

118TH CONGRESS
1ST SESSION

H. R. 3939

To provide for the transfer of not more than two Virginia class submarines from the inventory of the Navy to the Government of Australia on a sale basis under section 21 of the Arms Export Control Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 9, 2023

Mr. MEEKS (for himself, Mr. BERA, and Mr. COURTNEY) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on Armed Services, 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 provide for the transfer of not more than two Virginia class submarines from the inventory of the Navy to the Government of Australia on a sale basis under section 21 of the Arms Export Control Act, 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 “AUKUS Undersea De-
5 fense Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) The new trilateral security partnership be-
4 tween Australia, the United Kingdom, and the
5 United States (in this section referred to as the
6 “AUKUS partnership”) is intended to positively
7 contribute to peace and stability in the Indo-Pacific
8 region through enhanced deterrence.

9 (2) This trilateral security partnership builds
10 on and enhances the United States, Australia, and
11 the United Kingdom’s commitment to a free and
12 open Indo-Pacific, and more broadly to a rules-based
13 international order.

14 (3) Australia has a strong record of leadership
15 in the international nuclear non-proliferation regime
16 and is fully committed to responsible stewardship of
17 naval nuclear propulsion technology.

18 (4) Pillar 1 of the AUKUS partnership aims to
19 provide Australia with a conventionally armed, nu-
20 clear-powered submarine capability while upholding
21 the highest non-proliferation standards.

22 (5) In support of this Pillar 1 goal, the United
23 States and the United Kingdom plan to increase
24 port visits to Australia of conventionally armed, nu-
25 clear-powered submarines then begin forward rota-

1 tions of such submarines to Australia at Submarine
2 Rotational Force-West.

3 (6) In support of these goals, the United States
4 will transfer Virginia-class submarines to Australia
5 to bolster its critical undersea capabilities and en-
6 hance its undersea presence in the Indo-Pacific re-
7 gion.

8 (7) Pillar 1 of the AUKUS partnership will en-
9 hance all three nations' defense industrial capacity
10 to produce and sustain interoperable nuclear-pow-
11 ered submarines, expand collective undersea pres-
12 ence in the Indo-Pacific, and contribute to freedom
13 of navigation, security, and stability in the Indo-Pa-
14 cific region.

15 (8) Trilateral security cooperation that
16 strengthens joint capabilities, enhances the ability to
17 share information and technology safely, and inte-
18 grates defense industrial bases and supply chains
19 will contribute to the security of each nation as well
20 as peace and stability in the Indo-Pacific region.

21 **SEC. 3. AUSTRALIA, UNITED KINGDOM, AND UNITED**
22 **STATES SUBMARINE SECURITY ACTIVITIES.**

23 (a) **AUTHORIZATION TO TRANSFER SUBMARINES.—**

24 (1) **IN GENERAL.—**Subject to paragraph (6),
25 the President may transfer not more than two Vir-

1 ginia class submarines from the inventory of the
2 Navy to the Government of Australia on a sale basis
3 under section 21 of the Arms Export Control Act
4 (22 U.S.C. 2761).

5 (2) COSTS OF TRANSFER.—Any expense in-
6 curred by the United States in connection with the
7 transfer authorized by this subsection shall be
8 charged to the Government of Australia.

9 (3) WAIVER OF CERTIFICATION REQUIRE-
10 MENT.—The requirement for the Chief of Naval Op-
11 erations to make a certification under section 8678
12 of title 10, United States Code, shall not apply to
13 a transfer under this subsection.

14 (4) USE OF FUNDS.—The Secretary of the
15 Navy may use the proceeds of a transfer under this
16 subsection—

17 (A) for the acquisition of vessels to replace
18 the vessels transferred to the Government of
19 Australia; or

20 (B) to carry out any other authority the
21 use of which the Secretary of the Navy deter-
22 mines would improve the submarine industrial
23 base.

24 (5) CREDITING OF RECEIPTS.—Notwith-
25 standing any provision of law pertaining to the cred-

1 iting of amounts received from a sale under the
2 terms of the Arms Export Control Act (22 U.S.C.
3 2761), any receipt of the United States as a result
4 of a transfer under this section shall—

5 (A) be credited, at the discretion of the
6 Secretary of the Navy to—

7 (i) the appropriation, fund, or account
8 used in incurring the original obligation;

9 (ii) an appropriate appropriation,
10 fund, or account currently available for the
11 purposes for which the expenditures were
12 made; or

13 (iii) any other appropriation, fund, or
14 account available for the purpose specified
15 in paragraph (4)(B); and

16 (B) remain available for obligation until
17 expended for the same purpose as the appro-
18 priation to which the receipt is credited.

19 (6) APPLICABILITY OF EXISTING LAW TO
20 TRANSFER SPECIAL NUCLEAR MATERIAL AND UTILI-
21 ZATION FACILITIES FOR MILITARY APPLICATIONS.—

22 (A) IN GENERAL.—With respect to any
23 special nuclear material for use in utilization fa-
24 cilities or any portion of a vessel transferred
25 under this subsection constituting utilization fa-

1 facilities for military applications under section
2 91 of the Atomic Energy Act of 1954 (42
3 U.S.C. 2121), transfer of such material or such
4 facilities shall only occur in accordance with
5 such section 91.

6 (B) USE OF FUNDS.—The Secretary of
7 Energy may use proceeds from a transfer de-
8 scribed in subparagraph (A) for the acquisition
9 of submarine naval nuclear propulsion plants
10 and the nuclear fuel to replace the propulsion
11 plants and fuel transferred to the Government
12 of Australia.

13 (b) REPAIR AND REFURBISHMENT OF AUKUS SUB-
14 MARINES.—Section 8680 of title 10, United States Code,
15 is amended—

16 (1) by redesignating subsection (c) as sub-
17 section (d); and

18 (2) by inserting after subsection (b) the fol-
19 lowing:

20 “(c) REPAIR AND REFURBISHMENT OF CERTAIN
21 SUBMARINES.—(1) Notwithstanding any other provision
22 of this section, the Secretary of the Navy shall determine
23 the appropriate shipyard in the United States, Australia,
24 or the United Kingdom to perform any repair or refurbish-
25 ment of a United States submarine involved in submarine

1 security activities between Australia, the United Kingdom,
2 and the United States (in this section referred to as
3 ‘AUKUS’).

4 “(2) Repair or refurbishment described in paragraph
5 (1) may be carried out by personnel of the United States,
6 United Kingdom, or Australia in accordance with the
7 international arrangements governing AUKUS submarine
8 security activities.”.

9 **SEC. 4. ACCEPTANCE OF CONTRIBUTIONS IN SUPPORT OF**
10 **AUSTRALIA, UNITED KINGDOM, AND UNITED**
11 **STATES SUBMARINE SECURITY ACTIVITIES.**

12 (a) IN GENERAL.—Chapter 155 of title 10, United
13 States Code, is amended by inserting after section 2608
14 the following new section:

15 **“§ 2609. Acceptance of contributions for Australia,**
16 **United Kingdom, and United States sub-**
17 **marine security activities; Submarine Se-**
18 **curity Activities Account**

19 “(a) ACCEPTANCE AUTHORITY.—The Secretary of
20 Defense may accept from the Government of Australia
21 contributions of money made by the Government of Aus-
22 tralia for use by the Department of Defense in support
23 of non-nuclear related aspects of submarine security ac-
24 tivities between Australia, the United Kingdom, and the
25 United States (in this section referred to as ‘AUKUS’).

1 “(b) ESTABLISHMENT OF SUBMARINE SECURITY AC-
2 TIVITIES ACCOUNT.—(1) There is established in the
3 Treasury of the United States a special account to be
4 known as the ‘Submarine Security Activities Account’.

5 “(2) Contributions of money accepted by the Sec-
6 retary of Defense under subsection (a) shall be credited
7 to the Submarine Security Activities Account.

8 “(c) USE OF THE SUBMARINE SECURITY ACTIVITIES
9 ACCOUNT.—(1) The Secretary of Defense may use funds
10 in the Submarine Security Activities Account—

11 “(A) for any purpose authorized by law that the
12 Secretary determines would support AUKUS sub-
13 marine security activities; or

14 “(B) to carry out a military construction
15 project that is consistent with the purposes for
16 which the contributions were made and is not other-
17 wise authorized by law.

18 “(2) Funds in the Submarine Security Activities Ac-
19 count may be used as described in this subsection without
20 further specific authorization in law.

21 “(d) TRANSFERS OF FUNDS.—(1) In carrying out
22 subsection (c), the Secretary of Defense may transfer
23 funds available in the Submarine Security Activities Ac-
24 count to appropriations available to the Department of
25 Defense.

1 “(2) In carrying out subsection (c), and in accordance
2 with the Atomic Energy Act of 1954 (42 U.S.C. 2011 et
3 seq.), the Secretary of Defense may transfer funds avail-
4 able in the Submarine Security Activities Account to ap-
5 propriations or funds of the Department of Energy avail-
6 able to carry out activities related to AUKUS submarine
7 security activities.

8 “(3) Funds transferred under this subsection shall be
9 available for obligation for the same time period and for
10 the same purpose as the appropriation to which trans-
11 ferred.

12 “(4) Upon a determination by the Secretary that all
13 or part of the funds transferred from the Submarine Secu-
14 rity Activities Account are not necessary for the purposes
15 for which such funds were transferred, all or such part
16 of such funds shall be transferred back to the Submarine
17 Security Activities Account.

18 “(e) INVESTMENT OF MONEY.—(1) Upon request by
19 the Secretary of Defense, the Secretary of the Treasury
20 may invest money in the Submarine Security Activities Ac-
21 count in securities of the United States or in securities
22 guaranteed as to principal and interest by the United
23 States.

24 “(2) Any interest or other income that accrues from
25 investment in securities referred to in paragraph (1) shall

1 be deposited to the credit of the Submarine Security Ac-
2 tivities Account.

3 “(f) REPORT.—(1) Not later than 60 days after the
4 date on which contributions of money accepted by the Sec-
5 retary of Defense under subsection (a) are credited to the
6 Submarine Security Activities Account under subsection
7 (b), the Secretary of Defense shall submit to the appro-
8 priate congressional committees a report on—

9 “(A) the amount of money so transferred;

10 “(B) a description of the intended use of the
11 funds; and

12 “(C) any other matters related to the adminis-
13 tration of the Submarine Security Activities Account
14 as determined necessary by the Secretary.

15 “(2) The report required by this subsection shall be
16 submitted in unclassified form but may include a classified
17 annex.

18 “(3) In this subsection, the term ‘appropriate con-
19 gressional committees’ means—

20 “(A) the congressional defense committees; and

21 “(B) the Committee on Foreign Affairs of the
22 House of Representatives and the Committee on
23 Foreign Relations of the Senate.

1 “(g) RELATIONSHIP TO OTHER LAWS.—The author-
 2 ity to accept or transfer funds under this section is in ad-
 3 dition to any other authority to accept or transfer funds.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
 5 at the beginning of such chapter is amended by inserting
 6 after the item relating to section 2608 the following:

“2609. Acceptance of contributions for Australia, United Kingdom, and United
 States submarine security activities; Submarine Security Ac-
 tivities Account.”.

7 **SEC. 5. AUSTRALIA, UNITED KINGDOM, AND UNITED**
 8 **STATES SUBMARINE SECURITY TRAINING.**

9 (a) IN GENERAL.—The President may transfer or
 10 authorize the export of defense services to the Government
 11 of Australia under the Arms Export Control Act (22
 12 U.S.C. 2751 et seq.) that may also be directly exported
 13 to Australian private-sector personnel to support the de-
 14 velopment of the Australian submarine industrial base
 15 necessary for submarine security activities between Aus-
 16 tralia, the United Kingdom, and the United States (in this
 17 section referred to as “AUKUS”), including in cases in
 18 which such private-sector personnel are not officers, em-
 19 ployees, or agents of the Government of Australia.

20 (b) APPLICATION OF REQUIREMENTS FOR FURTHER
 21 TRANSFER.—Any transfer of defense services to the Gov-
 22 ernment of Australia pursuant to subsection (a) to persons
 23 other than those directly provided such defense services
 24 pursuant to subsection (a) shall only be made in accord-

- 1 ance with the requirements of the Arms Export Control
- 2 Act (22 U.S.C. 2751 et seq.).

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