markup
275 today following a successful legislative hearing in May and I
276 thank Mr. Hudson for his work on the bill.

277 As I have said before, our nuclear energy technologies are
278 an important part of increasing zero emission energy sources.

279 We need this energy generation and the clean air standards that
280 they can help us achieve. We also need to ensure those energy
281 solutions are being best utilized by our armed forces. Just this

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282 week, in fact, I spoke to the Association of Defense Communities
283 about the future of energy use in the military and this importance
284 cannot be stressed enough.

285 This bill would direct the Department of Defense and the
286 Department of Energy to work together in analyzing how
287 microreactors can bolster energy resiliency for national
288 security. Doing so is an important step in developing the energy
289 resources our armed forces need. In my home district in San Diego
290 the DOD has been a willing and helpful partner in developing and
291 testing innovative energy resources and I think the partnership
292 in this bill makes sense and I appreciate my colleagues'
293 supportive vote on it today and I yield back. Mr. Upton.
294 The gentleman yields back. The chair would recognize Mr. Johnson
295 for an opening statement.

296 Mr. Johnson. Thank you, Mr. Chairman, for convening this
297 important markup today relating to nuclear energy. I would like
298 to briefly highlight one of the four important bills, a discussion
299 draft titled The Advancing U.S. Nuclear Competitiveness and Jobs
300 Act.

301 The Department of Energy plays a critical role in America's
302 nuclear industry's engagement in international commerce through
303 the Part 810 permitting process. With almost 200 gigawatts of
304 new nuclear energy capacity projected to be added throughout the
305 world by 2050, it is incumbent on Congress to ensure the Part
306 810 process is efficient and that it continues to maintain our

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307 strong nuclear nonproliferation posture.

308 The U.S. nuclear industry faces intense foreign competition
309 within the international civil nuclear market. Many foreign
310 enterprises with state backing like Russia and China, those
311 countries see getting a toehold in nuclear energy as a strategic
312 tool to leverage themselves into a 100-year, state-to-state
313 relationship with other countries. The discussion draft before
314 us today ensures DOE's 810 process remains robust, safe, and
315 predictable.

316 It takes common sense steps towards ensuring U.S. leadership
317 and civil nuclear commerce continues to be competitive abroad
318 without sacrificing national security concerns. I am hopeful
319 that we can put politics aside today, focus on the policies of
320 this draft, and pass it with bipartisan support. And with that
321 I yield back.

322 Mr. Upton. The gentleman's time is expired. Other members
323 wishing to give an opening statement?

324 Mr. Green?

325 Mr. Green. Thank you, Mr. Chairman. Today we are marking
326 up four different nuclear energy bills that would address many
327 of the challenges faced by the nuclear sector. It is important
328 that we clear the way for the new technology and limit burdens
329 and regulatory structures where possible. I am a proud cosponsor
330 of H.R. 1320, the Nuclear Utilization Keynote Energy Act,
331 introduced by Mr. Doyle and Mr. Kinzinger. The bill makes several

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332 drastically necessary changes to the Nuclear Regulatory
333 Commission's budget and fee structure as well as the license
334 applications process.

335 As we lose more and more zero emission clean energy sources
336 with the closure of nuclear plants across the country, the NRC
337 fee structure faces an undue financial burden on the plants which
338 remain in operation. It is important that we address this issue
339 now and give existing nuclear plants a fee framework that reflects
340 the 21st century. I am proud to support this bill and recommend
341 the excellent work of both my colleagues Mr. Doyle and Mr.
342 Kinzinger.

343 I also support H.R. 6140, the Advanced Nuclear Fuel
344 Availability Act introduced by Mr. Flores and Mr. McNerney. The
345 bill directs the Secretary of Energy to establish a program for
346 support of high-assay, low-enriched uranium that is required by
347 newer, advanced reactors. While supply of this fuel is still
348 at issue, this bill takes many needed steps that will direct the
349 Secretary to study questions that will put us on the path to a
350 modern nuclear fleet in the 2030s.

351 Microreactors are another technology that I am excited to
352 see this committee look into. I support H.R. 6141 by
353 Representatives Wilson, Norcross, Hudson, and Peters to direct
354 the DOE Secretary to develop a report for a pilot program for
355 microreactors at critical national security sites. This
356 technology has the potential to strengthen in some of our most

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important sites for nuclear security. Sustainable, clean onsite power at these sites ensures that our nation's security will be protected in the event of an attack allowing these important sites to function as they were meant to be without interruption.

While I support many of the goals of Mr. Johnson's Advancing U.S. Civil Nuclear Competitiveness and Jobs Act there is still some outstanding issues with the bill as it currently stands that permits me from supporting it today. U.S. nuclear technology is best and safest in the world. There is a reason we see so many foreign countries wishing to develop their infrastructure with out expertise. While I feel that section 810 does --

Mr. Upton. The gentleman's time is expiring.

Mr. Green. Okay. I think 30 days is too short, Mr. Chairman, and hopefully before we go to markup in the full committee that could be changed. And I appreciate your patience, thank you.

Mr. Upton. The gentleman's time is expired. Other members wishing to give an opening statement?

Seeing none, the chair will call up the discussion draft entitled Advancing U.S. Civil Nuclear Competitiveness and Jobs Act and ask the clerk to report.

[The Bill follows:]

*****INSERT 1*****

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381 The Clerk. Discussion Draft, to amend the Atomic Energy
382 Act of 1954, to improve the process by which the Secretary of
383 Energy authorizes the transfer of civilian nuclear commerce
384 technology and assistance and for other purposes.

385 Mr. Upton. And, without objection, the first reading of
386 the bill is dispensed with. The bill will be open for amendment
387 at any point, so ordered.

388 Are there any bipartisan amendments to the bill?

389 Are there any other amendments to the bill?

390 Seeing none, the gentleman from Oregon --

391 Mr. Schrader. Can I comment on the bill, Mr. Chairman?

392 Mr. Upton. Strike the last word, the gentleman is
393 recognized for 5 minutes.

394 Mr. Schrader. Yes. I would just like to thank my friend
395 from Ohio for introducing this bill and organize the 810 process.

396 I am an all-above member when it comes to energy policy, and
397 if we want to pursue an aggressive strategy to curb the effects
398 of carbon it is going to have to include not only renewable energy,
399 but I believe nuclear as well. I also want U.S. companies to
400 be competitive not only here at home, but internationally too.

401 With that said, I am not quite sure we are here yet with
402 this bill. I am not comfortable with the idea we are going to
403 be mandating the Secretary review these applications or delegate
404 his authority or make a determination within just 30 days
405 especially when we are talking about sending sensitive nuclear

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406 technology to non-nuclear nations. That is completely
407 unrealistic and, I believe, unsafe.

408 In addition, I think it would be more prudent if we had DOE
409 also report back to Congress about the 810 process in making it
410 more effective before we pass legislation expediting the program.

411 As a result I will be voting no today, but I would like to continue
412 to work with Mr. Johnson and members of the committee to improve
413 the bill before a full committee. And I thank the chairman and
414 yield back.

415 Mr. Upton. The gentleman yields back. The chair would
416 recognize to strike the last word, Mr. Johnson.

417 Mr. Johnson. Move to strike the last word, Mr. Chairman.

418 When Congress amended the Atomic Energy Act in 1954 to
419 provide for the commercial use of nuclear technology, the United
420 States was one of only a few countries who had nuclear energy
421 capacity. Today, countries throughout the world have access to
422 nuclear technology and the United States is no longer the only
423 game in town. Today, our domestic nuclear suppliers face very
424 stiff global competition mainly from nuclear state-owned vendors
425 who use nuclear energy projects to implement national policy
426 objectives and as a job creator back home. These state-owned
427 entities will offer nuclear project debt with better terms than
428 market rates and even use these projects as part of a larger deal
429 and not simply a standalone commercial deal.

430

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[Chart.]

Mr. Johnson. As the graph shows that you will see here, over 50 percent of new nuclear builds are currently going to China and Russia. That is concerning to me and it should be concerning to every member of this committee, especially considering nuclear power plants last a very long time. I don't know about everyone else in the room, but I prefer countries engaging with the United States rather than Russia to meet their peaceful nuclear energy needs.

So this discussion is about giving DOE and its staff the tools they need to safely and efficiently consider these specific authorizations, thereby helping our domestic nuclear suppliers to more effectively compete within this intensely competitive world market. Importantly, DOE has recognized the need for a timely review process for these authorizations and has made progress over the last several years to improve the efficiency and transparency of the Part 810 process. This has been under both Democratic and Republican administrations. In fact, in February 2015, DOE published efficiency revisions to the 810 regulations, the first such revision since 1986. Those revisions were based on recommendations that stemmed from a Government Accountability Office report requested by Chairman Upton.

This discussion draft builds upon that work through sensible statutory reforms, many of which DOE is unable to accomplish

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456 through further rulemakings. Specifically, it directs the
457 Secretary of Energy to establish procedures for predictable and
458 timely consideration of exports of certain low-risk technologies.

459 It permits the Secretary to delegate the approval of certain
460 low-risk authorizations to reduce the paperwork and the workload
461 for the Secretary, and it requires the Department of Energy to
462 process authorizations concurrently during the interagency
463 review.

464 This draft ensures important safeguards are in place and
465 upheld, such as maintaining the current interagency review
466 process, and still requires the State Department to receive
467 assurances from a foreign government regarding the use and
468 transfer of nuclear technology. I urge my colleagues to support
469 this important draft and if my colleagues object to any of the
470 policy provisions contained within the draft, I stand ready and
471 willing to work on those provisions.

472 As the ranking member acknowledged during the legislative
473 hearing on this draft, the 810 process must function well for
474 the U.S. to remain competitive within the civil nuclear
475 marketplace. This draft is a step towards achieving that goal
476 and is crucial that we separate these common sense policy reforms
477 from politics. I would also like to point out that there is
478 bipartisan language contained within the Senate fiscal year 2019
479 NDAA aimed at improving the 810 process, so I would hope we would
480 find some common ground on the House side as well.

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481 There is clearly the need for this language and with that
482 I urge my colleagues to support the draft. And now I would like
483 to yield some time to my colleague from Pennsylvania, Mr. Doyle,
484 to speak on behalf of this bill.

485 Mr. Doyle. And I want to thank you for your work to address
486 the 810 process. I have heard from several companies in my
487 district who have faced challenges navigating the process to
488 export nuclear technology. The demand for nuclear technology
489 is growing in international markets and this presents a great
490 opportunity for jobs not only in Pittsburgh but across the United
491 States.

492 When we are exporting nuclear technology to other countries
493 we must protect our national security and our nonproliferation
494 goals. But there are also some common sense changes that can
495 be made to this process for low-risk technology. This
496 legislation takes important steps to do so. You know, if we are
497 not able to export our technology other countries will step in
498 to fill the void and American jobs will suffer. It is far better
499 to have American technologies and companies on the ground in other
500 countries than to have countries such as Russia building nuclear
501 plants throughout the world.

502 I appreciate my colleague's effort to address this important
503 issue and believe that we can streamline the process without
504 sacrificing national security or our nonproliferation goals.
505 And I share the gentleman's comment that if we have members that

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506 want to see some changes or have some concerns with this bill,
507 let's work together and get this bill out of the committee. I
508 thank you and I yield back.

509 Mr. Johnson. Mr. Chairman, the bottom line is this. We
510 are either, if we are going to be competitiveness we have got
511 to be responsive. If we are not responsive other nations like
512 Russia and China are going to be, and we are going to lose our
513 lead, our edge in nuclear nonproliferation. So with that I urge
514 a yes vote on this legislation and I yield back.

515 Mr. Upton. The gentleman time is expired. The chair
516 recognizes the ranking member of the full committee, Mr. Pallone,
517 to strike the last word.

518 Mr. Pallone. Thank you, Mr. Chairman.

519 As I stated at the legislative hearing on this bill, I
520 appreciate the Part 810 process must function well for the U.S.
521 to remain competitive in the commercial nuclear space, but the
522 bill establishes this brief 30-day frame for the Secretary to
523 approve the transfer of certain low proliferation risk nuclear
524 technologies to countries that are not nuclear weapon states.

525 Further, President Trump has abandoned the Iran deal and now
526 Saudi Arabia has said that if Iran restarts its nuclear program
527 Saudi Arabia will, itself, pursue building nuclear weapons.

528 So I am uncomfortable with expediting the review process
529 for Part 810 at a time when there is so much global uncertainty
530 with regard to nuclear proliferation. Thirty days, I think, is

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531 just too short of a timeframe in the current climate to properly
532 address security questions regarding the use of these nuclear
533 technologies.

534 I also believe that DOE can improve this process on its own
535 without congressional involvement. DOE testified at the
536 legislative hearing on this bill that it has made numerous
537 improvements to the process through its Part 10 process
538 improvement plan. Further, DOE testified, and I quote, that the
539 lengthiest part of the authorization process remains the time
540 it takes partner countries to provide the required governmental
541 nonproliferation assurances which can result in processing delays
542 of 6 months to well over a year, unquote. So it seems as if
543 the goal of this bill is to be more competitive by being less
544 secure and that is troubling. I am not saying that is what you
545 want, but that is my concern. And I understand the desire for
546 predictable Part 810 review process. This is just not the right
547 time, in my opinion, to possibly cut corners on oversight of these
548 technologies and the potential for nuclear proliferation.

549 And I know that Mr. Johnson put up that chart. I don't know
550 where it went. I don't know if we have to put it up again. But
551 Mr. Johnson argued that China and Russia are dominating the global
552 nuclear industry in exporting their technologies to more
553 countries, but of course China and Russia do not have the stringent
554 export and licensing policies like the U.S.

555 And once again it seems as if the goal of the bill is to

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556 be more competitive I am concerned that we not be more competitive
557 by being less secure. That is what troubles me here. So I do
558 ask that my colleagues vote no on the legislation. I yield back,
559 Mr. Chairman, unless someone wants my time. I don't think so.
560 Thank you.

561 Mr. Upton. Other members wishing to speak on the bill?

562 Seeing none, no amendments being offered, the question now
563 occurs on forwarding the discussion draft to the full committee.

564 All those in favor will -- you ask for a roll call?

565 A roll call has been requested. The clerk will call the
566 roll. This will be on passage of the discussion draft.

567 The Clerk. Mr. Olson?

568 Mr. Olson. Aye.

569 The Clerk. Mr. Olson votes aye.

570 Mr. Barton?

571 Mr. Shimkus?

572 Mr. Shimkus. Aye.

573 The Clerk. Mr. Shimkus votes aye.

574 Mr. Latta?

575 Mr. Latta. Aye.

576 The Clerk. Mr. Latta votes aye.

577 Mr. Harper?

578 Mr. Harper. Aye.

579 The Clerk. Mr. Harper votes aye.

580 Mr. McKinley?

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581 Mr. McKinley. Aye.
582 The Clerk. Mr. McKinley votes aye.
583 Mr. Kinzinger?
584 Mr. Kinzinger. Aye.
585 The Clerk. Mr. Kinzinger votes aye.
586 Mr. Griffith?
587 Mr. Griffith. Aye.
588 The Clerk. Mr. Griffith votes aye.
589 Mr. Johnson?
590 Mr. Johnson. Aye.
591 The Clerk. Mr. Johnson votes aye.
592 Mr. Long?
593 Mr. Long. Aye.
594 The Clerk. Mr. Long votes aye.
595 Mr. Bucshon?
596 Mr. Bucshon. Aye.
597 The Clerk. Mr. Bucshon votes aye.
598 Mr. Flores?
599 Mr. Mullin?
600 Mr. Mullin. Aye.
601 The Clerk. Mr. Mullin votes aye.
602 Mr. Hudson?
603 Mr. Hudson. Aye.
604 The Clerk. Mr. Hudson votes aye.
605 Mr. Cramer?

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606 Mr. Cramer. Aye.
607 The Clerk. Mr. Cramer votes aye.
608 Mr. Walberg?
609 Mr. Walberg. Aye.
610 The Clerk. Mr. Walberg votes aye.
611 Mr. Duncan?
612 Mr. Duncan. Aye.
613 The Clerk. Mr. Duncan votes aye.
614 Chairman Walden?
615 Mr. Rush?
616 Mr. Rush. No.
617 The Clerk. Mr. Rush votes no.
618 Mr. McNerney?
619 Mr. McNerney. No.
620 The Clerk. Mr. McNerney votes no.
621 Mr. Peters?
622 Mr. Peters. No.
623 The Clerk. Mr. Peters votes no.
624 Mr. Green?
625 Mr. Green. No.
626 The Clerk. Mr. Green votes no.
627 Mr. Doyle?
628 Mr. Doyle. Yes.
629 The Clerk. Mr. Doyle votes aye.
630 Ms. Castor?

631 Ms. Castor. No.
632 The Clerk. Ms. Castor votes no.
633 Mr. Sarbanes?
634 Mr. Sarbanes. No.
635 The Clerk. Mr. Sarbanes votes no.
636 Mr. Welch?
637 Mr. Welch. No.
638 The Clerk. Mr. Welch votes no.
639 Mr. Tonko?
640 Mr. Tonko. No.
641 The Clerk. Mr. Tonko votes no.
642 Mr. Loeb sack?
643 Mr. Loeb sack. No.
644 The Clerk. Mr. Loeb sack votes no.
645 Mr. Schrader?
646 Mr. Schrader. No.
647 The Clerk. Mr. Schrader votes no.
648 Mr. Kennedy?
649 Mr. Kennedy. No.
650 The Clerk. Mr. Kennedy votes no.
651 Mr. Butterfield?
652 Mr. Pallone?
653 Mr. Pallone. No.
654 The Clerk. Mr. Pallone votes no.
655 Chairman Upton?

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656 Mr. Upton. Votes aye.

657 The Clerk. Chairman Upton votes aye.

658 Mr. Upton. Vote Mr. Barton?

659 Mr. Barton. Vote aye.

660 The Clerk. Mr. Barton votes aye.

661 Mr. Upton. Other members wishing to cast a vote or change

662 their vote?

663 All right, seeing none -- how does Mr. Walden?

664 The Chairman. Aye.

665 The Clerk. Chairman Walden votes aye.

666 Mr. Upton. Anybody else?

667 The clerk will report the tally.

668 The Clerk. Mr. Chairman, on that vote there were 19 ayes

669 and 12 noes.

670 Mr. Upton. Thank you ayes.

671 Oh, how is Butterfield recorded?

672 Mr. Butterfield. No.

673 Mr. Upton. Oh man, maybe you -- all right. Mr. Butterfield

674 is recorded as no.

675 The Clerk. Butterfield votes no.

676 Mr. Upton. It is not 2:00 in the morning nor is it going

677 to get there. So on that the clerk will report 19 ayes, 13 noes.

678 Oh, and Mr. Flores?

679 Mr. Flores. Aye.

680 The Clerk. Mr. Flores votes aye.

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681 Mr. Upton. 20. I will let the clerk report now just to
682 make sure.

683 The Clerk. Mr. Chairman, on that vote there were 20 ayes
684 and 13 noes.

685 Mr. Upton. 20 ayes, 13 noes. The bill is favorably
686 reported. The draft is favorably reported.

687 The chair will now call up H.R. 1320 and ask the clerk to
688 report.

689 [The Bill H.R. 1320 follows:]

690

691 *****INSERT 2*****

692 The Clerk. H.R. 1320, to amend the Omnibus Budget
693 Reconciliation Act of 1990 related to Nuclear Regulatory
694 Commission user fees and annual charges and for other purposes.

695 Mr. Upton. Without objection, the first reading of the bill
696 is dispensed with. The bill will be open for amendment at any
697 point, so ordered. And Mr. Kinzinger and Doyle are seeking
698 recognition to offer an amendment in the nature of a substitute.

699 Mr. Kinzinger. Mr. Chairman, I have an amendment at the
700 desk.

701 [The amendment offered by Mr. Kinzinger follows:]

702

703 *****INSERT 3*****

704 Mr. Upton. So the clerk will report.

705 The Clerk. An amendment in the nature of a substitute to
706 H.R. 1320 offered by Mr. Kinzinger.

707 Mr. Upton. And, without objection, the first reading, or
708 it is considered as read and the gentleman from Illinois is
709 recognized for 5 minutes.

710 Mr. Kinzinger. Thank you, Mr. Chairman.

711 I am pleased to see this being included today, the NUKE Act,
712 which my colleague, Mike Doyle, and I have been working on for
713 well over a year including today, and I thank him for his help.

714 We have worked on this bill for so long because we both realize
715 that this is a pivotal moment for nuclear power. This is
716 technology that was invented in my home state of Illinois -- so,
717 you know, it makes us better than everybody else on that -- and
718 continues to provide my constituents with reliable, carbon-free
719 electricity.

720 Unfortunately, the fate of our nation's nuclear fleet is
721 not guaranteed and the consequences of continued early retirement
722 from the loss of good jobs to ceding our global leadership on
723 safety and nonproliferation are all too real. And as was
724 discussed on the prior bill, there are a lot of issues we have
725 to deal with in terms of continuing our world leadership in a
726 very different world than when the rules were written.

727 This legislation provides reasonable reforms to the Nuclear
728 Regulatory Commission to increase accountability, transparency,

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and predictability in regulation. Reducing the regulatory burden on existing plants while still maintaining the NRC's gold standard of safety will make it easier for not only our current fleet of nuclear plants but also the next generation of nuclear to thrive.

This amendment makes several changes to H.R. 1320, many of which are based on technical feedback from the NRC and based on feedback from my colleagues on this committee. Specifically, this amendment extends several compliance and reporting dates to account for the passage of time since the bill was introduced in March of 2017. Further, section 8 is replaced with a sense of Congress to reflect the NRC's progress towards a rule on plant decommissioning.

With many licenses and local communities awaiting guidance from NRC on this process, the previous language would have further delayed this by requiring NRC to restart the rulemaking process.

Additionally, based on concerns from Ranking Member Pallone during last month's hearing, the deadlines in section 7 have been modified to provide additional flexibility and recognition that unforeseen circumstances may arise to prevent those deadlines from being met.

I look forward to continuing to work with members on both sides of the aisle to further refine this bill. Overall, this amendment in the nature of a substitute provides improved clarity and additional flexibility in this great underlying bill. With

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that I encourage my colleagues to support this amendment. And if Mr. Doyle wants my time or to claim his own I am happy to yield to him.

Mr. Doyle. I thank the gentleman. And I appreciate the opportunity to speak about the NUKE Act that I cosponsor with my colleague and friend Adam Kinzinger.

Nuclear energy provides nearly 40 percent of Pennsylvania's electricity and employs thousands of skilled workers in Pennsylvania. And despite being a carbon-free and reliable source of baseload power, the nuclear energy industry is facing pressure from a variety of factors such as increasing NRC fees and uncertainty in the export process. Addressing some of these issues will be necessary not only to protect jobs in Pennsylvania and across the country, but as well to meet our nation's climate goals.

I want to thank my colleague Adam Kinzinger for his leadership and work on the NUKE Act. This bipartisan legislation will take important steps to modernize the NRC's fee structure, set achievable and flexible timelines for application reviews, and look to future reforms that will ensure the NRC can continue to effectively protect public health and safety.

The bill addresses a serious reality facing the nuclear industry. As nuclear power plants retire, the remaining fleet will be faced with increasing fees from NRC. We need to support our existing nuclear plants while ensuring that the NRC is able

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779 to fulfill its mission. I believe this legislation accomplishes
780 those goals. And I would remind all of my colleagues that if
781 we start to lose our nuclear portfolio in this country it will
782 be impossible to meet our climate change goals.

783 So those of us that believe climate change is real and want
784 to see that problem addressed, we dare not continue to lose nuclear
785 facilities especially before their time. And that is why I think
786 this legislation is necessary and I support it and I thank Mr.
787 Kinzinger. I yield back.

788 Mr. Kinzinger. I thank the gentleman from Pennsylvania.
789 I yield back my time.

790 Mr. Upton. The gentleman yields back. Other members
791 wishing to speak? The gentleman from New Jersey, Mr. Pallone,
792 to strike the last word.

793 Mr. Pallone. Thank you, Mr. Chairman. And I appreciate
794 the efforts of my colleagues to address issues relating to the
795 licensing of nuclear power reactors here in the U.S. H.R. 1320
796 makes a number of changes to the NRC budget process to the NRC
797 budget process and fee structure and I do worry that several of
798 the provisions could arbitrarily limit the resources the NRC needs
799 and adversely affect its ability to do its job. I appreciate
800 that several changes made in the amendment in the nature of a
801 substitute give NRC more flexibility, but I still have concerns
802 about limiting NRC's resources.

803 The bill also sets time limits for NRC to complete major

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804 milestones in the licensing process. NRC is given 24 months to
805 complete a draft environmental impact statement and 42 months
806 to complete the technical review process. While this timeline
807 may be realistic for most projects, it doesn't give the Commission
808 the necessary flexibility, in my opinion, to take the time it
809 may need to study relevant issues if it receives a more complex
810 application.

811 As I said in my opening statement, I am also concerned with
812 a provision requiring NRC to issue a construction permit for a
813 nuclear facility even if an entity has filed a formal request
814 for a hearing objecting to the project. The stakeholders have
815 testified that it is already extremely difficult to intervene
816 in the licensing process for a nuclear facility especially if
817 you are not an expert.

818 So I don't think we should be limiting the opportunity for
819 stakeholders to have their views heard in the licensing process.

820 I am not able to support the bill if this provision remains when
821 the bill is considered at the full committee. But my concerns
822 aside, I do support making common sense changes to the NRC
823 licensing process that can ease the pressure on the nuclear
824 industry without jeopardizing safety or the environment. And
825 I yield back, Mr. Chairman.

826 Mr. Upton. The gentleman yields back. Other members
827 wishing to speak? The gentleman from Vermont.

828 Mr. Welch. I move to strike the last word.

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Mr. Chairman, I want to thank Mr. Kinzinger and Mr. Doyle for their work on this. I would like to speak briefly on a measure contained in the bill dealing with the nuclear plant decommissioning process. Vermont has a decommissioned nuclear plant more and more are going offline. There will be the issues that Mr. Doyle mentioned that we have to contend with, but one of the things that we have to focus on is the impact on the communities in the rulemaking process at the NRC.

The provision in the bill that I am speaking about, section 8 of INS contains a sense of Congress provision stating that a safe, effective, and efficient decommissioning process for nuclear reactors that supports the principles of good regulation including openness, clarity, and reliability is vital to all licensees and local communities and that the NRC should complete the final rulemaking in the next 18 months. I am very happy that that provision was included by Mr. Kinzinger and Mr. Doyle. The impact of the decommissioning on local communities is very significant.

As you know, the NRC is currently developing a draft regulatory guidance to determine how a nuclear plant decommissioning should unfold. We have regulation in place that is guiding the development of new nuclear reactors, but Vermont's experience with Vermont Yankee has shown that we lack a coherent structure on how reactors should be taken down after their useful life. And to that end this is an important rulemaking that I

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854 was pleased to see the NRC update.

855 Yet I am concerned by the direction the NRC is heading.
856 While the Commission appears to be inclined to use rulemaking
857 to sign off on the nuclear industry's wish list of cost-saving
858 measures such as streamlined safety exemptions, it fails to
859 address the concerns of state and local communities across the
860 country that are hosting nuclear reactors and want a seat at the
861 table.

862 There are several specific concerns that I have with the
863 current approach at the NRC, and other members who have plants
864 that are going to go offline might share these: lack of state
865 and local stakeholder involvement; questionable use of the
866 decommissioning trust fund such as for spent fuel management;
867 the reality that the use of safe stored decommissioning procedures
868 will effectively delay a full cleanup and redevelopment of nuclear
869 sites for decades; the reduction of emergency planning functions
870 during periods when spent fuel remains in spent fuel pools.

871 It is apparent that the industry would like to narrow the
872 scope of this rulemaking to only what they deem the most pressing
873 matters. I believe we must push back on that. We are at a
874 critical point that will shape how communities deal with
875 decommissioning for decades. It is imperative that the NRC take
876 a comprehensive approach to this that guarantees host communities
877 a seat at the table.

878 I want to work with Mr. Kinzinger and Mr. Doyle to see if

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879 we can build on section 8 in their bill of this legislation to
880 encourage NRC to address these issues as part of the rulemaking.

881 And I hope, Mr. Doyle and Mr. Kinzinger, we can work together
882 on that going forward. Thank you and I yield back.

883 Mr. Upton. The gentleman yields back. Other members
884 wishing to speak?

885 Seeing none, the vote occurs on the amendment in the nature
886 of a substitute. All those in favor will signify by saying aye.
887 Aye.

888 Those opposed, say no.

889 In the opinion of the chair, the ayes have it. The amendment
890 in the nature of a substitute is agreed to.

891 The question now occurs -- are there further amendments?

892 Seeing none, the question now occurs on forwarding H.R. 1320,
893 as amended, to the full committee.

894 All those in favor will say aye. Aye.

895 Those opposed say no.

896 The ayes appear to have it. The ayes have it and the bill
897 is agreed to.

898 The chair now calls up H.R. 6140 and ask the clerk to report.

899 [The Bill H.R. 6140 follows:]

900

901 *****INSERT 4*****

902 The Clerk. H.R. 6140, to require the Secretary of Energy
903 to establish and carry out a program to support the availability
904 of high-assay, low-enriched uranium for domestic commercial use
905 and for other purposes.

906 Mr. Upton. Without objection, the first reading of the bill
907 is dispensed with. The bill will be open for amendment at any
908 point.

909 Are there any bipartisan amendments to the bill?

910 Are there any amendments to the bill?

911 Mr. Flores. Mr. Chairman, I move to strike the last word.

912 Mr. Upton. The gentleman is recognized for 5 minutes.

913 Mr. Flores. Thank you, Mr. Chairman.

914 Most of today's nuclear reactors are very similar in nature
915 and they operate on a fuel that generally is enriched below five
916 percent. The next generation of advanced reactors is currently
917 under development. However, they vary in size and operation and
918 they will need greater flexibility and efficiencies from an
919 advanced fuel. This fuel is known as high-assay, low-enriched
920 uranium or HA-LEU for short, and it is enriched at higher levels
921 than what is currently available in the commercial market.

922 The Bipartisan Advanced Nuclear Fuel Availability Act, which
923 I introduced with my friend Mr. McNerney, establishes a
924 public-private partnership through the Energy Department's
925 Office of Nuclear Energy to support the availability of
926 high-assay, low-enriched uranium for domestic commercial use.

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927 This bill as introduced also includes updates to the discussion
928 draft from last month's legislative hearing including, first,
929 a clarification that members of the consortium may include
930 entities involved in any state of the nuclear fuel cycle; second,
931 that the applicability of secretarial determinations on uranium
932 transfers will be set; and third, it incorporates other technical
933 feedback.

934 A March 2017 survey of 18 U.S.-based advanced nuclear
935 developers found that a lack of availability of advanced fuel
936 is the foremost factor that would impede the development and
937 deployment of advanced nuclear technologies. Simply put, this
938 bill would ensure that there is a robust supply of advanced fuel
939 available for the domestic commercial industry to purchase for
940 the advanced nuclear reactors of tomorrow.

941 I want to again thank my friend Mr. McNerney for working
942 with me on this bill and I look forward to seeing H.R. 6140 advance
943 to the full committee for consideration. I yield back the balance
944 of my time.

945 Mr. Upton. The gentleman yields back. Other members
946 wishing -- the gentleman from California, Mr. McNerney, to strike
947 the last word.

948 Mr. McNerney. Strike the last word. I thank the chairman
949 and ranking member for bringing this legislation to the committee
950 and I am glad to work with Mr. Flores to advance nuclear
951 technology. We need a diverse energy mix and nuclear energy

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952 provides a zero carbon emission electricity. The availability
953 of high-assay, low-enriched uranium is critical to these efforts.

954 Federal investments and protocols regarding the
955 transportation, fuel fabrication, and enrichment to effectively
956 bring this fuel to the market are encouraging. Small modular
957 reactors, or SMRs, will be useful in a variety of settings and
958 this type of fuel needs to be available by the time SMRs are more
959 widely available. The consortium that is formed here is the type
960 of partnership that will be useful in kickstarting this industry
961 and then turning it over to let industry take the reins.

962 However, I do have some proliferation concerns that still
963 need to be addressed. I am glad to see the authorizing language
964 included here that was not included in the previous discussion
965 draft. I look forward to working with my colleague Mr. Flores
966 in moving this legislation along through the committee and on
967 to the floor to help us meet our nation's complex energy and
968 environmental needs. I yield back.

969 Mr. Upton. The gentleman yields back. Other members
970 wishing to speak?

971 Seeing none, the question now occurs in forwarding H.R. 6140
972 to the full committee.

973 All those in favor will say aye. Aye.

974 Those opposed, say no.

975 In the opinion of the chair the ayes have it. The bill is
976 forwarded to the full committee.

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977 The chair calls up now H.R. 6141 and asks the clerk to report.

978 [The Bill H.R. 6141 follows:]

979

980 *****INSERT 5*****

981 The Clerk. H.R. 6141, to require the Secretary of Energy
982 to develop a report on the pilot program to site, construct, and
983 operate microreactors at critical national security locations
984 and for other purposes.

985 Mr. Upton. Without objection, the first reading of the bill
986 is dispensed with. The bill will be open for amendment at any
987 point.

988 Are there any bipartisan amendments to the bill?

989 Are there any amendments to the bill?

990 Seeing none, the question now occurs on forwarding H.R. 6141
991 to the full committee.

992 All those in favor will say aye. Aye.

993 Those opposed, say no.

994 In the opinion of the chair the ayes have it and the bill
995 is favorably reported.

996 So I would like to recognize one of our counsels on the Energy
997 Subcommittee staff, Jason Stanek. After spending 15 years at
998 FERC, Jason joined the staff last year. He has done tremendous
999 work on electricity issues, particularly with our Empowering
1000 America series. He is leaving us tomorrow. He has been
1001 appointed as the chairman of the Maryland Public Utility
1002 Commission.

1003 Mr. Sarbanes, he is a guy that you well know, so.

1004 [Applause.]

1005 Mr. Upton. It is well deserved. We know that he has a

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1006 wonderful background. We look forward to working with him in
1007 the days and months ahead. Best of luck, you are great. Thank
1008 you.

1009 And with that, without objection, the staff is authorized
1010 to make technical and conforming changes to the legislation
1011 approved by the subcommittee today, so ordered. And, without
1012 objection, the subcommittee stands adjourned.

1013 [Whereupon, at 10:53 a.m., the subcommittee was adjourned.]