

111TH CONGRESS  
2D SESSION

# S. 3618

To further enable a nuclear renaissance in the United States to improve energy security, reduce future pollution and greenhouse gas emissions, provide large, reliable sources of electricity, and create thousands of high-quality jobs for the citizens of the United States, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JULY 20, 2010

Mr. VOINOVICH introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To further enable a nuclear renaissance in the United States to improve energy security, reduce future pollution and greenhouse gas emissions, provide large, reliable sources of electricity, and create thousands of high-quality jobs for the citizens of the United States, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Enabling the Nuclear Renaissance Act”.

- 1 (b) TABLE OF CONTENTS.—The table of contents of  
 2 this Act is as follows:

Sec. 1. Short title; table of contents.  
 Sec. 2. Findings.

#### TITLE I—DECLARATION OF NUCLEAR ENERGY AS CLEAN ENERGY

Sec. 101. Declaration of nuclear energy as clean energy.

#### TITLE II—FINANCING NEW NUCLEAR PLANT DEVELOPMENT

Sec. 201. 5-year accelerated depreciation period for new nuclear power plants.  
 Sec. 202. Construction tax credit for nuclear power facilities.  
 Sec. 203. Inclusion of nuclear power facilities in advanced energy project tax credits.  
 Sec. 204. Modification of credit for production from advanced nuclear power facilities.  
 Sec. 205. Treatment of qualified public entities with respect to private activity bonds.  
 Sec. 206. Grants for qualified nuclear power facility expenditures in lieu of tax credits.  
 Sec. 207. ASME nuclear certification credit.  
 Sec. 208. Title 17 innovative technology loan guarantee program.

#### TITLE III—ACCELERATING THE DEVELOPMENT OF SMALL MODULAR REACTORS

Sec. 301. Small modular reactor development and licensing.

#### TITLE IV—IMPROVING THE LICENSING PROCESS

Sec. 401. Elimination of mandatory hearing for uncontested license applications.  
 Sec. 402. Waste confidence.  
 Sec. 403. Environmental reviews for nuclear energy projects.

#### TITLE V—DEVELOPING THE NUCLEAR WORKFORCE

Sec. 501. Training the next generation nuclear workforce.

#### TITLE VI—DEVELOPING INFRASTRUCTURE

Sec. 601. Definitions.  
 Sec. 602. National nuclear energy council.  
 Sec. 603. Energy park initiative.  
 Sec. 604. Advisory committee on energy park development.  
 Sec. 605. ‘N’ prize program authority.

#### TITLE VII—ENHANCING REGULATORY AUTHORITY

Sec. 701. Continuation of service.  
 Sec. 702. Enhanced fingerprinting requirements.

#### TITLE VIII—MANAGEMENT OF USED NUCLEAR FUEL

Sec. 801. United States Nuclear Fuel Management Corporation.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) nuclear energy provides—

4 (A) approximately 19 percent of the elec-  
5 tricity of the United States; and

6 (B) approximately 70 percent of the car-  
7 bon-dioxide free electricity of the United States;

8 (2) nuclear energy has the lowest land-use re-  
9 quirements per megawatt of any electricity gener-  
10 ating source;

11 (3) the majority of the 104 operating reactors  
12 located in the United States were constructed during  
13 the 20-year time period beginning in 1970;

14 (4) the operating performance of nuclear plants  
15 has improved significantly since the nuclear plants  
16 were constructed so that, as of the date of enact-  
17 ment of this Act, the nuclear plants of the United  
18 States provide reliable power for over 90 percent of  
19 the time; and

20 (5) a broader deployment of nuclear energy, in-  
21 cluding the development of new modular reactors,  
22 would greatly improve the ability of the United  
23 States—

24 (A) to reduce emissions;

25 (B) to provide reliable, baseload electricity;

26 (C) to create good quality jobs;

1 (D) to promote energy security; and

2 (E) to attain global leadership in nuclear  
3 power.

4 **TITLE I—DECLARATION OF NU-**  
5 **CLEAR ENERGY AS CLEAN EN-**  
6 **ERGY**

7 **SEC. 101. DECLARATION OF NUCLEAR ENERGY AS CLEAN**  
8 **ENERGY.**

9 For purposes of Federal law, it is the sense of Con-  
10 gress that—

11 (1) nuclear energy shall be considered to be  
12 clean energy;

13 (2) any provision of Federal law relating to  
14 clean energy shall be considered to include nuclear  
15 energy as a form of clean energy; and

16 (3) nuclear energy is a renewable-equivalent for  
17 purposes of a renewable energy standard.

18 **TITLE II—FINANCING NEW NU-**  
19 **CLEAR PLANT DEVELOPMENT**

20 **SEC. 201. 5-YEAR ACCELERATED DEPRECIATION PERIOD**  
21 **FOR NEW NUCLEAR POWER PLANTS.**

22 (a) IN GENERAL.—Subparagraph (B) of section  
23 168(e)(3) of the Internal Revenue Code of 1986 is amend-  
24 ed by striking “and” at the end of clause (vi)(III), by  
25 striking the period at the end of clause (vii) and inserting

1 “, and”, and by inserting after clause (vii) the following  
 2 new clause:

3 “(viii) any tangible property (not in-  
 4 cluding a building or its structural compo-  
 5 nents) which is used in the manufacturing  
 6 of, or as an integral part of, an advanced  
 7 nuclear power facility (as defined in section  
 8 45J(d)(l), determined without regard to  
 9 subparagraph (B) thereof) the original use  
 10 of which commences with the taxpayer  
 11 after the date of the enactment of this  
 12 clause.”.

13 (b) CONFORMING AMENDMENT.—Section  
 14 168(e)(3)(E)(vii) of the Internal Revenue Code of 1986  
 15 is amended by inserting “and not described in subpara-  
 16 graph (B)(viii) of this paragraph” after “section  
 17 1245(a)(3)”.

18 (c) EFFECTIVE DATE.—The amendments made by  
 19 this section shall apply to property placed in service after  
 20 the date of the enactment of this Act.

21 **SEC. 202. CONSTRUCTION TAX CREDIT FOR NUCLEAR**  
 22 **POWER FACILITIES.**

23 (a) NEW CREDIT FOR NUCLEAR POWER FACILI-  
 24 TIES.—Section 46 of the Internal Revenue Code of 1986  
 25 is amended—

1 (1) by striking “and” at the end of paragraph  
2 (5);

3 (2) by striking the period at the end of para-  
4 graph (6) and inserting “; and”; and

5 (3) by inserting after paragraph (5) the fol-  
6 lowing new paragraph:

7 “(7) the nuclear power facility construction  
8 credit.”.

9 (b) NUCLEAR POWER FACILITY CONSTRUCTION  
10 CREDIT.—Subpart E of part IV of subchapter A of chap-  
11 ter 1 of the Internal Revenue Code of 1986 is amended  
12 by inserting after section 48D the following new section:  
13 **“SEC. 48E. NUCLEAR POWER FACILITY CONSTRUCTION**  
14 **CREDIT.**

15 “(a) IN GENERAL.—For purposes of section 46, the  
16 nuclear power facility construction credit for any taxable  
17 year is 10 percent of the qualified nuclear power facility  
18 expenditures with respect to a qualified nuclear power fa-  
19 cility.

20 “(b) WHEN EXPENDITURES TAKEN INTO AC-  
21 COUNT.—

22 “(1) IN GENERAL.—Qualified nuclear power fa-  
23 cility expenditures shall be taken into account for  
24 the taxable year in which the qualified nuclear power  
25 facility is placed in service.

1           “(2) COORDINATION WITH SUBSECTION (c).—

2           The amount which would (but for this paragraph) be  
 3           taken into account under paragraph (1) with respect  
 4           to any qualified nuclear power facility shall be re-  
 5           duced (but not below zero) by any amount of quali-  
 6           fied nuclear power facility expenditures taken into  
 7           account under subsection (c) by the taxpayer or a  
 8           predecessor of the taxpayer, to the extent any  
 9           amount so taken into account under subsection (c)  
 10          has not been required to be recaptured under section  
 11          50(a).

12          “(c) PROGRESS EXPENDITURES.—

13                 “(1) IN GENERAL.—A taxpayer may elect to  
 14                 take into account qualified nuclear power facility ex-  
 15                 penditures—

16                         “(A) in the case of a qualified nuclear  
 17                         power facility which is a self-constructed facil-  
 18                         ity, no earlier than the taxable year for which  
 19                         such expenditures are properly chargeable to  
 20                         capital account with respect to such facility;  
 21                         and

22                         “(B) in the case of a qualified nuclear fa-  
 23                         cility which is not self-constructed property, no  
 24                         earlier than the taxable year in which such ex-  
 25                         penditures are paid.

1           “(2) SPECIAL RULES FOR APPLYING PARA-  
2       GRAPH (1).—For purposes of paragraph (1)—

3           “(A) COMPONENT PARTS, ETC.—Notwith-  
4       standing that a qualified nuclear power facility  
5       is a self-constructed facility, property described  
6       in paragraph (3)(B) shall be taken into account  
7       in accordance with paragraph (1)(B), and such  
8       amounts shall not be included in determining  
9       qualified nuclear power facility expenditures  
10      under paragraph (1)(A).

11          “(B) CERTAIN BORROWING DIS-  
12      REGARDED.—Any amount borrowed directly or  
13      indirectly by the taxpayer on a nonrecourse  
14      basis from the person constructing the facility  
15      for the taxpayer shall not be treated as an  
16      amount expended for such facility.

17          “(C) LIMITATION FOR FACILITIES OR COM-  
18      PONENTS WHICH ARE NOT SELF-CON-  
19      STRUCTED.—

20           “(i) IN GENERAL.—In the case of a  
21       facility or a component of a facility which  
22       is not self-constructed, the amount taken  
23       into account under paragraph (1)(B) for  
24       any taxable year shall not exceed the ex-  
25       cess of—



1 “(I) the product of the overall  
 2 cost to the taxpayer of the facility or  
 3 component of a facility, multiplied by  
 4 the percentage of completion of the  
 5 facility or component of a facility;  
 6 over

7 “(II) the amount taken into ac-  
 8 count under paragraph (1)(B) for all  
 9 prior taxable years as to such facility  
 10 or component of a facility.

11 “(ii) CARRYOVER OF CERTAIN  
 12 AMOUNTS.—In the case of a facility or  
 13 component of a facility which is not self-  
 14 constructed, if for the taxable year the  
 15 amount which (but for clause (i)) would  
 16 have been taken into account under para-  
 17 graph (1)(B) exceeds the amount allowed  
 18 by clause (i), then the amount of such ex-  
 19 cess shall increase the amount taken into  
 20 account under paragraph (1)(B) for the  
 21 succeeding taxable year without regard to  
 22 this paragraph.

23 “(D) DETERMINATION OF PERCENTAGE OF  
 24 COMPLETION.—The determination under sub-  
 25 paragraph (C) of the portion of the overall cost

1 to the taxpayer of the construction which is  
2 properly attributable to construction completed  
3 during any taxable year shall be made on the  
4 basis of engineering or architectural estimates  
5 or on the basis of cost accounting records,  
6 using information available at the close of the  
7 taxable year in which the credit is being  
8 claimed.

9 “(E) DETERMINATION OF OVERALL  
10 COST.—The determination under subparagraph  
11 (C) of the overall cost to the taxpayer of the  
12 construction of a facility shall be made on the  
13 basis of engineering or architectural estimates  
14 or on the basis of cost accounting records,  
15 using information available at the close of the  
16 taxable year in which the credit is being  
17 claimed.

18 “(F) NO PROGRESS EXPENDITURES FOR  
19 PROPERTY FOR YEAR PLACED IN SERVICE,  
20 ETC.—In the case of any qualified nuclear facil-  
21 ity, no qualified nuclear facility expenditures  
22 shall be taken into account under this sub-  
23 section for the earlier of—

24 “(i) the taxable year in which the fa-  
25 cility is placed in service; or

1 “(ii) the first taxable year for which  
2 recapture is required under section  
3 50(a)(2) with respect to such facility or for  
4 any taxable year thereafter.

5 “(3) SELF-CONSTRUCTED.—For purposes of  
6 this subsection—

7 “(A) IN GENERAL.—The term ‘self-con-  
8 structed facility’ means any facility if, at the  
9 close of the first taxable year to which the elec-  
10 tion in this subsection applies, it is reasonable  
11 to believe that more than 80 percent of the  
12 qualified nuclear facility expenditures for such  
13 facility will be made directly by the taxpayer.

14 “(B) TREATMENT OF COMPONENTS.—A  
15 component of a facility shall be treated as not  
16 self-constructed if, at the close of the first tax-  
17 able year in which expenditures for the compo-  
18 nent are paid, it is reasonable to believe that  
19 the cost of the component is at least 5 percent  
20 of the expected cost of the facility.

21 “(4) ELECTION.—An election shall be made  
22 under this subsection for a qualified nuclear power  
23 facility by claiming the nuclear power facility con-  
24 struction credit for expenditures described in para-  
25 graph (1) on the taxpayer’s return of the tax im-

1 posed by this chapter for the taxable year. Such an  
 2 election shall apply to the taxable year for which  
 3 made and all subsequent taxable years. Such an  
 4 election, once made, may be revoked only with the  
 5 consent of the Secretary.

6 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-  
 7 poses of this section—

8 “(1) QUALIFIED NUCLEAR POWER FACILITY.—  
 9 The term ‘qualified nuclear power facility’ means an  
 10 advanced nuclear facility (as defined in section  
 11 45J(d)(2)) which—

12 “(A) is placed in service before January 1,  
 13 2030; and

14 “(B) when placed in service, will use nu-  
 15 clear power to produce electricity.

16 Such term shall not include any property which is  
 17 part of a facility the production from which is al-  
 18 lowed as a credit under section 45J for the taxable  
 19 year or any subsequent taxable year.

20 “(2) QUALIFIED NUCLEAR POWER FACILITY  
 21 EXPENDITURES.—The term ‘qualified nuclear power  
 22 facility expenditures’ means any amount paid, ac-  
 23 crued, or properly chargeable to capital account—

24 “(A) with respect to a qualified nuclear  
 25 power facility;

1           “(B) for which depreciation will be allow-  
2           able under section 168 once the facility is  
3           placed in service; and

4           “(C) which is incurred before the qualified  
5           nuclear power facility is placed in service or in  
6           connection with the placement of such facility  
7           in service.

8           “(3) DELAYS AND SUSPENSION OF CONSTRUC-  
9           TION.—

10           “(A) IN GENERAL.—Except for sales or  
11           dispositions between members of the same af-  
12           filiated group, for purposes of applying this sec-  
13           tion and section 50, a nuclear power facility  
14           that is under construction shall cease, with re-  
15           spect to the taxpayer, to be a qualified nuclear  
16           power facility as of the date on which the tax-  
17           payer sells, disposes of, or cancels, abandons, or  
18           otherwise terminates the construction of, the fa-  
19           cility.

20           “(B) RESUMPTION OF CONSTRUCTION.—If  
21           a nuclear power facility that is under construc-  
22           tion ceases, with respect to the taxpayer, to be  
23           a qualified nuclear power facility by reason of  
24           subparagraph (A) and work is subsequently re-  
25           sumed on the construction of such facility, the

1           qualified nuclear power facility expenditures  
 2           shall be determined without regard to any delay  
 3           or temporary termination of construction of the  
 4           facility.

5           “(4) COORDINATION WITH COST-SHARING.—  
 6           The amount of qualified nuclear expenditures of a  
 7           taxpayer shall be reduced by any amount received  
 8           under section 952(c)(3) of the Energy Policy Act of  
 9           2005.

10          “(e) APPLICATION OF OTHER RULES.—Rules similar  
 11       to the rules of subsections (c)(4) and (d) of section 46  
 12       (as in effect on the day before the enactment of the Rev-  
 13       enue Reconciliation Act of 1990) shall apply for purposes  
 14       of this section to the extent not inconsistent herewith.

15          “(f) ELECTION TO HAVE CREDIT NOT APPLY.—

16               “(1) IN GENERAL.—A taxpayer may elect to  
 17       have this section not apply for any taxable year.

18               “(2) TIME AND MANNER FOR MAKING ELEC-  
 19       TION.—Rules similar to the rules of section 43(e)  
 20       shall apply for purposes of this subsection.”.

21          “(c) SPECIAL RULE FOR BASIS ADJUSTMENT.—Para-  
 22       graph (3) of section 50(c) of the Internal Revenue Code  
 23       of 1986 is amended by inserting “or nuclear power facility  
 24       construction credit” after “energy credit”.

1       (d) PROVISIONS RELATING TO CREDIT RECAP-  
2     TURE.—

3           (1) PROGRESS EXPENDITURE RECAPTURE  
4     RULES.—

5           (A) BASIC RULES.—Subparagraph (A) of  
6     section 50(a)(2) of the Internal Revenue Code  
7     of 1986 is amended to read as follows:

8           “(A) IN GENERAL.—If during any taxable  
9     year any building to which section 47(d) applied  
10    or any facility to which section 48E(c) applied  
11    ceases (by reason of sale or other disposition,  
12    cancellation or abandonment of contract, or  
13    otherwise) to be, with respect to the taxpayer,  
14    property which, when placed in service, will be  
15    a qualified rehabilitated building or a qualified  
16    nuclear power facility, then the tax under this  
17    chapter for such taxable year shall be increased  
18    by an amount equal to the aggregate decrease  
19    in the credits allowed under section 38 for all  
20    prior taxable years which would have resulted  
21    solely from reducing to zero the credit deter-  
22    mined under this subpart with respect to such  
23    building or facility.”.

1 (B) AMENDMENT TO EXCESS CREDIT RE-  
 2 CAPTURE RULE.—Subparagraph (B) of section  
 3 50(a)(2) of such Code is amended by—

4 (i) inserting “or paragraph (2) of sec-  
 5 tion 48E(b)” after “paragraph (2) of sec-  
 6 tion 47(b)”; (ii) inserting “or section  
 7 48E(b)(1)” after “section 47(b)(1)”; and  
 8 (iii) inserting “or facility” after “build-  
 9 ing”.

10 (C) AMENDMENT OF SALE AND LEASE-  
 11 BACK RULE.—Subparagraph (C) of section  
 12 50(a)(2) of such Code is amended by inserting  
 13 “or the qualified nuclear power facility expendi-  
 14 tures under section 48E(c)” after “47(d)”.

15 (D) COORDINATION.—Subparagraph (D)  
 16 of section 50(a)(2) of such Code is amended by  
 17 inserting “or 48E(c)” after “section 47(d)”.

18 (e) APPLICATION OF AT-RISK RULES.—Subpara-  
 19 graph (C) of section 49(a)(1) of the Internal Revenue  
 20 Code of 1986 is amended—

21 (1) by striking “and” at the end of clause (v);

22 (2) by striking the period at the end of clause  
 23 (vi) and inserting “, and”; and

24 (3) by inserting after clause (vi) the following  
 25 2 new clause:



1 “(vii) the basis of any property which  
 2 is part of a qualified nuclear power facility  
 3 under section 48E.”.

4 (f) DENIAL OF DOUBLE BENEFIT.—Subsection (c)  
 5 of section 45J of the Internal Revenue Code of 1986 (re-  
 6 lating to other limitations) is amended by adding at the  
 7 end the following new paragraph:

8 “(3) DENIAL OF DOUBLE BENEFIT.—No credit  
 9 shall be allowed under this section with respect to  
 10 any facility for which a credit is allowed under sec-  
 11 tion 48E for such taxable year or any prior taxable  
 12 year.”.

13 (g) TREATMENT UNDER ALTERNATIVE MINIMUM  
 14 TAX.—Section 38(c)(4)(B) of the Internal Revenue Code  
 15 of 1986 is amended by striking “‘and’” at the end of  
 16 clause (viii), by redesignating clause (ix) as clause (x), and  
 17 by inserting after clause (viii) the following new clause:

18 “(ix) the credit determined under sec-  
 19 tion 46 to the extent that such credit is at-  
 20 tributable to the nuclear power facility con-  
 21 struction credit under section 48E, and”.

22 (h) COORDINATION WITH NUCLEAR POWER  
 23 GRANTS.—Section 501(c)(12) of the Internal Revenue  
 24 Code of 1986 is amended by adding at the end the fol-  
 25 lowing new subparagraph:

1           “(J) In the case of a mutual or cooperative  
 2           electric company described in this paragraph or  
 3           an organization described in section  
 4           1381(a)(2)(C), subparagraph (A) shall be ap-  
 5           plied without taking into account any grant re-  
 6           ceived under section 206 of the Enabling the  
 7           Nuclear Renaissance Act.”.

8           (i) CONFORMING AMENDMENTS.—

9           (1) Section 6501(m) of the Internal Revenue  
 10          Code of 1986 is amended by inserting “48E(f),”  
 11          after “45H(g),”.

12          (2) The table of sections for subpart E of part  
 13          IV of subchapter A of chapter 1 of such Code is  
 14          amended by inserting after the item relating to sec-  
 15          tion 48D the following new item:

“Sec. 48E. Nuclear power facility construction credit.”.

16          (j) EFFECTIVE DATE.—The amendments made by  
 17          this section shall apply to periods after the date of enact-  
 18          ment of this Act, under rules similar to the rules of section  
 19          48(m) of the Internal Revenue Code of 1986 (as in effect  
 20          on the day before the date of the enactment of the Rev-  
 21          enue Reconciliation Act of 1990).

22       **SEC. 203. INCLUSION OF NUCLEAR POWER FACILITIES IN**  
 23       **ADVANCED ENERGY PROJECT TAX CREDITS.**

24          (a) IN GENERAL.—Clause (i) of section 48C(c)(1)(A)  
 25          of the Internal Revenue Code of 1986 is amended by strik-

1 ing “or” at the end of subclause (VI), by redesignating  
 2 subclause (VIII) as subclause (IX) , and by inserting after  
 3 subclause (VI) the following new subclause:

4 “(VII) property designed to be  
 5 used to produce energy from an ad-  
 6 vanced nuclear power facility (as de-  
 7 fined in section 45J(d)), and”.

8 (b) INCREASE IN CREDIT ALLOCATION LIMITA-  
 9 TION.—Subparagraph (B) of section 48C(d)(1) of the In-  
 10 ternal Revenue Code of 1986 is amended by striking  
 11 “\$2,300,000,000” and inserting “\$7,300,000,000”.

12 (c) EXTENSION OF APPLICATION PERIOD.—Subpara-  
 13 graph (A) of section 48C(d)(2) of the Internal Revenue  
 14 Code of 1986 is amended by striking “2-year period” and  
 15 inserting “5-year period”.

16 (d) EXTENSION OF PERIOD OF ISSUANCE.—Subpara-  
 17 graph (C) of section 48C(d)(2) of the Internal Revenue  
 18 Code of 1986 is amended by striking “3 years” and insert-  
 19 ing “7 years”.

20 (e) COORDINATION WITH COST-SHARING.—Section  
 21 48C of the Internal Revenue Code of 1986 is amended  
 22 by adding at the end the following new subsection:

23 “(f) COORDINATION WITH COST-SHARING.—The  
 24 qualified investment with respect to any project described  
 25 in subsection (c)(1)(A)(i)(VII) shall be reduced by any

1 amount received under section 952(c)(3) of the Energy  
2 Policy Act of 2005.”.

3 (f) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to property placed in service after  
5 the date of the enactment of this Act.

6 **SEC. 204. MODIFICATION OF CREDIT FOR PRODUCTION**  
7 **FROM ADVANCED NUCLEAR POWER FACILI-**  
8 **TIES.**

9 (a) INCREASE IN NATIONAL LIMITATION.—Para-  
10 graph (2) of section 45J(b) of the Internal Revenue Code  
11 (relating to national limitation) is amended by striking  
12 “6,000 megawatts” and inserting “8,000 megawatts”.

13 (b) REPEAL OF OWNERSHIP RESTRICTION.—Sub-  
14 paragraph (A) of section 45J(d)(1) of the Internal Rev-  
15 enue Code of 1986 is amended by striking “which is owned  
16 by the taxpayer and”.

17 (c) TREATMENT UNDER ALTERNATIVE MINIMUM  
18 TAX.—Section 38(c)(4)(B) of the Internal Revenue Code  
19 of 1986, as amended by section 202, is amended by redes-  
20 ignating clauses (vi) through (x) as clauses (vii) through  
21 (xi), respectively, and by inserting after clause (v) the fol-  
22 lowing new clause:

23 “(vi) the credit determined under sec-  
24 tion 45J,”.

1 (d) ALLOCATION OF CREDIT TO PRIVATE PARTNERS  
2 OF TAX-EXEMPT ENTITIES.—

3 (1) IN GENERAL.—Section 45J of the Internal  
4 Revenue Code of 1986 (relating to credit for produc-  
5 tion from advanced nuclear power facilities) is  
6 amended—

7 (A) by redesignating subsection (e) as sub-  
8 section (f); and

9 (B) by inserting after subsection (d) the  
10 following new subsection:

11 “(e) SPECIAL RULE FOR PUBLIC-PRIVATE PARTNER-  
12 SHIPS.—

13 “(1) IN GENERAL.—In the case of an advanced  
14 nuclear power facility which is owned by a public  
15 private partnership or co-owned by a qualified public  
16 entity and a non-public entity, any qualified public  
17 entity which is a member of such partnership or a  
18 co-owner of such facility may transfer such entity’s  
19 allocation of the credit under subsection (a) to any  
20 non-public entity which is a member of such part-  
21 nership or which is a co-owner of such facility, ex-  
22 cept that the aggregate allocations of such credit  
23 claimed by such non-public entity shall be subject to  
24 the limitations under subsections (b) and (c) and  
25 section 38.

1           “(2) QUALIFIED PUBLIC ENTITY.—For pur-  
 2           poses of this subsection, the term ‘qualified public  
 3           entity’ means—

4                   “(A) a Federal, State, or local government  
 5                   entity, or any political subdivision or agency or  
 6                   instrumentality thereof;

7                   “(B) a mutual or cooperative electric com-  
 8                   pany described in section 501(c)(12) or section  
 9                   1381(a)(2); or

10                  “(C) a not-for-profit electric utility which  
 11                  has or had received a loan or loan guarantee  
 12                  under the Rural Electrification Act of 1936.

13           “(3) VERIFICATION OF TRANSFER OF ALLOCA-  
 14           TION.—A qualified public entity that makes a trans-  
 15           fer under paragraph (1), and a nonpublic entity that  
 16           receives an allocation under such a transfer, shall  
 17           provide verification of such transfer in such manner  
 18           and at such time as the Secretary shall prescribe.

19           “(4) COORDINATION WITH DEPARTMENT OF  
 20           TREASURY GRANTS.—In the case of any property  
 21           with respect to which the Secretary makes a grant  
 22           to a qualified public entity under section 206 of the  
 23           Enabling the Nuclear Renaissance Act, no credit  
 24           that would be allocable to a qualified public entity  
 25           shall be determined under this section for the tax-

1       able year in which such grant is made or any subse-  
2       quent taxable year.

3               “(5) COORDINATION WITH GENERAL BUSINESS  
4       CREDIT.—Subsection (c) of section 38 of such Code  
5       (relating to limitation based on amount of tax) is  
6       amended by adding at the end the following new  
7       paragraph:

8               “(6) SPECIAL RULE FOR CREDIT FOR PRODUC-  
9       TION FROM ADVANCED NUCLEAR POWER FACILI-  
10       TIES.—

11              “(A) IN GENERAL.—In the case of the  
12       credit for production from advanced nuclear  
13       power facilities determined under section  
14       45J(a), paragraph (1) shall not apply with re-  
15       spect to any qualified public entity (as defined  
16       in section 45J(e)(2)) which transfers the enti-  
17       ty’s allocation of such credit to a non-public  
18       partner or a co-owner of such facility as pro-  
19       vided in section 45J(e)(1).

20              “(B) VERIFICATION OF TRANSFER.—Sub-  
21       paragraph (A) shall not apply to any qualified  
22       public entity unless such entity provides  
23       verification of a transfer of credit allocation as  
24       required under section 45J(e)(3).

1           “(7) SPECIAL RULE FOR PROCEEDS OF TRANS-  
 2           FERS FOR MUTUAL OR COOPERATIVE ELECTRIC  
 3           COMPANIES.—Section 501(c)(12) of such Code is  
 4           amended by adding at the end the following new  
 5           subparagraph:

6                   “(A) In the case of a mutual or coopera-  
 7           tive electric company described in this para-  
 8           graph or an organization described in section  
 9           1381(a)(2), income received or accrued from a  
 10          transfer described in section 45J(e)(1) shall be  
 11          treated as an amount collected from members  
 12          for the sole purpose of meeting losses and ex-  
 13          penses.”.

14          (e) EFFECTIVE DATE.—

15               (1) IN GENERAL.—The amendments made by  
 16          subsections (a) and (b) shall apply to electricity pro-  
 17          duced in taxable years beginning after the date of  
 18          the enactment of this Act.

19               (2) TREATMENT UNDER ALTERNATIVE MIN-  
 20          IMUM TAX.—The amendments made by subsection  
 21          (c) shall apply to credits determined under section  
 22          45J of the Internal Revenue Code of 1986 in taxable  
 23          years ending after the date of the enactment of this  
 24          Act and to carrybacks of such credits.



1           (3) ALLOCATION OF CREDIT.—The amend-  
 2           ments made by subsection (d) shall apply to taxable  
 3           years beginning after the date of the enactment of  
 4           this Act.

5 **SEC. 205. TREATMENT OF QUALIFIED PUBLIC ENTITIES**  
 6                   **WITH RESPECT TO PRIVATE ACTIVITY**  
 7                   **BONDS.**

8           (a) PRIVATE BUSINESS TEST.—Section 141(b)(6)(A)  
 9           of the Internal Revenue Code of 1986 is amended by in-  
 10          serting “or qualified public entity (as defined in section  
 11          45J(e)(2))” adding at the end the following new subpara-  
 12          graph:

13                   “(C) EXCEPTION FOR CERTAIN USES BY  
 14                   QUALIFIED PUBLIC ENTITIES.—For purposes of  
 15                   subparagraph (A), the term ‘private business  
 16                   use’ shall not include any use with respect to a  
 17                   qualified nuclear power facility (as defined  
 18                   under section 48E(d)(1) without regard to the  
 19                   last sentence thereof) by a qualified public enti-  
 20                   ty (as defined in section 45J(e)(2)).”.

21          (b) PRIVATE LOAN FINANCING TEST.—Section  
 22          141(c) of the Internal Revenue Code of 1986 is amended  
 23          by adding at the end the following new paragraph:

24                   “(3) EXCEPTION FOR QUALIFIED PUBLIC ENTI-  
 25                   TIES.—For purposes of paragraph (1), in the case of

1 any loan to a qualified public entity (as defined in  
 2 section 45J(e)(2)), any amounts to be used for  
 3 qualified nuclear power facilities (as defined under  
 4 section 48E(d)(1) without regard to the last sen-  
 5 tence thereof) shall be not be taken into account.”.

6 (c) EFFECTIVE DATE.—The amendment made by  
 7 this section shall apply to obligations issued after the date  
 8 of the enactment of this Act.

9 **SEC. 206. GRANTS FOR QUALIFIED NUCLEAR POWER FACIL-**  
 10 **ITY EXPENDITURES IN LIEU OF TAX CREDITS.**

11 (a) IN GENERAL.—Upon application, the Secretary  
 12 of the Treasury shall, subject to the requirements of this  
 13 section, provide a grant to each qualified public entity  
 14 which places in service a qualified nuclear power facility  
 15 to reimburse such qualified public entity for a portion of  
 16 the qualified nuclear power facility expenditures of such  
 17 property as provided in subsection (b).

18 (b) GRANT AMOUNT.—The amount of the grant  
 19 under subsection (a) with respect to a qualified nuclear  
 20 power facility shall be 10 percent of the qualified nuclear  
 21 power facility expenditures.

22 (c) TIME FOR PAYMENT OF GRANT.—The Secretary  
 23 of the Treasury shall make payment of any grant under  
 24 subsection (a) during the 60-day period beginning on the  
 25 later of—

1           (1) the date of the application for such grant;  
2           or

3           (2) the date the qualified nuclear power facility  
4           for which the grant is being made is placed in serv-  
5           ice.

6           (d) QUALIFIED PUBLIC ENTITY.—For purposes of  
7 this section, the term “qualified public entity” shall have  
8 the meaning given such term in section 45J(e)(2) of the  
9 Internal Revenue Code of 1986.

10          (e) COORDINATION WITH SECTION 48E.—For pur-  
11 poses of this section—

12           (1) the definition of qualified nuclear power fa-  
13           cility in section 48E(d)(1) of the Internal Revenue  
14           Code of 1986 shall be applied without regard to the  
15           last sentence thereof; and

16           (2) expenditures will be treated as qualified nu-  
17           clear power facility expenditures without regard to  
18           section 48E(d)(2)(B) of such Code.

19          (f) COORDINATION WITH COST-SHARING.—The  
20 amount of qualified nuclear expenditures which are eligible  
21 for a grant under subsection (a) shall be reduced by any  
22 amount received under section 952(c)(3) of the Energy  
23 Policy Act of 2005.

24          (g) APPLICATION OF CERTAIN RULES.—In making  
25 grants under this section, the Secretary of the Treasury

1 shall apply rules similar to the rules of section 50 of the  
 2 Internal Revenue Code of 1986. In applying such rules,  
 3 if the property is disposed of, or otherwise ceases to be  
 4 a qualified nuclear power facility, the Secretary of the  
 5 Treasury shall provide for the recapture of the appropriate  
 6 percentage of the grant amount in such manner as the  
 7 Secretary of the Treasury determines appropriate. In ap-  
 8 plying section 50 of the Internal Revenue Code of 1986,  
 9 subsection (b)(4)(A)(i) of such section shall not apply.

10 (h) DEFINITIONS.—Terms used in this section which  
 11 are also used in section 48E of the Internal Revenue Code  
 12 of 1986 shall have the same meaning for purposes of this  
 13 section as when used in such section 48E. Any reference  
 14 in this section to the Secretary of the Treasury shall be  
 15 treated as including the Secretary’s delegate.

16 (i) APPROPRIATIONS.—There is hereby appropriated  
 17 to the Secretary of the Treasury such sums as may be  
 18 necessary to carry out this section.

19 (j) TERMINATION.—The Secretary of the Treasury  
 20 shall not make any grant to any person under this section  
 21 unless the application of such person for such grant is re-  
 22 ceived before January 1, 2030.

23 **SEC. 207. ASME NUCLEAR CERTIFICATION CREDIT.**

24 (a) IN GENERAL.—Subpart D of part IV of sub-  
 25 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 (relating to business related credits) is amended by  
 2 adding at the end the following new section:

3 **“SEC. 45S. ASME NUCLEAR CERTIFICATION CREDIT.**

4       “(a) IN GENERAL.—For purposes of section 38, the  
 5 ASME nuclear certification credit determined under this  
 6 section for any taxable year is an amount equal to 15 per-  
 7 cent of the qualified nuclear expenditures paid or incurred  
 8 by the taxpayer.

9       “(b) QUALIFIED NUCLEAR EXPENDITURES.—For  
 10 purposes of this section, the term ‘qualified nuclear ex-  
 11 penditures’ means any expenditure related to—

12               “(1) obtaining a new certification under the  
 13 American Society of Mechanical Engineers Nuclear  
 14 Component Certification program;

15               “(2) recertifying, changing, or otherwise up-  
 16 grading an existing certification under the American  
 17 Society of Mechanical Engineers Nuclear Component  
 18 Certification program; or

19               “(3) increasing the taxpayer’s capacity to con-  
 20 struct, fabricate, assemble, or install components—

21                       “(A) for any facility which uses nuclear en-  
 22 ergy to produce electricity, and

23                       “(B) with respect to the construction, fab-  
 24 rication, assembly, or installation of which the  
 25 taxpayer is certified under such program.

1       “(c) TIMING OF CREDIT.—The credit allowed under  
2 subsection (a) for any expenditures shall be allowed—

3               “(1) in the case of a qualified nuclear expendi-  
4 ture described in subsection (b)(1), for the taxable  
5 year of such certification, and

6               “(2) in the case of any other qualified nuclear  
7 expenditure, for the taxable year in which such ex-  
8 penditure is paid or incurred.

9       “(d) SPECIAL RULES.—

10           “(1) BASIS ADJUSTMENT.—For purposes of  
11 this subtitle, if a credit is allowed under this section  
12 for an expenditure, the increase in basis which would  
13 result (but for this subsection) for such expenditure  
14 shall be reduced by the amount of the credit allowed  
15 under this section.

16           “(2) DENIAL OF DOUBLE BENEFIT.—No deduc-  
17 tion shall be allowed under this chapter for any  
18 amount taken into account in determining the credit  
19 under this section.

20           “(3) COORDINATION WITH COST-SHARING.—  
21 The amount of qualified nuclear expenditures of a  
22 taxpayer shall be reduced by any amount received  
23 under section 952(c)(3) of the Energy Policy Act of  
24 2005.

1       “(e) TERMINATION.—This section shall not apply to  
2 any expenditures paid or incurred in taxable years begin-  
3 ning after December 31, 2025.”.

4       (b) CONFORMING AMENDMENTS.—

5           (1) Subsection (b) of section 38 of such Code  
6 is amended by striking “plus” at the end of para-  
7 graph (35), by striking the period at the end of  
8 paragraph (36) and inserting “, plus”, and by add-  
9 ing at the end the following new paragraph:

10           “(37) the ASME nuclear certification credit de-  
11 termined under section 45S(a).”.

12           (2) Subsection (a) of section 1016 of such  
13 Code(relating to adjustments to basis) is amended  
14 by striking “and” at the end of paragraph (36), by  
15 striking the period at the end of paragraph (37) and  
16 inserting “, and”, and by adding at the end the fol-  
17 lowing new paragraph:

18           “(38) to the extent provided in section  
19 45S(e)(1).”.

20           (3) The table of sections for subpart D of part  
21 IV of subchapter A of chapter 1 of such Code is  
22 amended by inserting after the item relating to sec-  
23 tion 45R the following new item:

“Sec. 45S. ASME nuclear certification credit.”.

1 (c) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to expenditures paid or incurred  
 3 in taxable years beginning after December 31, 2010.

4 **SEC. 208. TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUAR-**  
 5 **ANTEE PROGRAM.**

6 (a) FUNDING.—The matter under the heading  
 7 “TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE  
 8 PROGRAM” of title III of division C of the Omnibus Appro-  
 9 priations Act, 2009 (Public Law 111–8; 123 Stat. 619)  
 10 is amended, in the matter preceding the first proviso—

11 (1) by striking “\$47,000,000,000” and insert-  
 12 ing “\$100,000,000,000”; and

13 (2) by striking “\$18,500,000,000” and insert-  
 14 ing “\$54,000,000,000”.

15 (b) TERMS AND CONDITIONS.—Section 1702 of the  
 16 Energy Policy Act of 2005 (42 U.S.C. 16512) is amend-  
 17 ed—

18 (1) by striking subsection (b) and inserting the  
 19 following:

20 “(b) SPECIFIC APPROPRIATION OR CONTRIBU-  
 21 TION.—No guarantee shall be made unless—

22 “(1) an appropriation for the cost has been  
 23 made;



1           “(2) the borrower has agreed to pay the cost of  
2           the obligation pursuant to a method of payment de-  
3           scribed in subsection (m); or

4           “(3) a combination of an appropriation and a  
5           commitment for payment from the borrower, pursu-  
6           ant to subsection (m), has been made that is suffi-  
7           cient to cover the cost of the obligation.”; and

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

9           “(1) DETERMINATION OF THE COST OF THE OBLIGA-  
10          TION.—

11           “(1) IN GENERAL.—In the case of any proposed  
12          loan guarantee that is greater than \$1,000,000,000,  
13          the Secretary shall determine the cost of the obliga-  
14          tion on the basis of a project-specific financial risk  
15          assessment that—

16           “(A) reflects the estimated probability of  
17          default commensurate with the credit assess-  
18          ment performed by an independent rating agen-  
19          cy:

20           “(B) reflects the value of the recovery in  
21          the event of default that is estimated on the  
22          basis of the best value to the Federal Govern-  
23          ment, reflecting a recovery plan submitted by  
24          the borrower; and

1           “(C) has been made available to the bor-  
2           rower for review and comment in draft form  
3           prior to a final determination.

4           “(2) COST OF OBLIGATION PAID BY BOR-  
5           ROWER.—If the cost of the obligation is paid by the  
6           borrower in accordance with subsection (b)(2), the  
7           Secretary may consult with the Director of Office of  
8           Management and Budget on the estimated cost of  
9           the obligation, but the determination of the Sec-  
10          retary shall be final.

11          “(m) METHOD OF PAYMENT.—The borrower may  
12          provide payment for the cost of the obligation under para-  
13          graph (2) or (3) of subsection (b) by—

14               “(1) paying the cost of the obligation in full at  
15               the time of the initial drawdown of funds against the  
16               guaranteed obligation;

17               “(2) including the cost of the obligation within  
18               the total principal amount of the obligation, which  
19               shall be paid in full to the Secretary at the time of  
20               the initial drawdown of funds against the guaran-  
21               teed obligation; or

22               “(3) providing evidence of financial assurance  
23               at the time of final approval of the guarantee finan-  
24               cial closing to pay the cost of the obligation, in the  
25               form of a letter of credit, performance bond, or cor-

1       porate guarantee acceptable to the Secretary, with  
2       payments to the Secretary on a pro-rata basis with  
3       each drawdown of funds against the obligation.

4       “(n) RELATION TO OTHER LAWS.—Section 504(b) of  
5       the Federal Credit Reform Act of 1990 (2 U.S.C. 661c(b))  
6       shall not apply to a loan guarantee under this section.

7       “(o) ACCELERATED REVIEWS.—To the maximum ex-  
8       tent practicable and consistent with sound business prac-  
9       tices, the Secretary shall seek to conduct necessary reviews  
10      concurrently of an application for a loan guarantee under  
11      this title such that decisions as to whether to enter into  
12      a commitment on the application can be issued not later  
13      than 180 days after the date of submission of a completed  
14      application.”.

15      “(c) ELIGIBLE PROJECTS.—Section 1703(b)(4) of the  
16      Energy Policy Act of 2005 (42 U.S.C. 16513(b)(4)) is  
17      amended by inserting “(including nuclear power parts,  
18      services, and fuel suppliers, as well as small modular reac-  
19      tors)” after “energy facilities”.

1 **TITLE III—ACCELERATING THE**  
 2 **DEVELOPMENT OF SMALL**  
 3 **MODULAR REACTORS**

4 **SEC. 301. SMALL MODULAR REACTOR DEVELOPMENT AND**  
 5 **LICENSING.**

6 (a) SMALL MODULAR REACTOR DESIGN DEVELOP-  
 7 MENT.—Section 952(c) of the Energy Policy Act of 2005  
 8 (42 U.S.C. 16272(c)) is amended by adding at the end  
 9 the following:

10 “(3) SMALL MODULAR NUCLEAR REACTOR DE-  
 11 SIGN DEVELOPMENT.—

12 “(A) IN GENERAL.—In carrying out the  
 13 Program, in accordance with subparagraph (B),  
 14 the Secretary shall offer to enter into coopera-  
 15 tive agreements with reactor manufacturers, in-  
 16 dustrial users, and electric utilities to develop  
 17 and license small modular reactors with a rated  
 18 capacity of less than 350 electrical megawatts  
 19 that could be—

20 “(i) preassembled separately from a  
 21 site; and

22 “(ii)(I) operated singly; or

23 “(II) operated in combination with  
 24 similar reactors at a single site.

1           “(B) REQUIREMENTS.—In carrying out  
2           subparagraph (A), the Secretary shall—

3           “(i) after considering input from the  
4           National Nuclear Energy Council estab-  
5           lished under section 602(a) of the Ena-  
6           bling the Nuclear Renaissance Act regard-  
7           ing the merits of various designs, ensure  
8           that the most feasible designs are devel-  
9           oped and submitted to the Nuclear Regu-  
10          latory Commission for design certification  
11          and licensing;

12          “(ii) with respect to each reactor de-  
13          sign to be developed, pay to the applicants  
14          50 percent of any costs arising from the  
15          design development and engineering,  
16          preapplication design certification and  
17          early site permit development and licens-  
18          ing, design and licensing reviews, design  
19          certification and licensing fees of the Nu-  
20          clear Regulatory Commission, and  
21          postapplication engineering development  
22          of—

23          “(I) the design certification of  
24          the reactor;

1 “(II) the first early site permits  
2 for the reactor; and

3 “(III) the first combined oper-  
4 ating license for the reactor; and

5 “(iii) with respect to each reactor de-  
6 sign that receives a combined license, pay  
7 to the combined license holder 50 percent  
8 of any costs arising from construction of  
9 the first reactor plant.

10 “(C) PROGRAMS.—The Secretary shall  
11 carry out—

12 “(i) a program—

13 “(I) to develop designs for sev-  
14 eral small modular reactors; and

15 “(II) through which to obtain a  
16 design certification from the Nuclear  
17 Regulatory Commission for not less  
18 than 1 design by January 1, 2016;

19 “(ii) a program—

20 “(I) to demonstrate the licensing  
21 of small modular reactors by devel-  
22 oping applications for a combined li-  
23 cense for each design certified under  
24 clause (i)(II); and

1 “(II) through which to obtain a  
2 combined license from the Nuclear  
3 Regulatory Commission for not less  
4 than 1 design certified under clause  
5 (i)(II) by January 1, 2018; and

6 “(iii) a program to demonstrate by  
7 January 1, 2021, the construction and op-  
8 eration of small modular reactors by con-  
9 structing and achieving power operation of  
10 not less than 1 small modular reactor li-  
11 censed under clause (ii)(II).

12 “(D) TARGET DATES FOR COMPLETION.—

13 “(i) IN GENERAL.—To the maximum  
14 extent practicable, and through the best ef-  
15 forts of the Secretary, the Secretary shall  
16 ensure that the Program meets the appli-  
17 cable target dates described in subpara-  
18 graph (C).

19 “(ii) REPORT.—If the Secretary de-  
20 termines that any target date described in  
21 subparagraph (C) will not be met, the Sec-  
22 retary shall submit to the appropriate com-  
23 mittees of Congress a report that estab-  
24 lishes an alternate target date for comple-  
25 tion.

1           “(E) MERIT REVIEW OF PROPOSALS.—The  
 2           Secretary shall select proposals for cooperative  
 3           agreements under this paragraph—

4                   “(i) through the use of competitive  
 5                   procedures; and

6                   “(ii) on the basis of an impartial re-  
 7                   view of the merit of the proposals that  
 8                   takes into account—

9                           “(I) the safety, demonstrated and  
 10                          potential market demand, technical  
 11                          merit and feasibility, efficiency, cost,  
 12                          used fuel disposal, and proliferation  
 13                          resistance of each competing reactor  
 14                          designs; and

15                           “(II) input from the National  
 16                          Nuclear Energy Council established  
 17                          under section 602(a) of the Enabling  
 18                          the Nuclear Renaissance Act.

19           “(F) AUTHORIZATION OF APPROPRIA-  
 20           TIONS.—

21                   “(i) DEPARTMENT OF ENERGY.—  
 22                   There is authorized to be appropriated to  
 23                   the Secretary to carry out this paragraph  
 24                   \$100,000,000 for each of fiscal years 2011



through 2020, to remain available until expended.

“(ii) NUCLEAR REGULATORY COMMISSION.—There are authorized to be appropriated to the Nuclear Regulatory Commission to carry out this section such sums as are necessary.”.

## **TITLE IV—IMPROVING THE LICENSING PROCESS**

### **SEC. 401. ELIMINATION OF MANDATORY HEARING FOR UNCONTESTED LICENSE APPLICATIONS.**

(a) PERMITS AND LICENSES.—Section 185 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2235 b.) is amended in the first sentence—

(1) by striking “public hearing” and inserting “hearing”; and

(2) by inserting “or if the Commission has determined that no hearing is required to be held under that section,” after “section 189 a. (1)(A),”.

(b) HEARINGS AND JUDICIAL REVIEW.—Section 189 of the Atomic Energy Act of 1954 (42 U.S.C. 2239) is amended—

(1) in subsection a.—

(A) in paragraph (1)(A)—

(i) in the second sentence—

1 (I) by striking “The Commis-  
 2 sion” and all that follows through  
 3 “Federal Register, on” and inserting  
 4 “On”;

5 (II) by inserting “or an operating  
 6 license” after “construction permit”  
 7 each place it appears; and

8 (III) by striking the period at the  
 9 end; and

10 (ii) in the third sentence—

11 (I) by striking “In cases” and all  
 12 that follows through “such a hear-  
 13 ing”;

14 (II) by striking “therefor” and  
 15 inserting “for a hearing”; and

16 (III) by striking “issue an oper-  
 17 ating license” and inserting “issue a  
 18 construction permit, an operating li-  
 19 cense,”; and

20 (B) in paragraph (2)(A), in the second  
 21 sentence, by striking “required hearing” and in-  
 22 serting “hearing held by the Commission under  
 23 this section”; and

24 (2) in subsection b. (2), by striking “to begin  
 25 operating” and inserting “to operate”.

1 (c) ADJUDICATORY HEARING.—Section 193(b) of the  
 2 Atomic Energy Act of 1954 (42 U.S.C. 2243(b)) is  
 3 amended—

4 (1) in paragraph (1), by striking “on the  
 5 record” and all that follows through “and 63” and  
 6 inserting “if a person the interest of whom may be  
 7 affected by the construction and operation of a ura-  
 8 nium enrichment facility under sections 53 and 63  
 9 has requested a hearing regarding the licensing of  
 10 the construction and operation of the facility”; and

11 (2) in paragraph (2), by striking “Such hear-  
 12 ing” and inserting “If a hearing is held under para-  
 13 graph (1), the hearing”.

14 (d) APPLICABILITY.—The amendments made by this  
 15 section shall apply with respect to each application and  
 16 proceeding pending before the Nuclear Regulatory Com-  
 17 mission as of the date of enactment of this Act.

18 **SEC. 402. WASTE CONFIDENCE.**

19 Section 182 of the Atomic Energy Act of 1954 (42  
 20 U.S.C. 2232) is amended by adding at the end the fol-  
 21 lowing:

22 “(e) NUCLEAR WASTE CONFIDENCE.—In consid-  
 23 ering applications for the construction and operation of  
 24 a nuclear facility submitted to the Commission under sec-  
 25 tion 103 or 104, the Commission shall assume that suffi-

1 cient capacity will be available in a timely manner to dis-  
 2 pose of spent nuclear fuel and high-level radioactive waste  
 3 resulting from the operation of the nuclear facility that  
 4 is the subject of the application.”.

5 **SEC. 403. ENVIRONMENTAL REVIEWS FOR NUCLEAR EN-**  
 6 **ERGY PROJECTS.**

7 Section 185 b. of the Atomic Energy Act of 1954 (42  
 8 U.S.C. 2235 b.) is amended by adding at the end the fol-  
 9 lowing:

10 “(c) ENVIRONMENTAL REVIEWS FOR NUCLEAR EN-  
 11 ERGY PROJECTS.—

12 “(1) IN GENERAL.—In a proceeding for a com-  
 13 bined construction permit and operating license for  
 14 a site for which an early site permit has been issued,  
 15 any environmental impact statement prepared by the  
 16 Commission and cooperating agencies shall be pre-  
 17 pared as a supplement to the environmental impact  
 18 statement prepared for the early site permit.

19 “(2) INCORPORATION BY REFERENCE.—The  
 20 supplemental environmental impact statement shall  
 21 incorporate by reference the analysis, findings, and  
 22 conclusions from the environmental impact state-  
 23 ment prepared for the early site permit,  
 24 supplementing the discussion, analyses, findings,  
 25 and conclusions on matters resolved in the early site

1 permit proceeding only to the extent necessary to  
 2 address information that is—

3 “(A) new; and

4 “(B) significant in that the information  
 5 would materially change the prior findings or  
 6 conclusions.

7 “(3) REGULATIONS.—Not later than 90 days  
 8 after the date of enactment of this subsection, the  
 9 Commission shall initiate rulemaking to amend the  
 10 regulations of the Commission to implement this  
 11 subsection.

12 “(4) RELATIONSHIP TO OTHER LAW.—Nothing  
 13 in this section exempts the Commission from any re-  
 14 quirement for full compliance with section 102(2)(C)  
 15 of the National Environmental Policy Act of 1969  
 16 (42 U.S.C. 4332(2)(C)).”.

## 17 **TITLE V—DEVELOPING THE** 18 **NUCLEAR WORKFORCE**

### 19 **SEC. 501. TRAINING THE NEXT GENERATION NUCLEAR** 20 **WORKFORCE.**

21 (a) AUTHORIZATION OF APPROPRIATIONS.—There is  
 22 authorized to be appropriated to the Secretary of Energy  
 23 to carry out each authorized use described in subsection  
 24 (b) \$15,000,000 for each of fiscal years 2011 through  
 25 2020.

1 (b) USE OF FUNDS.—Of the amounts made available  
2 under subsection (a), the Secretary of Energy shall—

3 (1) use such amounts as are necessary to in-  
4 crease the number and amounts of nuclear science  
5 talent expansion grants and nuclear science competi-  
6 tiveness grants provided under section 5004 of the  
7 America COMPETES Act (42 U.S.C. 16532);

8 (2) in coordination with the Secretary of Edu-  
9 cation, use \$5,000,000 to support nuclear science  
10 and engineering in primary and secondary education  
11 in the United States; and

12 (3) in coordination with the Secretary of Labor,  
13 and in consultation with nuclear energy entities and  
14 organized labor, use \$5,000,000 to expand workforce  
15 training to meet the high demand for workers skilled  
16 in nuclear power plant construction and operation,  
17 including programs for—

18 (A) electrical craft certification;

19 (B) preapprenticeship career technical edu-  
20 cation for industrialized skilled crafts that are  
21 useful in the construction of nuclear power  
22 plants;

23 (C) community college and skill center  
24 training for nuclear power plant technicians;

(D) training of construction management personnel for nuclear power plant construction projects; and

(E) regional grants for integrated nuclear energy workforce development programs.

## **TITLE VI—DEVELOPING INFRASTRUCTURE**

### **SEC. 601. DEFINITIONS.**

In this title:

(1) **ADVISORY COMMITTEE.**—The term “Advisory Committee” means the Advisory Committee on Energy Park Development established under section 604(a).

(2) **COUNCIL.**—The term “Council” means the National Nuclear Energy Council established under section 602(a).

(3) **DEPARTMENT.**—The term “Department” means the Department of Energy.

(4) **INITIATIVE.**—The term “Initiative” means the Energy Park Initiative established under section 603(a).

(5) **INSTITUTION OF HIGHER EDUCATION.**—The term “institution of higher education” has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

1           (6) NATIONAL LABORATORY.—The term “Na-  
2           tional Laboratory” has the meaning given the term  
3           in section 2 of the Energy Policy Act of 2005 (42  
4           U.S.C. 15801).

5           (7) PROGRAM.—The term “Program” means  
6           the “N” Prize Program described in section 605(a).

7           (8) SECRETARY.—The term “Secretary” means  
8           the Secretary of Energy.

9   **SEC. 602. NATIONAL NUCLEAR ENERGY COUNCIL.**

10          (a) ESTABLISHMENT.—As soon as practicable, but  
11          not later than 90 days after the date of enactment of this  
12          Act, the Secretary shall establish a council to be known  
13          as the “National Nuclear Energy Council”.

14          (b) MEMBERSHIP; CHAIRPERSON.—

15               (1) MEMBERSHIP.—The Secretary shall appoint  
16               each member of the Council.

17               (2) COMPOSITION.—The Council shall be com-  
18               posed of 15 members, of which not less than 6 mem-  
19               bers shall represent the nuclear energy industry in  
20               the United States and international marketplace.

21               (3) CHAIRPERSON.—The Council shall select a  
22               Chairperson from among the members of the Coun-  
23               cil.

24          (c) STUDY AND ADMINISTRATIVE COMMITTEES.—



1           (1) IN GENERAL.—The Chairman of the Coun-  
 2           cil may establish 1 or more study and administrative  
 3           committees as the Chairman of the Council deter-  
 4           mines to be appropriate.

5           (2) STUDY COMMITTEES.—

6           (A) USE.—A study committee established  
 7           under paragraph (1) may only assist the Coun-  
 8           cil in preparing any advice, information, or rec-  
 9           ommendation.

10          (B) AUTHORITY.—In carrying out sub-  
 11          paragraph (A), a study committee may—

- 12           (i) carry out 1 or more studies; and
- 13           (ii) submit to the Chairperson of the
- 14          Council a report that contains a descrip-
- 15          tion of the results of each study carried
- 16          out under clause (i).

17          (3) PURPOSE OF ADMINISTRATIVE COMMIT-  
 18          TEES.—An administrative committee may be estab-  
 19          lished under paragraph (1) solely for the purpose of  
 20          assisting the Council in the management of the in-  
 21          ternal affairs of the Council.

22          (d) MEETINGS.—

23          (1) FREQUENCY.—The Chairperson of the  
 24          Council shall call a meeting of the Council not less  
 25          than 2 times per calendar year.

1           (2) PUBLIC NOTICE.—The Chairperson of the  
2 Council shall ensure that—

3                   (A) the time and location of each meeting  
4 of the Council is made publicly available; and

5                   (B) each meeting of the Council is open to  
6 the public.

7       (e) FEDERAL ADVISORY COMMITTEE ACT.—The  
8 Council shall be subject to the Federal Advisory Com-  
9 mittee Act (5 U.S.C. App.).

10       (f) DUTIES.—

11           (1) IN GENERAL.—The Council shall—

12                   (A) serve in an advisory capacity to the  
13 Secretary on matters relating to nuclear energy  
14 to provide a forum for industry, the President,  
15 Federal agencies, National Laboratories, and  
16 the financial community to develop a common  
17 understanding and vision in continuing a nu-  
18 clear renaissance in the United States;

19                   (B) initiate, advise, inform, and make rec-  
20 ommendations to the Secretary with respect to  
21 any matter relating to nuclear energy, including  
22 implementation strategies, challenges, and gaps  
23 needed to improve competitiveness in the na-  
24 tional and international marketplace, includ-  
25 ing—

1 (i) enhancing operating nuclear facili-  
2 ties;

3 (ii) developing new nuclear facilities  
4 (considering safety, market demand, finan-  
5 cial aspects, and licensing issues);

6 (iii) developing infrastructure for  
7 human capital and manufacturing; and

8 (iv) considering issues regarding the  
9 nuclear fuel cycle; and

10 (C) develop guidance to investors of nu-  
11 clear energy initiatives as the Council deter-  
12 mines to be appropriate to assist the investors  
13 in bringing products and services of the inves-  
14 tors to the marketplace.

15 (2) ANNUAL REPORTS.—Not later than 1 year  
16 after the date of enactment of this Act and annually  
17 thereafter, the Chairperson of the Council shall sub-  
18 mit to the President, the Secretary, and the appro-  
19 priate committees of Congress a report that, for the  
20 period covered by the report, contains—

21 (A) a description of each action carried out  
22 under this section (including any resulting  
23 input and recommendations to the Secretary);  
24 and

1 (B) recommendations of the Chairperson  
2 of the Council regarding any action that has or,  
3 in the judgement of the Chairperson of the  
4 Council, should be taken to carry out this sec-  
5 tion.

6 (g) AUTHORIZATION OF APPROPRIATIONS.—There  
7 are authorized to be appropriated to carry out this section  
8 such sums as are necessary.

9 **SEC. 603. ENERGY PARK INITIATIVE.**

10 (a) ESTABLISHMENT.—As soon as practicable after  
11 the date of enactment of this Act, the Secretary shall es-  
12 tablish a program to be known as the “Energy Park Ini-  
13 tiative” to address strategies of the Federal Government  
14 for the transition, reuse, and economic development of De-  
15 partment of Energy nuclear sites and facilities (with par-  
16 ticular emphasis on Department of Energy nuclear sites  
17 and facilities that require environmental remediation).

18 (b) OBJECTIVES.—The Initiative shall take into con-  
19 sideration the following objectives:

20 (1) Energy security, energy independence, nu-  
21 clear material disposition, and energy sector employ-  
22 ment.

23 (2) Reducing the active area and total number  
24 of sites that require environmental remediation.

1           (3) Reducing the overall life-cycle cost of the  
2           environmental cleanup program of the Department.

3           (4) Converting the liabilities of the Office of  
4           Environmental Management of the Department (in-  
5           cluding contaminated sites, facilities, and materials)  
6           into assets to solve critical national energy issues.

7           (5) Demonstrating the effective partnering of  
8           the Department, other Federal agencies, private in-  
9           dustry, State and local governments, and local com-  
10          munities.

11          (6) Accelerating the siting and permitting of  
12          new energy facilities by benefitting from the exten-  
13          sive meteorological, technical, and natural resource  
14          data obtained through—

15                (A) previously conducted activities of the  
16                Department; and

17                (B) the experience of the workforce of the  
18                Department.

19          (7) Preserving and enhancing the economies of  
20          State and local host communities of Department  
21          sites, with emphasis on sites under the jurisdiction  
22          of the Office of Environmental Management of the  
23          Department with energy reindustrialization.

24          (c) ADMINISTRATION.—

1           (1) IN GENERAL.—The Initiative shall be man-  
2           aged by the Deputy Secretary, in coordination with  
3           each other major program office of the Department.

4           (2) INCLUSIONS.—The Initiative shall be car-  
5           ried out in a manner to ensure—

6                   (A) the use of the expertise and capabili-  
7                   ties of industry, institutions of higher edu-  
8                   cation, and National Laboratories; and

9                   (B) the participation of the Advisory Com-  
10                  mittee.

11          (d) REPORTS.—

12           (1) ANNUAL REPORTS.—Not later than 1 year  
13           after the date of enactment of this Act and annually  
14           thereafter, the Secretary shall submit to the appro-  
15           priate committees of Congress a report that con-  
16           tains, for the period covered by the report, a descrip-  
17           tion of—

18                   (A) each action carried out under this sec-  
19                   tion; and

20                   (B) any recommendations of the Secretary  
21                   for further action (including any budget rec-  
22                   ommendations and recommendations for legisla-  
23                   tive changes to Federal laws).

24           (2) SITE CAPABILITY REPORT.—Not later than  
25           180 days after the date of enactment of this Act, the

1 Secretary shall submit to the appropriate committees  
2 of Congress a report that contains—

3 (A) an initial evaluation of key assets for  
4 which accelerated completion of the Initiative is  
5 feasible;

6 (B) a description prepared in collaboration  
7 with State and local stakeholders that estab-  
8 lishes the most significant parameters for devel-  
9 opment, which shall include—

10 (i) infrastructure (including roads,  
11 buildings, equipment, utilities, barge and  
12 rail access, transmission systems, and spe-  
13 cialty features and capability);

14 (ii) natural resources;

15 (iii) institutional controls (including  
16 physical control, water rights, permits for  
17 the National Pollutant Discharge Elim-  
18 nation System and other permits, buffer  
19 areas, environmental and seismic charac-  
20 terization, and security); and

21 (iv) human and economic capital, in-  
22 cluding an estimate of jobs involved; and

23 (C) an estimate of—

24 (i) the resources required to accelerate  
25 completion of the Initiative;

- 1 (ii) each timeframe for the accelerated  
2 completion of the Initiative, and  
3 (iii) the number of jobs involved dur-  
4 ing each applicable timeframe.

5 (e) AUTHORIZATION OF APPROPRIATIONS.—There  
6 are authorized to be appropriated to the Secretary to carry  
7 out this section \$10,000,000 for each of fiscal years 2011  
8 through 2015.

9 **SEC. 604. ADVISORY COMMITTEE ON ENERGY PARK DEVEL-**  
10 **OPMENT.**

11 (a) ESTABLISHMENT.—Not later than 180 days after  
12 the date of enactment of this Act, the Secretary shall es-  
13 tablish an advisory committee to be known as the “Advi-  
14 sory Committee on Energy Park Development” to provide  
15 advice and recommendations to the Secretary on the devel-  
16 opment of energy parks at Department sites and facilities,  
17 with particular emphasis on the reuse of the assets of the  
18 Office of Environmental Management of the Department  
19 to maximize redevelopment benefits for communities.

20 (b) MEMBERSHIP.—The Secretary shall ensure that  
21 the Advisory Committee has a balanced membership that  
22 includes members with expertise in—

- 23 (1) State and local governmental programs;  
24 (2) independent economic development associa-  
25 tions or local economic development councils; and



1           (3) environmental health, including experience  
2           in radiation health physics and industrial hygiene.

3           (c) MEETINGS.—The Secretary shall establish a reg-  
4 ular schedule of meetings for the Advisory Committee.

5           (d) DUTIES.—

6           (1) IN GENERAL.—The Advisory Committee  
7           shall provide advice and expertise to the Secretary to  
8           assist the Secretary in carrying out the duties of the  
9           Secretary under this subtitle.

10          (2) COORDINATION.—In carrying out the duties  
11          of the Advisory Committee, to the maximum extent  
12          practicable, the Advisory Committee shall solicit ad-  
13          vice and recommendations from community and ex-  
14          ternal liaison groups (with emphasis on Environ-  
15          mental Management Site-Specific Advisory Boards),  
16          including—

17                       (A) the National Governors Association;

18                       (B) the National Association of Attorneys  
19          General;

20                       (C) State and tribal governments;

21                       (D) working groups;

22                       (E) the Energy Communities Alliance; and

23                       (F) the Environmental Council of the  
24          States.

1 (e) FEDERAL ADVISORY COMMITTEE ACT EXEMP-  
2 TION.—The Advisory Committee shall not be subject to  
3 section 14 of the Federal Advisory Committee Act (5  
4 U.S.C. App.).

5 **SEC. 605. ‘N’ PRIZE PROGRAM AUTHORITY.**

6 (a) AUTHORITY.—The Secretary shall establish and  
7 carry out a program—

8 (1) to be known as the “‘N’ Prize Program”;  
9 and

10 (2) to award cash prizes in recognition of a lim-  
11 ited number of breakthrough achievements in re-  
12 search, development, demonstration, and commercial  
13 application that the Secretary considers to have the  
14 potential for application with respect to the perform-  
15 ance of the nuclear mission of the Department.

16 (b) COMPETITION REQUIREMENTS.—The Program  
17 may include prizes for the achievement of goals established  
18 by the Secretary in a specific area through a widely adver-  
19 tised solicitation for submission of results for research, de-  
20 velopment, demonstration, or commercial application  
21 projects.

22 (c) RELATIONSHIP TO OTHER AUTHORITY.—The  
23 Program may be carried out in conjunction with, or in  
24 addition to, any other authority of the Secretary to ac-  
25 quire, support, or stimulate research, development, dem-

1 onstration, or commercial application projects, including  
 2 Advanced Research Projects Agency—Energy.

3 (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
 4 authorized to be appropriated to the Secretary to carry  
 5 out this section \$15,000,000, to remain available until ex-  
 6 pended.

## 7 **TITLE VII—ENHANCING** 8 **REGULATORY AUTHORITY**

### 9 **SEC. 701. CONTINUATION OF SERVICE.**

10 Section 201(c) of the Energy Reorganization Act of  
 11 1974 (42 U.S.C. 5841(c)) is amended—

12 (1) by striking “(c) Each member” and insert-  
 13 ing the following:

14 “(c) SERVICE OF MEMBERS.—

15 “(1) IN GENERAL.—Except as provided in para-  
 16 graph (2), each member”; and

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

18 “(2) EXTENDED SERVICE BY MEMBERS OF  
 19 COMMISSION.—

20 “(A) IN GENERAL.—Except as provided in  
 21 subparagraph (B), a member of the Commis-  
 22 sion may serve on the Commission after the  
 23 date on which the term of service of the mem-  
 24 ber has expired.

1 “(B) EXCEPTION.—A member of the Com-  
2 mission described in subparagraph (A) may not  
3 serve after the earlier of—

4 “(i) the date on which the term of  
5 service of the successor of the member of  
6 the Commission commences; or

7 “(ii) the date of adjournment of the  
8 session of Congress during which the term  
9 of the member of the Commission ex-  
10 pires.”.

11 **SEC. 702. ENHANCED FINGERPRINTING REQUIREMENTS.**

12 Section 149 a.(1) of the Atomic Energy Act of 1954  
13 (42 U.S.C. 2169(a)(1)) is amended by adding at the end  
14 the following:

15 “(C) In addition to the fingerprinting re-  
16 quirements described in this paragraph, the  
17 Commission may require an individual or entity  
18 described in subparagraph (A)(ii) to fingerprint  
19 any individual who—

20 “(i) has been designated by the indi-  
21 vidual or entity described in subparagraph  
22 (A)(ii) (or by a contractor or subcontractor  
23 of the individual or entity) to determine  
24 the trustworthiness and reliability of an in-

dividual who is required to be fingerprinted  
under subparagraph (B);

“(ii) is in the employment of the individual or entity described in subparagraph (A)(ii) (or a contractor or subcontractor of the individual or entity) and who has authority relating to the provision of unescorted access to a facility, radioactive material, or other property described in subparagraph (B)(i); or

“(iii) is, or holds a position equivalent to, the principal operating officer, or alternate principal operating officer, of the individual or entity described in subparagraph (A)(ii).”.

## **TITLE VIII—MANAGEMENT OF USED NUCLEAR FUEL**

### **SEC. 801. UNITED STATES NUCLEAR FUEL MANAGEMENT CORPORATION.**

(a) IN GENERAL.—The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended by adding at the end the following:

1 **“TITLE III—UNITED STATES NU-**  
2 **CLEAR FUEL MANAGEMENT**  
3 **CORPORATION**

4 **“SEC. 3001. PURPOSE.**

5 “The purpose of this title is to establish a corpora-  
6 tion—

7 “(1) to implement integrated spent nuclear fuel  
8 management consistent with the policy of the Fed-  
9 eral Government on a self-sustaining basis through  
10 the use of a spent nuclear fuel management enter-  
11 prise that will eliminate the need for Federal fund-  
12 ing (other than funding provided pursuant to this  
13 title);

14 “(2) to assume responsibility for the activities,  
15 obligations, and resources of the Federal Govern-  
16 ment with respect to spent nuclear fuel manage-  
17 ment, including the duties and powers of—

18 “(A) the Secretary relating to the Nuclear  
19 Waste Fund; and

20 “(B) the Office of Civilian Radioactive  
21 Waste Management under section 304 of that  
22 Act (42 U.S.C. 10224);

23 “(3) to ensure in the United States—

24 “(A) the common defense and security;  
25 and

1           “(B) compliance with laws and policies  
2           concerning nonproliferation of atomic weapons  
3           and other nonpeaceful uses of atomic energy;

4           “(4) to advance technologies and facilities to  
5           support all options for a long-term nuclear fuel cycle  
6           that will—

7           “(A) address global counterproliferation  
8           and counterterrorism;

9           “(B) promote efficient utilization of nu-  
10          clear fuel resources; and

11          “(C) provide for safe, secure storage and  
12          disposal of nuclear materials;

13          “(5) to maintain a reliable and economical do-  
14          mestic source of spent nuclear fuel management  
15          services and sustain and support the expansion of  
16          nuclear energy in meeting United States require-  
17          ments for clean, safe, reliable, and affordable energy;

18          “(6) to provide spent nuclear fuel management  
19          and related services to—

20          “(A) the Department of Energy for gov-  
21          ernmental purposes;

22          “(B) domestic persons; and

23          “(C) other entities, as determined by the  
24          President; and

1 “(7) to carry out other activities to advance the  
2 purposes described in this section.

3 **“SEC. 3002. DEFINITIONS.**

4 “In this title:

5 “(1) BOARD.—The term ‘Board’ means the  
6 Board of Directors of the Corporation established  
7 under section 3103.

8 “(2) CORPORATION.—The term ‘Corporation’  
9 means the United States Spent Nuclear Fuel Cor-  
10 poration established by section 3101(a).

11 “(3) CORPORATION FUND.—The term ‘Corpora-  
12 tion Fund’ means the United States Nuclear Fuel  
13 Management Corporation Fund established by sec-  
14 tion 3107.

15 “(4) DECOMMISSIONING; DECONTAMINATION.—  
16 The terms ‘decommissioning’ and ‘decontamination’,  
17 with respect to an activity, include any activity other  
18 than a response action or corrective action carried  
19 out for purposes of decontaminating or decommis-  
20 sioning a facility for spent nuclear fuel management  
21 that has residual radioactive or mixed radioactive  
22 and hazardous chemical contamination (including  
23 depleted tailings).

24 “(5) DEPARTMENT.—The term ‘Department’  
25 means the Department of Energy.



1           “(6) NUCLEAR WASTE FUND.—The term ‘Nu-  
2       clear Waste Fund’ means the Nuclear Waste Fund  
3       established under section 302 of the Nuclear Waste  
4       Policy Act of 1982 (42 U.S.C. 10222).

5           “(7) SECRETARY.—The term ‘Secretary’ means  
6       the Secretary of Energy.

7           “(8) SPENT FUEL DISPOSAL CONTRACT.—The  
8       term ‘spent fuel disposal contract’ means a contract  
9       between the Secretary and a person entered into  
10      pursuant to section 302(a) of the Nuclear Waste  
11      Policy Act of 1982 (42 U.S.C. 10222(a)).

12          “(9) SPENT NUCLEAR FUEL.—The term ‘spent  
13      nuclear fuel’ means any nuclear fuel or highly radio-  
14      active waste that has been irradiated in a domestic,  
15      commercial nuclear power reactor pursuant to a  
16      spent fuel disposal contract.

17          “(10) SPENT NUCLEAR FUEL MANAGEMENT.—  
18      The term ‘spent nuclear fuel management’ means  
19      any activity involving the disposal, storage, transpor-  
20      tation, reprocessing, processing, treatment, fabrica-  
21      tion, or sale of spent nuclear fuel or a product de-  
22      rived from spent nuclear fuel.

23          “(11) STAKEHOLDER ORGANIZATION.—The  
24      term ‘stakeholder organization’ means any organiza-  
25      tion that as of the date of enactment of this title is

1 contributing or has contributed to the Nuclear  
2 Waste Fund.

3 “(12) TECHNOLOGY FOR SPENT NUCLEAR FUEL  
4 MANAGEMENT.—The term ‘technology for spent nu-  
5 clear fuel management’ means any technology used  
6 to transport, store, process, reprocess, or dispose of  
7 spent nuclear fuel.

8 “(13) TRANSFER DATE.—The term ‘transfer  
9 date’ means the earlier of—

10 “(A) the transfer date of the last asset,  
11 property, right, liability, or obligation trans-  
12 ferred from the Secretary to the Corporation  
13 under this title (other than liabilities or obliga-  
14 tions arising under contracts to dispose of spent  
15 nuclear fuel and high level radioactive waste);  
16 or

17 “(B) the date that is 18 months after the  
18 date of enactment of this title.

## 19 **“Subtitle A—Establishment,** 20 **Powers, and Organization**

### 21 **“SEC. 3101. ESTABLISHMENT.**

22 “(a) IN GENERAL.—There is established a corpora-  
23 tion, to be known as the ‘United States Nuclear Fuel Man-  
24 agement Corporation’.

1       “(b) TREATMENT.—Except as otherwise provided in  
2 this title, the Corporation shall be—

3               “(1) a wholly owned Federal corporation, sub-  
4 ject to chapter 91 of title 31, United States Code;  
5 and

6               “(2) considered to be a Federal agency.

7       “(c) CORPORATE OFFICES.—

8               “(1) IN GENERAL.—The Corporation shall—

9                       “(A) for the service of process and papers,  
10 maintain an office in the District of Columbia;  
11 and

12                      “(B) for purposes of venue in civil actions,  
13 be considered to be a resident of the District of  
14 Columbia.

15               “(2) OTHER OFFICES.—The Corporation may  
16 establish offices in such other locations as the Cor-  
17 poration determines to be appropriate.

18 **“SEC. 3102. POWERS.**

19       “(a) IN GENERAL.—The Corporation—

20               “(1) except as otherwise provided in this title or  
21 applicable Federal law, shall have all the powers of  
22 a private corporation incorporated under the District  
23 of Columbia Business Corporation Act (D.C. Code  
24 section 29–301 et seq.);

1           “(2) shall have the priority of the United States  
2       with respect to the payment of debts from bankrupt,  
3       insolvent, and decedent persons or estates;

4           “(3) may obtain from the Administrator of  
5       General Services the services provided by the Admin-  
6       istrator to Federal agencies on the same basis as  
7       those services are so provided;

8           “(4) shall have the authority to manage spent  
9       nuclear fuel, provide for the management of spent  
10      nuclear fuel by others, and acquire spent nuclear  
11      fuel or materials necessary for the management of  
12      spent nuclear fuel;

13          “(5) shall have the authority necessary to carry  
14      out, in accordance with subsection (b), the activities,  
15      obligations, and use of resources of the Federal Gov-  
16      ernment with respect to spent nuclear fuel manage-  
17      ment, including the duties and powers of—

18               “(A) the Secretary relating to the Nuclear  
19      Waste Fund; and

20               “(B) the Office of Civilian Radioactive  
21      Waste Management under section 304 of that  
22      Act (42 U.S.C. 10224); and

23          “(6) shall consider the spent nuclear fuel man-  
24      agement and related services for defense-related  
25      spent nuclear fuel and high level radioactive waste

1 and nuclear fuels identified by the National Spent  
2 Nuclear Fuel Program of the Department.

3 “(b) INCLUSIONS.—The authority of the Corporation  
4 described in subsection (a)(5) includes authority—

5 “(1) for the identification, development, licens-  
6 ing, construction, operation, decommissioning, and  
7 post-decommissioning maintenance and monitoring  
8 of any repository, interim storage facility, monitored  
9 retrievable storage facility, reprocessing facility, fuel  
10 fabrication facility, or test and evaluation facility  
11 constructed under title III of the Nuclear Waste Pol-  
12 icy Act of 1982 (42 U.S.C. 10221 et seq.), except  
13 that the limitations imposed on a monitored retriev-  
14 able storage facility under section 141(g) of that Act  
15 (42 U.S.C. 10161(g)) shall not apply to an interim  
16 storage facility developed by the Corporation;

17 “(2) for the administration of the high-level ra-  
18 dioactive waste disposal program of the Department;

19 “(3) to enter into a new spent fuel disposal con-  
20 tract under section 302(a) of the Nuclear Waste  
21 Policy Act of 1982 (42 U.S.C. 10222(a)) for a com-  
22 mercial nuclear power reactor not yet licensed by the  
23 Nuclear Regulatory Commission;

24 “(4) to assume all responsibilities of the De-  
25 partment under spent fuel disposal contracts in ex-

1       istence on the date of enactment of this title, except  
2       that (as provided in section 3205) liability for failure  
3       to perform under those contracts shall not be as-  
4       sumed by the Corporation until the date that is 10  
5       years after the license termination date of the reac-  
6       tor for which a contract applies; and

7               “(5) to recommend changes to the nuclear  
8       waste fee provided by section 302(a)(4) of the Nu-  
9       clear Waste Policy Act of 1982 (42 U.S.C.  
10      10222(a)(4)) and spent fuel disposal contracts, ex-  
11      cept that the Corporation may not implement any  
12      changes in the fee schedule except as provided in  
13      section 3201;

14              “(6) for the acquisition, design, modification,  
15      replacement, operation, and construction of facilities  
16      at a repository site, reprocessing facility site, reproc-  
17      essed fuel fabrication facility site, monitored retriev-  
18      able storage site, or test and evaluation facility site  
19      necessary or incident to a repository, reprocessing  
20      facility, reprocessed fuel fabrication facility, mon-  
21      itored retrievable storage facility, or test and evalua-  
22      tion facility;

23              “(7) to carry out such nongeneric research, de-  
24      velopment, and demonstration activities relating to  
25      evaluating, improving, and testing existing tech-

1 nologies for spent nuclear fuel management and re-  
2 lated processes and activities as the Corporation  
3 considers to be necessary or advisable to achieve the  
4 purposes of this title;

5 “(8) to carry out transactions regarding spent  
6 nuclear fuel, uranium, enriched uranium, plutonium,  
7 other special nuclear material, fissionable nuclear  
8 material, fertile nuclear material, fission byproducts,  
9 actinides, or depleted uranium with any person—

10 “(A) licensed under section 53, 63, 103, or  
11 104, in accordance with the applicable license;

12 “(B) in accordance with, and during the  
13 period provided for, an agreement for coopera-  
14 tion under section 123; or

15 “(C) otherwise authorized by law to enter  
16 into a transaction described in subparagraph  
17 (A) or (B);

18 “(9) to enter into contracts or other agreements  
19 with—

20 “(A) any person licensed under section 53,  
21 63, 103, or 104, for such period as the Cor-  
22 poration considers to be appropriate to provide  
23 services supporting the mission and purpose of  
24 the Corporation under this title; and

1           “(B) the Department in accordance with  
2           this title for spent nuclear fuel management  
3           and related services that the Department deter-  
4           mines to be required—

5                   “(i) to carry out Presidential direc-  
6                   tives and authorizations; and

7                   “(ii) to conduct other Department  
8                   programs;

9           “(10) to adopt, alter, and use a corporate seal,  
10          which shall be judicially noticed;

11          “(11) to sue and be sued in the corporate name  
12          and be represented by an attorney in all administra-  
13          tive and judicial proceedings, including, on approval  
14          of the Attorney General, appeals from decisions of  
15          United States courts, except that the United States  
16          Court of Federal Claims shall have exclusive juris-  
17          diction over a claim against the Corporation and a  
18          decision or action of the Corporation shall not be  
19          subject to review under section 119 of the Nuclear  
20          Waste Policy Act of 1982 (42 U.S.C. 10139);

21          “(12) to indemnify directors, officers, attorneys,  
22          agents, and employees of the Corporation for liabil-  
23          ities and expenses relating to corporate activities;

24          “(13)(A) to acquire, purchase, lease, and hold  
25          real and personal property, including patents and



1       proprietary data, as the Corporation determines to  
2       be necessary in the transaction of business; and

3               “(B) to sell, lease, grant, and dispose of such  
4       real and personal property as the Corporation deter-  
5       mines to be necessary to achieve the purposes of this  
6       title;

7               “(14) on consent of each unit of government  
8       concerned, to employ the services, records, facilities,  
9       or personnel of any State or local government agen-  
10      cy or instrumentality or voluntary or uncompensated  
11      personnel to perform appropriate functions on behalf  
12      of the Corporation;

13              “(15) to enter into and carry out such con-  
14      tracts, leases, cooperative agreements, or other  
15      transactions as are necessary to conduct business,  
16      on a reimbursable basis, with—

17                      “(A) any Federal department or agency;

18                      “(B) any State, territory, or possession (or  
19                      any political subdivision thereof) of the United  
20                      States; or

21                      “(C) any individual, firm, association, or  
22                      corporation;

23               “(16) to determine the character of, and the ne-  
24      cessity for, the obligations and expenditures of the  
25      Corporation and the manner in which the obligations

1 and expenditures will be incurred, allowed, and paid,  
2 subject to this title and other Federal law specifi-  
3 cally applicable to wholly owned Federal corpora-  
4 tions;

5 “(17) to retain and use the revenues of the Cor-  
6 poration to achieve the purposes of this title in a  
7 manner that ensures that the retention and use shall  
8 not be subject to apportionment under subchapter II  
9 of chapter 15 of title 31, United States Code;

10 “(18) to settle and adjust claims—

11 “(A) held by the Corporation against other  
12 parties; or

13 “(B) held by other parties against the Cor-  
14 poration;

15 “(19) to accept gifts or donations of services  
16 and real, personal, mixed, tangible, or intangible  
17 property to achieve the purposes of this title;

18 “(20) to execute, in accordance with applicable  
19 bylaws and regulations, appropriate instruments;

20 “(21) to provide for liability insurance by con-  
21 tract or self-insurance; and

22 “(22) subject to this subsection and section  
23 3205, to pay any settlement or judgment entered  
24 against the Corporation from the Corporation Fund

1       and not from funds made available pursuant to sec-  
2       tion 1304 of title 31, United States Code.

3   **“SEC. 3103. BOARD OF DIRECTORS.**

4       “(a) IN GENERAL.—The Corporation shall be headed  
5   by a Board of Directors.

6       “(b) MEMBERSHIP.—

7           “(1) APPOINTMENT.—

8               “(A) IN GENERAL.—The Board shall be  
9       composed of 9 members, to be appointed by the  
10      President by and with the advice and consent of  
11      the Senate, of which—

12               “(i) at least 3 shall be from stake-  
13      holder organizations; and

14               “(ii) at least 2 shall be reserved for  
15      nominations from State public utility com-  
16      missions.

17           “(B) ASSOCIATION.—The association of a  
18      member of the Board with a stakeholder orga-  
19      nization shall not be considered a conflict of in-  
20      terest.

21           “(2) CHAIRPERSON.—The members of the  
22      Board shall elect 1 member to act as Chairperson of  
23      the Board.

24       “(c) QUALIFICATIONS.—To be eligible to be ap-  
25   pointed as a member of the Board, an individual shall—

1           “(1) be a citizen of the United States;

2           “(2) have management expertise relating to  
3 large organizations;

4           “(3) not be an employee of the Corporation;

5           “(4) make full disclosure to Congress of any in-  
6 vestment or other financial interest that the indi-  
7 vidual holds in the energy industry; and

8           “(5) affirm support for the purposes of the Cor-  
9 poration.

10          “(d) TERMS.—

11           “(1) IN GENERAL.—Except as provided in para-  
12 graph (2), a member of the Board shall serve for a  
13 term of not more than 5 years.

14           “(2) INITIAL MEMBERS.—Of the members first  
15 appointed to the Board—

16           “(A) 1 shall be appointed for a 1-year  
17 term;

18           “(B) 2 shall be appointed for a 2-year  
19 term;

20           “(C) 2 shall be appointed for a 3-year  
21 term;

22           “(D) 2 shall be appointed for a 4-year  
23 term; and

24           “(E) 2 shall be appointed for a 5-year  
25 term.

1           “(3) REAPPOINTMENT.—A member of the  
 2           Board the term of service of whom has expired may  
 3           be reappointed by the President, by and with the ad-  
 4           vice and consent of the Senate.

5           “(4) EXPIRATION.—A member of the Board the  
 6           term of service of whom has expired may continue  
 7           to serve on the Board until the earlier of—

8                   “(A) the date on which a successor mem-  
 9                   ber is appointed; and

10                   “(B) the date on which the session of Con-  
 11                   gress during which the term of the member ex-  
 12                   pires ends.

13           “(e) VACANCIES.—A vacancy on the Board—

14                   “(1) shall not affect the powers of the Board;  
 15                   and

16                   “(2) shall be filled in the same manner as the  
 17                   original appointment was made.

18           “(f) MEETINGS.—The Board shall meet in accord-  
 19           ance with the bylaws of the Corporation—

20                   “(1) at the call of the Chairperson; and

21                   “(2) not less frequently than once each quarter.

22           “(g) QUORUM.—For purposes of meetings of the  
 23           Board,  $\frac{2}{3}$  of the active members of the Board shall con-  
 24           stitute a quorum.

1       “(h) BYLAWS.—A majority of the members of the  
2 Board may amend the bylaws of the Corporation.

3       “(i) COMPENSATION OF MEMBERS.—

4           “(1) IN GENERAL.—

5               “(A) NON-FEDERAL EMPLOYEES.—A  
6 member of the Board who is not an officer or  
7 employee of the Federal Government shall be  
8 compensated at a rate equal to the daily equiva-  
9 lent of the annual rate of basic pay prescribed  
10 for level IV of the Executive Schedule under  
11 section 5315 of title 5, United States Code, for  
12 each day (including travel time) during which  
13 the member is engaged in the performance of  
14 the duties of the Board.

15               “(B) FEDERAL EMPLOYEES.—A member  
16 of the Board who is an officer or employee of  
17 the Federal Government shall serve without  
18 compensation in addition to the compensation  
19 received for the services of the member as an  
20 officer or employee of the Federal Government.

21           “(2) TRAVEL EXPENSES.—A member of the  
22 Board shall be allowed travel expenses, including per  
23 diem in lieu of subsistence, at rates authorized for  
24 an employee of an agency under subchapter I of  
25 chapter 57 of title 5, United States Code, while

1 away from the home or regular place of business of  
2 the member in the performance of the duties of the  
3 Board.

4 **“SEC. 3104. MANAGEMENT.**

5 “(a) CHIEF EXECUTIVE OFFICER.—

6 “(1) APPOINTMENT.—The Board shall appoint  
7 an individual to serve as chief executive officer of  
8 the Corporation.

9 “(2) QUALIFICATIONS.—

10 “(A) IN GENERAL.—To be eligible to serve  
11 as chief executive officer of the Corporation, an  
12 individual—

13 “(i) shall have senior executive-level  
14 management experience in large, complex  
15 organizations;

16 “(ii) shall not—

17 “(I) be a member of the Board;  
18 or

19 “(II) have served as a member of  
20 the Board during the 2-year period  
21 ending on the date of appointment as  
22 chief executive officer; and

23 “(iii) shall comply with the conflict of  
24 interest policy adopted by the Board.

1           “(B) EXPERTISE.—In appointing a chief  
2 executive officer, the Board shall give particular  
3 consideration to appointing an individual  
4 with—

5                   “(i) expertise in the nuclear industry;  
6                   and

7                   “(ii) strong financial skills.

8           “(3) TENURE.—The chief executive officer shall  
9 serve at the pleasure of the Board.

10           “(4) AUTHORITIES AND DUTIES.—The chief ex-  
11 ecutive officer shall—

12                   “(A) be responsible for the management of  
13 the Corporation; and

14                   “(B) report to, and be under the direct au-  
15 thority of, the Board.

16           “(5) CORPORATE OFFICERS.—The chief execu-  
17 tive officer shall appoint such managers, assistant  
18 managers, employees, attorneys, and agents as are  
19 necessary to carry out the powers of the Corpora-  
20 tion—

21                   “(A) with the advice and consent of the  
22 Board; and

23                   “(B) without regard to the civil service  
24 laws applicable to officers and employees of the  
25 United States.



1 “(b) COMPENSATION PLAN.—

2 “(1) IN GENERAL.—Without regard to section  
3 5301 of title 5, United States Code, the Board shall  
4 establish—

5 “(A) the duties of and compensation for all  
6 officers and employees of the Corporation; and

7 “(B) a system of organization to describe  
8 those responsibilities and promote efficiency.

9 “(2) APPLICABLE CRITERIA.—The Board shall  
10 ensure that—

11 “(A) officers and employees are appointed,  
12 promoted, and assigned on the basis of capa-  
13 bility and fitness; and

14 “(B) other personnel actions are consistent  
15 with the principles of fairness and due process,  
16 without regard to the provisions of title 5,  
17 United States Code, relating to appointments  
18 and other personnel actions in the competitive  
19 service.

20 “(3) PROTECTION OF DEPARTMENT EMPLOY-  
21 EES.—

22 “(A) PURPOSE.—The purpose of this para-  
23 graph is to ensure that the establishment of the  
24 Corporation does not result in any inequitable  
25 effect on the employment rights, wages, or ben-

1           efits of Department employees in carrying out  
 2           the functions transferred from the Department  
 3           to the Corporation pursuant to this title.

4           “(B) MEASURES OF PROTECTION.—The  
 5           compensation, benefits, and other terms and  
 6           conditions of employment in effect on the day  
 7           before the applicable transfer date for activities  
 8           previously carried out by the Department pur-  
 9           suant to any law or regulation shall continue to  
 10          apply to officers and employees of the Depart-  
 11          ment or any other Federal department or agen-  
 12          cy who are detailed to the Corporation until the  
 13          date on which the officers or employees are no  
 14          longer detailed to the Board.

15          “(c) TRANSFEREES AND DETAILEES.—

16           “(1) IN GENERAL.—On request of the Board  
 17          and subject to the approval of the Secretary, an em-  
 18          ployee of the Department may be transferred or de-  
 19          tailed to the Corporation in accordance with section  
 20          3112 without any loss in accrued benefits or stand-  
 21          ing within the Civil Service System.

22           “(2) BENEFITS.—

23           “(A) IN GENERAL.—An employee who ac-  
 24          cepts a transfer to the Corporation may elect—

1 “(i) to have any accrued retirement  
2 benefits transferred to a retirement system  
3 established by the Corporation; or

4 “(ii) to retain coverage under, as ap-  
5 plicable—

6 “(I) the Civil Service Retirement  
7 System; or

8 “(II) the Federal Employees Re-  
9 tirement System.

10 “(B) WITHHOLDING.—With respect to an  
11 employee who elects to retain coverage under  
12 subparagraph (A)(ii), the Corporation shall—

13 “(i) withhold a portion of the payment  
14 of the employee; and

15 “(ii) use the amounts withheld to  
16 make such payments as are required under  
17 the applicable Federal retirement system.

18 “(3) DETAILEES.—The Department shall offer  
19 any employee of the Department who is detailed to  
20 the Board a position of like grade, compensation,  
21 and proximity to the official duty station of the em-  
22 ployee beginning on the date on which the services  
23 of the employee are no longer required by the Cor-  
24 poration.

1 **“SEC. 3105. AUDITS.**

2 “(a) INDEPENDENT AUDITS.—

3 “(1) IN GENERAL.—The financial statements of  
4 the Corporation shall be—

5 “(A) prepared in accordance with generally  
6 accepted accounting principles; and

7 “(B) audited annually by an independent  
8 certified public accountant in accordance with—

9 “(i) auditing standards issued by the  
10 Comptroller General of the United States;  
11 and

12 “(ii) generally accepted auditing  
13 standards of the private sector.

14 “(2) REVIEW BY GAO.—The Comptroller Gen-  
15 eral—

16 “(A) may review any audit under para-  
17 graph (1); and

18 “(B) shall submit to Congress and the  
19 Corporation a report describing the results of  
20 each review under subparagraph (A), including  
21 appropriate recommendations, if any.

22 “(b) GAO AUDITS.—

23 “(1) IN GENERAL.—The Comptroller General  
24 may audit the financial statements of the Corpora-  
25 tion for any year in accordance with subsection  
26 (a)(1).

1           “(2) REIMBURSEMENT BY CORPORATION.—The  
 2           Corporation shall reimburse the Comptroller General  
 3           for the cost of any audit conducted under this sub-  
 4           section, as determined by the Comptroller General.

5           “(c) AVAILABILITY OF BOOKS AND RECORDS.—Sub-  
 6           ject to section 3111, all books, accounts, financial records,  
 7           reports, files, papers, and other property belonging to, or  
 8           in use by, the Corporation or an auditor of the Corpora-  
 9           tion that the Comptroller General considers to be nec-  
 10          essary to conduct an audit or review under this section  
 11          shall be made available to the Comptroller General.

12          “(d) TREATMENT OF GAO AUDITS.—An audit or re-  
 13          view by the Comptroller General under this section shall  
 14          be in lieu of any other audit of the financial transactions  
 15          of the Corporation required to be carried out by the Comp-  
 16          troller General under chapter 91 of title 31, United States  
 17          Code, or other applicable law.

18          **“SEC. 3106. ANNUAL REPORTS.**

19          “(a) IN GENERAL.—Not less frequently than once  
 20          each year, the Corporation shall submit to the President  
 21          and Congress a report describing the activities carried out  
 22          by the Corporation during the preceding fiscal year, in-  
 23          cluding—

24                  “(1) a general description of the operations of  
 25          the Corporation;

1           “(2) a summary of the operating and financial  
2           performance of the Corporation; and

3           “(3) a copy of each audit report prepared for  
4           the applicable fiscal year under section 3105.

5           “(b) DEADLINE.—A report under subsection (a)  
6           shall—

7           “(1) be completed by not later than 150 days  
8           after the end of each fiscal year of the Corporation;  
9           and

10          “(2) accurately reflect the financial position of  
11          the Corporation as of that date.

12   **“SEC. 3107. UNITED STATES NUCLEAR FUEL MANAGEMENT**  
13                   **CORPORATION FUND.**

14          “(a) ESTABLISHMENT.—

15          “(1) IN GENERAL.—There is established in the  
16          Treasury of the United States a fund, to be known  
17          as the ‘United States Nuclear Fuel Management  
18          Corporation Fund’ (referred to in this section as the  
19          ‘Corporation Fund’).

20          “(2) ACCOUNTS.—The Corporation Fund shall  
21          be composed of 2 accounts, to be known as—

22               “(A) the ‘United States Nuclear Fuel  
23               Management Corporation Operating Account’  
24               (referred to in this section as the ‘Operating  
25               Account’); and

1           “(B) the ‘United States Nuclear Manage-  
 2           ment Corporation Capital Reserve Account’ (re-  
 3           ferred to in this section as the ‘Capital Reserve  
 4           Account’).”

5           “(b) TRANSFER AND DEPOSITS OF FUNDS.—

6           “(1) TRANSFER OF UNEXPENDED BALANCES.—

7           On the earlier of the transfer date or the date  
 8           agreed to by the Secretary and the Corporation, the  
 9           Secretary of the Treasury, without further appro-  
 10          priation, shall transfer from the Nuclear Waste  
 11          Fund to the Operating Account, the unexpended bal-  
 12          ance of the appropriated funds (including funds set  
 13          aside for accounts payable), and accounts receivable,  
 14          relating to functions and activities assumed by the  
 15          Corporation pursuant to this title, including all ad-  
 16          vance payments.

17          “(2) TRANSFER OF THE CORPUS OF THE NU-  
 18          CLEAR WASTE FUND.—On the earlier of the transfer  
 19          date or the date agreed to by the Secretary and the  
 20          Corporation, the Secretary of the Treasury, without  
 21          further appropriation, shall transfer from the Nu-  
 22          clear Waste Fund to the Capital Reserve Account,  
 23          the unexpended balance of the Nuclear Waste Fund  
 24          to the Corporation Fund as follows:

1           “(A) On the date of enactment of this title,  
2           the corpus of the Nuclear Waste Fund, con-  
3           sisting of any unfunded balance of the unex-  
4           pended balance shall be credited to the Capital  
5           Reserve Account as an unfunded asset, which  
6           shall continue to accrue interest at rates and  
7           maturities determined by the Secretary of the  
8           Treasury, including all receipts, proceeds, and  
9           recoveries received by the Nuclear Waste Fund  
10          under subsections (a), (b), and (e) of section  
11          302 of the Nuclear Waste Policy Act of 1982  
12          (42 U.S.C. 10222).

13          “(B) Beginning on the date of enactment  
14          of this title, any appropriations made to the  
15          Nuclear Waste Fund and all receipts, proceeds,  
16          interest, and recoveries received on or after that  
17          date under subsections (a), (b), and (e) of sec-  
18          tion 302 of that Act (42 U.S.C. 10222) shall be  
19          transferred to the Operating Account.

20          “(3) REVENUES FROM SALES.—Revenues from  
21          sales of products and services sold by the Corpora-  
22          tion shall be deposited in the Operating Account.

23          “(c) USE OF FUNDS.—

24          “(1) USE OF OPERATING ACCOUNT.—



1           “(A) IN GENERAL.—The Corporation may  
 2           make expenditures from the Operating Account  
 3           without further appropriation and without fiscal  
 4           year limitation only to carry out the purposes of  
 5           this title.

6           “(B) INVESTMENT.—The Corporation may  
 7           invest amounts of the fund in such financial in-  
 8           struments as the Corporation considers appro-  
 9           priate.

10           “(C) NUCLEAR WASTE POLICY ACT RE-  
 11           STRICTIONS.—The Corporation shall expend  
 12           Operating Account funds—

13                   “(i) consistent with section 302(d) of  
 14                   the Nuclear Waste Policy Act of 1982 (42  
 15                   U.S.C. 10222(d)); or

16                   “(ii) for other purposes authorized by  
 17                   Congress.

18           “(2) USE OF CAPITAL RESERVE ACCOUNT.—  
 19           The Corporation may—

20                   “(A) pledge, without further appropriation  
 21                   and without fiscal year limitation, use of the  
 22                   Capital Reserve Account as collateral for the  
 23                   issuance of bonds; and

24                   “(B) make expenditures, without further  
 25                   appropriation and without fiscal year limitation,

1           for the decontamination, decommissioning, and  
 2           ongoing surveillance and maintenance of Cor-  
 3           poration facilities and repositories following clo-  
 4           sure.

5           “(d) ADMINISTRATION OF CORPORATION FUND.—

6           “(1) IN GENERAL.—The Corporation, in con-  
 7           sultation with the Secretary of the Treasury, shall—

8           “(A) administer the Corporation Fund;  
 9           and

10           “(B) submit to Congress annual reports  
 11           describing the financial condition and oper-  
 12           ations of the Corporation Fund during the pre-  
 13           ceding fiscal year.

14           “(2) BUDGETARY TREATMENT.—The Corpora-  
 15           tion Fund shall not be subject to—

16           “(A) the allocations for discretionary  
 17           spending under section 302(a) of the Congres-  
 18           sional Budget Act of 1974 (2 U.S.C. 633(a));

19           “(B) the suballocations of appropriations  
 20           committees under section 302(b) of that Act (2  
 21           U.S.C. 633(b)); or

22           “(C) apportionment under subchapter II of  
 23           chapter 15 of title 31, United States Code.

24           “(3) INVESTMENT.—If the Corporation deter-  
 25           mines that the Corporation Fund Account contains

1 at any time amounts in excess of the needs of the  
 2 Corporation, the Corporation may request the Sec-  
 3 retary of the Treasury to invest such portion of the  
 4 excess amounts as the Corporation determines to be  
 5 appropriate in obligations of the United States—

6 “(A) having maturities determined by the  
 7 Secretary of the Treasury to be appropriate to  
 8 the needs of the Corporation; and

9 “(B) bearing interest at rates determined  
 10 to be appropriate by the Secretary of the Treas-  
 11 ury, taking into consideration the current aver-  
 12 age market yield on outstanding marketable ob-  
 13 ligations of the United States with remaining  
 14 periods to maturity comparable to the matu-  
 15 rities of the investments, except that the inter-  
 16 est rate on the investments shall not exceed the  
 17 average interest rate applicable to existing bor-  
 18 rowings.

19 **“SEC. 3108. ISSUANCE OF BONDS.**

20 “(a) ISSUANCE.—

21 “(1) IN GENERAL.—The Corporation may issue  
 22 and sell bonds, notes, and other evidences of indebt-  
 23 edness (referred to in this section as ‘bonds’).

24 “(2) USE OF REVENUE.—The Corporation may  
 25 pledge and use revenues of the Corporation for—

1           “(A) payment of the principal and interest  
2           on the bonds;

3           “(B) purchase or redemption of additional  
4           bonds; and

5           “(C) other purposes incidental to the func-  
6           tions described in subparagraphs (A) and (B),  
7           including creation of reserve funds and other  
8           funds that may be similarly pledged and used.

9           “(3) AGREEMENTS WITH HOLDERS AND TRUST-  
10          EES.—The Corporation may enter into binding  
11          agreements with the holders and trustees of bonds  
12          with respect to activities to enhance the market-  
13          ability of the bonds, including—

14               “(A) the establishment of reserve funds  
15               and other funds;

16               “(B) stipulations concerning the subse-  
17               quent issuance of bonds; and

18               “(C) other activities in accordance with  
19               this title.

20          “(b) NOT OBLIGATIONS OF UNITED STATES.—

21               “(1) IN GENERAL.—A bond issued by the Cor-  
22          poration under this section shall not be considered  
23          to be an obligation of, or guaranteed as to principal  
24          or interest by, the United States.

1           “(2) NOTICE.—Each bond of the Corporation  
2           shall contain a notice of the consideration described  
3           in paragraph (1).

4           “(c) TERMS AND CONDITIONS.—

5           “(1) NEGOTIABILITY; MATURITY.—A bond  
6           issued by the Corporation under this section shall—

7           “(A) be a negotiable instrument unless  
8           otherwise specified in the bond; and

9           “(B) mature not later than 50 years after  
10          the date of issuance.

11          “(2) ROLE OF SECRETARY OF TREASURY.—

12          “(A) RIGHT OF DISAPPROVAL.—

13                 “(i) IN GENERAL.—Not later than 30  
14                 days after the date on which the Corpora-  
15                 tion submits to the Secretary of the Treas-  
16                 ury a notification of the establishment of a  
17                 term or condition on a bond under this  
18                 section described in clause (ii), the Sec-  
19                 retary of the Treasury may disapprove the  
20                 term or condition.

21                 “(ii) DESCRIPTION.—The terms and  
22                 conditions referred to in clause (i) are  
23                 terms and conditions relating to—

24                         “(I) the form or denomination of  
25                         a bond;

1 “(II) the time, amount, or price  
2 at which a bond is sold;

3 “(III) the rate of interest of the  
4 bond;

5 “(IV) the terms by which the  
6 bond may be redeemed by the Cor-  
7 poration before maturity;

8 “(V) the priority of claims on the  
9 net revenues of the Corporation with  
10 respect to principal and interest pay-  
11 ments; and

12 “(VI) any other term or condi-  
13 tion the Secretary of the Treasury de-  
14 termines to be appropriate.

15 “(B) INAPPLICABILITY OF RIGHT TO PRE-  
16 SCRIBE TERMS.—Section 9108(a) of title 31,  
17 United States Code, shall not apply to the Cor-  
18 poration.

19 “(d) INAPPLICABILITY OF SECURITIES REQUIRE-  
20 MENTS.—The Corporation—

21 “(1) shall be considered to be an executive de-  
22 partment of the United States for purposes of sec-  
23 tion 3(c) of the Securities Exchange Act of 1934 (15  
24 U.S.C. 78c(c)); and

1           “(2) may register the securities and maintain  
2           the books of the Corporation in accordance with—

3                   “(A) the Securities Act of 1933 (15 U.S.C.  
4           77a et seq.);

5                   “(B) the Securities Exchange Act of 1934  
6           (15 U.S.C. 78a et seq.); and

7                   “(C) applicable regulations of the Securi-  
8           ties and Exchange Commission.

9           “(e) USE OF FEDERAL FINANCING BANK.—The Cor-  
10          poration may issue or sell any bond to the Federal Financ-  
11          ing Bank.

12   **“SEC. 3109. EXEMPTION FROM TAXATION AND PAYMENTS**  
13                   **IN LIEU OF TAXES.**

14           “(a) EXEMPTION FROM TAXATION.—The Corpora-  
15          tion shall be exempt from taxation in any manner or form  
16          by any State, county, or other entity of local government,  
17          including State, county, or local sales tax.

18           “(b) PAYMENTS IN LIEU OF TAXES.—

19                   “(1) IN GENERAL.—The Corporation shall  
20          make annual payments, in such amounts as the Cor-  
21          poration determines to be fair and reasonable, to  
22          each State and local governmental agency with tax  
23          jurisdiction over any area in which a facility of the  
24          Corporation is located.

1           “(2) DETERMINATION.—In making a deter-  
2           mination under paragraph (1), the Corporation shall  
3           take into consideration—

4                   “(A) the customs and practices prevailing  
5                   in the applicable area with respect to appraisal,  
6                   assessment, and classification of industrial  
7                   property and any special considerations ex-  
8                   tended to large-scale industrial operations; and

9                   “(B) the requirement that any payment  
10                  made to a taxing authority for any period shall  
11                  be not less than the payments that would have  
12                  been made to the taxing authority for the same  
13                  period by the Department and contractors of  
14                  the Department on behalf of the Department  
15                  with respect to property and operations of the  
16                  Corporation.

17           “(c) TIME OF PAYMENTS.—Each payment under this  
18           section shall be made by the Corporation on the date on  
19           which payments of taxes by taxpayers to each taxing au-  
20           thority are due and payable.

21           “(d) DETERMINATION OF AMOUNT DUE.—A deter-  
22           mination by the Corporation of an amount due under this  
23           section shall be final and conclusive.



1 **“SEC. 3110. NONAPPLICABILITY OF CERTAIN FEDERAL LAW.**

2 “(a) ANTITRUST LAWS.—The Corporation shall not  
3 be subject to—

4 “(1) the Sherman Act (15 U.S.C. 1 et seq.);

5 “(2) the Clayton Act (15 U.S.C. 12 et seq.); or

6 “(3) section 73 or 74 of the Wilson Tariff Act  
7 (15 U.S.C. 8, 9).

8 “(b) ENVIRONMENTAL, OCCUPATIONAL, AND PUBLIC  
9 HEALTH AND SAFETY LICENSING LAWS.—

10 “(1) NATIONAL ENVIRONMENTAL POLICY ACT  
11 OF 1969.—

12 “(A) IN GENERAL.—Subject to subpara-  
13 graph (B), the Corporation shall comply with  
14 the National Environmental Policy Act of 1969  
15 (42 U.S.C. 4321 et seq.).

16 “(B) PREPARATION OF ENVIRONMENTAL  
17 IMPACT STATEMENT.—The Corporation shall  
18 not be required to prepare an environmental  
19 impact statement or similar analysis required  
20 under the National Environmental Policy Act of  
21 1969 (42 U.S.C. 4321 et seq.) if the Nuclear  
22 Regulatory Commission is required under any  
23 law (including regulations) to prepare the envi-  
24 ronmental impact statement or similar analysis.

25 “(2) JURISDICTION.—The Commission shall  
26 have exclusive jurisdiction over the facilities and op-

1        erations of the Corporation with respect to licensing,  
 2        permitting, rulemaking, compliance, or operations  
 3        under all Federal, State, interstate, and local envi-  
 4        ronmental, occupational, and public health and safe-  
 5        ty laws.

6            “(3) ENFORCEMENT.—

7            “(A) IN GENERAL.—A requirement in-  
 8            cluded in a license of the Commission or a sub-  
 9            stantive requirement (including any injunctive  
 10          relief, administrative order, or civil or adminis-  
 11          trative penalty or fine) may be enforced against  
 12          the Corporation only by the Commission (or a  
 13          designee).

14          “(B) WAIVER.—The United States waives  
 15          any immunity otherwise applicable to the Cor-  
 16          poration.

17          “(c) ENERGY REORGANIZATION ACT REQUIRE-  
 18          MENTS.—

19          “(1) IN GENERAL.—The Corporation shall be  
 20          subject to section 210 of the Energy Reorganization  
 21          Act of 1974 (42 U.S.C. 5850).

22          “(2) LEASED FACILITIES.—With respect to the  
 23          operation of any facility leased by the Corporation,  
 24          section 206 of that Act (42 U.S.C. 5846) shall apply  
 25          to the directors and officers of the Corporation.

1       “(d) EXEMPTION FROM FEDERAL PROPERTY AND  
2       PROCUREMENT REQUIREMENTS.—The Corporation shall  
3       not be subject to—

4               “(1) subtitle I of title 40, United States Code;

5               “(2) title III of the Federal Property and Ad-  
6       ministrative Services Act of 1949 (41 U.S.C. 251 et  
7       seq.); or

8               “(3) any other law requiring conformance with  
9       the Federal Acquisition Regulations contained in  
10      title 48, Code of Federal Regulations.

11      “(e) EXPORT CONTROL LAWS.—No transaction of  
12      the Corporation shall be subject to the export control laws  
13      if the transaction is carried out in accordance with an  
14      agreement between the United States and a foreign coun-  
15      try.

16      **“SEC. 3111. PROTECTION OF INFORMATION.**

17              “(a) IN GENERAL.—Subject to subsection (b), the  
18      Corporation shall protect information classified under this  
19      Act, trade secrets, and security, commercial, or financial  
20      information to the same extent as a Federal agency or  
21      private corporation, in accordance with applicable law, in-  
22      cluding section 1905 of title 18, United States Code.

23              “(b) OTHER APPLICABLE LAWS.—Section 552(d) of  
24      title 5, United States Code, shall not apply to the Corpora-  
25      tion.

1 **“SEC. 3112. TRANSITION AND TRANSFER REQUIREMENTS.**

2       “(a) **TRANSITION MANAGER.**—Not later than 30  
3 days after the date of enactment of this title, the President  
4 shall appoint a transition manager, who shall serve at the  
5 pleasure of the President during the period beginning on  
6 the date of appointment and ending on the earlier of—

7               “(1) the date on which a chief executive officer  
8 is appointed for the Corporation pursuant to section  
9 3104; or

10              “(2) the transfer date.

11       “(b) **DUTIES.**—

12              “(1) **IN GENERAL.**—The transition manager  
13 shall carry out the powers and duties of the Board  
14 and chief executive officer as described in section  
15 3104 only to the extent necessary to implement the  
16 transfer of spent nuclear fuel management obliga-  
17 tions, functions, personnel, and funds from the Sec-  
18 retary to the Corporation not later than the transfer  
19 date.

20              “(2) **COMPENSATION.**—The transition manager  
21 shall be a Federal employee to be paid at the rate  
22 of pay for the appropriate Executive Service Level,  
23 as determined by the Secretary.

24              “(3) **CONTINUATION IN ABSENCE OF A BOARD**  
25 **OF DIRECTORS.**—The transition manager shall carry

1 out this section regardless of whether the Board is  
2 appointed pursuant to section 3103.

3 “(c) RATIFICATION OF ACTIONS.—Once the Board  
4 has been appointed, each action carried out by the transi-  
5 tion manager shall be subject to ratification by the Board.

6 “(d) RESPONSIBILITIES OF THE SECRETARY.—Dur-  
7 ing the period beginning on the date of enactment of this  
8 title and ending on the transfer date, the Secretary shall—

9 “(1) retain responsibility for spent nuclear fuel  
10 management in accordance with applicable Federal  
11 law;

12 “(2) to the extent provided in appropriations  
13 Acts, provide funds to the transition manager to pay  
14 salaries and expenses necessary to effectuate the  
15 purposes of this title;

16 “(3) assign employees of the Department to as-  
17 sist the transition manager in carrying out this sec-  
18 tion; and

19 “(4) assist and cooperate with the transition  
20 manager and the chief executive officer in transfer-  
21 ring to the Corporation not later than the transfer  
22 date the activities, obligations, and resources under  
23 the jurisdiction or control of the Secretary with re-  
24 spect to spent nuclear fuel management.

25 “(e) BUDGET.—

1           “(1) IN GENERAL.—The transition manager  
 2           shall prepare and submit an operating budget for  
 3           the Corporation for each fiscal year to the Secretary  
 4           for approval not later than December 1 of each year  
 5           until the Board is appointed pursuant to section  
 6           3103.

7           “(2) REASONABLE EXPENSES.—All reasonable  
 8           expenses associated with the duties of the transition  
 9           manager shall be paid from the Operating Fund, as  
 10          approved by the Secretary.

11          “(f) COMPLETION OF TRANSFERS AND OTHER AC-  
 12          TIONS BY TRANSFER DATE.—

13           “(1) IN GENERAL.—The Secretary and the  
 14           transition manager shall complete transfers of all as-  
 15           sets, property, rights, liabilities, or obligations under  
 16           the jurisdiction of the Secretary relating to spent  
 17           nuclear fuel management to the Corporation not  
 18           later than the transfer date.

19           “(2) SUSPENSION OF FEES.—

20           “(A) IN GENERAL.—Any party to a con-  
 21           tract with the United States executed pursuant  
 22           to section 302 of the Nuclear Waste Policy Act  
 23           of 1982 (42 U.S.C. 10222) for the disposal of  
 24           spent nuclear fuel and high level radioactive  
 25           waste may suspend payment of fees under the

1 contract if all transfers of contracts and funds  
 2 required to be transferred under this title are  
 3 not complete, the Board has not been ap-  
 4 pointed, or a chief executive officer for the Cor-  
 5 poration has not been appointed, by the trans-  
 6 fer date.

7 “(B) PERIOD.—A suspension under sub-  
 8 paragraph (A) shall continue until each action  
 9 required under this title has been completed.

10 “(C) APPLICABILITY.—The suspension of  
 11 payments of a contract under this subsection  
 12 shall not constitute a termination, breach, or  
 13 cancellation of the contract.

## 14 **“Subtitle B—Rights, Privileges, and** 15 **Assets**

### 16 **“SEC. 3201. MARKETING AND CONTRACTING AUTHORITY.**

17 “(a) EXCLUSIVE MARKETING AGENT.—

18 “(1) IN GENERAL.—The Corporation shall act  
 19 as the exclusive marketing agent on behalf of the  
 20 United States for entering into contracts to provide  
 21 spent nuclear fuel management and related products  
 22 and services.

23 “(2) EFFECT ON DEPARTMENT.—Beginning on  
 24 the transfer date, the Department may not market

1       spent nuclear fuel management or any related serv-  
2       ice.

3       “(b) TRANSFER OF CONTRACTS.—

4               “(1) IN GENERAL.—Each spent nuclear fuel  
5       management contract, agreement, and lease executed  
6       by the Department before the transfer date relating  
7       to spent nuclear fuel management or a related serv-  
8       ice shall be transferred to the Corporation.

9               “(2) INCREASE IN FEES.—The Corporation  
10      may not increase the fee under contracts executed  
11      by the Secretary under section 302(a) of the Nuclear  
12      Waste Policy Act of 1982 (42 U.S.C. 10222(a)), un-  
13      less the Secretary approves the fee increase in ac-  
14      cordance with section 302(a)(3) of that Act not later  
15      than 2 years in advance of the proposed effective  
16      date of the increase in the fee.

17   **“SEC. 3202. PRICING.**

18       “(a) SERVICES PROVIDED TO COMMERCIAL CUS-  
19      TOMERS.—

20               “(1) IN GENERAL.—The Corporation shall es-  
21      tablish prices for products, materials, and services  
22      provided by the Corporation to customers other than  
23      the Department, and for services other than those  
24      provided under a spent fuel disposal contract, on a  
25      basis sufficient to—



1                   “(A) recover the costs of the Corporation;  
2                   and

3                   “(B) operate on a self-sustaining basis.

4                   “(2) APPROVAL.—Each price established under  
5           paragraph (1) shall be subject to review and ap-  
6           proval by the Board.

7           “(b) SERVICES PROVIDED TO DEPARTMENT.—The  
8   Corporation shall charge the Department fees for spent  
9   nuclear fuel management services provided under section  
10 3102(b)(7) on a basis sufficient to recover the costs of  
11 the Corporation, on a yearly basis, of providing the serv-  
12 ices.

13 **“SEC. 3203. ACQUISITION OF DEPARTMENT LAND AND FA-**  
14 **CILITIES.**

15           “(a) IN GENERAL.—The Corporation—

16                   “(1) shall have the exclusive option to lease or  
17           otherwise access required portions of Department or  
18           other Federal land (other than land within the Na-  
19           tional Park System, the National Forest System, or  
20           the National Wildlife Refuge System or land man-  
21           aged by the Bureau of land Management that is  
22           within a conservation system unit), facilities, and  
23           property useful for spent nuclear fuel management  
24           purposes, including property or facilities of the De-  
25           partment necessary for storage, processing, or fuel

1 fabrication involving materials containing plutonium;  
2 and

3 “(2) may acquire or lease any required portion  
4 of State or private land, facilities, or property useful  
5 for spent nuclear fuel management purposes.

6 “(b) TERMS OF LEASE.—

7 “(1) IN GENERAL.—The Corporation and the  
8 Department shall establish mutually agreeable terms  
9 for any lease under subsection (a)(1), including  
10 specifying annual payments to be made to the De-  
11 partment by the Corporation.

12 “(2) PAYMENTS.—The amount of annual pay-  
13 ments for a lease under subsection (a)(1) shall be  
14 equal to the cost incurred by the Department in ad-  
15 ministering the lease and providing to the Corpora-  
16 tion services relating to the lease (excluding depre-  
17 ciation and imputed interest on original plant invest-  
18 ments and costs under subsection (c)).

19 “(c) DEPARTMENT RESPONSIBILITY FOR PRE-  
20 EXISTING CONDITIONS.—The payment of any costs of de-  
21 contamination and decommissioning, actions for response  
22 (as defined in section 101 of the Comprehensive Environ-  
23 mental Response, Compensation, and Liability Act of  
24 1980 (42 U.S.C. 9601)), or corrective actions (as defined  
25 by the Administrator of the Environmental Protection

1 Agency under section 3004(u) of the Solid Waste Disposal  
2 Act (42 U.S.C. 6924(u)), with respect to conditions exist-  
3 ing before the transfer date, in connection with property  
4 of the Department leased under subsection (a)(1), shall  
5 remain the sole responsibility of the Department.

6 “(d) ENVIRONMENTAL AUDIT.—The Secretary, in  
7 consultation with the Administrator of the Environmental  
8 Protection Agency, shall conduct a comprehensive environ-  
9 mental audit to identify the environmental conditions that  
10 will remain the responsibility of the Department under  
11 subsection (c) after leasing the applicable land or facility.

12 “(e) TREATMENT UNDER PRICE-ANDERSON.—Any  
13 lease executed between the Secretary and the Corporation  
14 under this section shall be considered to be a contract for  
15 purposes of section 170 d.

16 “(f) WAIVER OF EIS REQUIREMENT.—A lease exe-  
17 cuted between the Corporation and the Department under  
18 this section shall not be considered to be a major Federal  
19 action significantly affecting the quality of the human en-  
20 vironment for purposes of section 102 of the National En-  
21 vironmental Policy Act of 1969 (42 U.S.C. 4332).

22 **“SEC. 3204. PATENTS AND INVENTIONS.**

23 “(a) GRANT OF RIGHTS.—

24 “(1) IN GENERAL.—The Corporation may  
25 use—

1                   “(A) efficacious and economical processes  
2                   for spent nuclear fuel management; and

3                   “(B) any method of improving the produc-  
4                   tion of nuclear power.

5                   “(2) INFRINGEMENT.—Except as provided in  
6                   paragraph (3), an owner of a patent the patent  
7                   rights of which are copied, used, infringed, or em-  
8                   ployed by the Corporation pursuant to this sub-  
9                   section shall have as the exclusive remedy a cause of  
10                  action against the Corporation to be instituted and  
11                  prosecuted, as a case in equity, in the appropriate  
12                  United States district court for the recovery of rea-  
13                  sonable compensation for the infringement.

14                  “(3) FEDERAL EMPLOYEES.—This section shall  
15                  not apply to any art, machine, method of manufac-  
16                  ture, or composition of matter discovered or invented  
17                  by an employee during the period of employment by  
18                  the Corporation or the Federal Government.

19                  “(b) EXCLUSIVE RIGHT TO COMMERCIALIZE.—The  
20                  Corporation shall have the exclusive commercial right to  
21                  deploy and use any spent nuclear fuel management patent  
22                  or process of the Corporation.

23                  “(c) RESEARCH AND DEVELOPMENT.—On request of  
24                  the Corporation, the Secretary shall provide, on a reim-

1 bursable basis, research and development of alternative  
2 technologies for spent nuclear fuel management.

3 **“SEC. 3205. LIABILITIES.**

4       “(a) **LIABILITIES BASED ON OPERATIONS BEFORE**  
5 **TRANSITION.**—Except as otherwise provided in this title,  
6 each liability attributable to spent nuclear fuel manage-  
7 ment or property transferred to the Corporation before the  
8 applicable transfer date shall remain a liability of the De-  
9 partment.

10       “(b) **JUDGMENTS BASED ON OPERATIONS BEFORE**  
11 **TRANSITION.**—Except as otherwise agreed to by the Cor-  
12 poration and the Department, a judgment entered against  
13 the Department imposing liability arising out of a spent  
14 nuclear fuel management obligation of the Department  
15 under the Nuclear Waste Policy Act of 1982 (42 U.S.C.  
16 10101 et seq.) or a spent fuel disposal contract shall be  
17 considered to be a judgment against, and payable solely  
18 by, the Department.

19       “(c) **REPRESENTATION.**—With respect to any claim  
20 to impose liability under subsection (a) or (b)—

21               “(1) the United States shall be represented by  
22 the Department of Justice; and

23               “(2) the Corporation shall be represented by a  
24 counsel selected by the Corporation.

1       “(d) JUDGMENTS AND LIABILITIES BASED ON OPER-  
2   ATIONS AFTER TRANSITION.—

3           “(1) IN GENERAL.—Except as otherwise pro-  
4       vided in this subsection, a judgment entered against  
5       the Corporation arising from operations of the Cor-  
6       poration on or after the transfer date shall be pay-  
7       able solely by the Corporation from funds of the  
8       Corporation.

9           “(2) EXISTING SPENT FUEL DISPOSAL CON-  
10   TRACTS.—

11           “(A) IN GENERAL.—Paragraph (1) shall  
12       not apply to a liability or judgment that—

13           “(i) is based on a spent fuel disposal  
14       contract in existence on the date of enact-  
15       ment of this title; and

16           “(ii) accrues not later than 10 years  
17       after the license termination date of the re-  
18       actor to which the contract applies, includ-  
19       ing any renewals of the license granted by  
20       the Nuclear Regulatory Commission.

21           “(B) PAYMENT.—A liability or judgment  
22       described in subparagraph (A) shall continue to  
23       be—

24           “(i) the responsibility of the Depart-  
25       ment; and

1 “(ii) payable pursuant to section 1304  
2 of title 31, United States Code.

3 “(3) RELATIONSHIP TO OTHER PROVISIONS.—  
4 Payments from the funds of the Corporation de-  
5 scribed in paragraph (1) shall not be subject to the  
6 Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101  
7 et seq.), including section 302(d) of that Act (42  
8 U.S.C. 10222(d)).

9 “(4) TREATMENT.—The Corporation shall not  
10 be considered to be a Federal agency for purposes  
11 of chapter 171 of title 28, United States Code.

12 **“SEC. 3206. PREDEPLOYMENT ACTIVITIES BY CORPORA-**  
13 **TION.**

14 “The Corporation, in coordination with the Depart-  
15 ment, may carry out such activities as are necessary to  
16 prepare for the provision of spent nuclear fuel manage-  
17 ment services, including—

18 “(1) initiation of public outreach and coordina-  
19 tion with State and local stakeholders;

20 “(2) completion of preapplication activities with  
21 the Commission;

22 “(3) confirmation of technical performance;

23 “(4) validation of economic projections;

24 “(5) completion of feasibility and risk studies;

1           “(6) initiation of preliminary plant design and  
2           engineering; and

3           “(7) site selection, site characterization, and en-  
4           vironmental documentation activities.

5   **“SEC. 3207. CONSTRUCTION AND OPERATION OF FACILI-**  
6           **TIES.**

7           “(a) ESTABLISHMENT.—If the Corporation elects to  
8           proceed with the construction of a new facility, or take  
9           over operation of an existing facility, for spent nuclear fuel  
10          management, the Corporation may enter into a contract  
11          with 1 or more contractors for the construction or oper-  
12          ation of the facility.

13          “(b) TRANSACTIONS BETWEEN CORPORATION AND  
14          CONTRACTORS.—

15               “(1) GRANTS.—The Corporation may make  
16               grants or loans to 1 or more contractors to carry out  
17               any duty of the Corporation under this title.

18               “(2) LICENSING AGREEMENT.—The Corpora-  
19               tion may license to a contractor any right, title, or  
20               interest of the Corporation under this title.

21               “(3) PURCHASE AGREEMENT.—The Corpora-  
22               tion may enter into a commitment to purchase any  
23               spent nuclear fuel management service, nuclear ma-  
24               terial, or fuel product produced at a facility operated  
25               by a contractor.



1           “(4) **ADDITIONAL ASSISTANCE.**—The Corpora-  
2           tion may provide to a contractor such additional per-  
3           sonnel, services, and equipment as the Corporation  
4           determines to be appropriate.

5   **“SEC. 3208. PRICE-ANDERSON COVERAGE.**

6           “(a) **IN GENERAL.**—Section 170 shall apply to any  
7           spent nuclear fuel management facility—

8                   “(1) owned or operated by, or under contract  
9           with, the Corporation;

10                   “(2) licensed under section 53, 63, or 103; and

11                   “(3) constructed after the date of enactment of  
12           this title.

13           “(b) **INDEMNITY AGREEMENTS.**—The Secretary,  
14           pursuant to section 170, may enter in to any indemnity  
15           agreement with the Corporation or a contractor of the  
16           Corporation as the Secretary determines to be necessary.

17   **“SEC. 3209. REFERENCES.**

18           “Any reference to the Commission or the Department  
19           contained in section 161 k., 221 a., or 230 shall be consid-  
20           ered to include the Corporation.

21   **“SEC. 3210. SEVERABILITY.**

22           “If any provision of this title or the application of  
23           any such provision to any entity, person, or circumstance  
24           is for any reason judged by a court of competent jurisdic-

1 tion to be invalid, the remainder of this title and the appli-  
 2 cation of this title shall not be affected.”.

3 (b) CONFORMING AMENDMENT.—The table of con-  
 4 tents of the Atomic Energy Act of 1954 (42 U.S.C. 2011  
 5 note) is amended by adding at the end the following:

“Sec. 1. Short title.

“Sec. 2. United States Nuclear Fuel Management Corporation.

“TITLE III—UNITED STATES NUCLEAR FUEL MANAGEMENT  
 CORPORATION

“Sec. 3001. Purpose.

“Sec. 3002. Definitions.

“Subtitle A—Establishment, Powers, and Organization

“Sec. 3101. Establishment.

“Sec. 3102. Powers.

“Sec. 3103. Board of Directors.

“Sec. 3104. Management.

“Sec. 3105. Audits.

“Sec. 3106. Annual reports.

“Sec. 3107. United States Nuclear Fuel Management Corporation Fund.

“Sec. 3108. Issuance of bonds.

“Sec. 3109. Exemption from taxation and payments in lieu of taxes.

“Sec. 3110. Nonapplicability of certain Federal law.

“Sec. 3111. Protection of information.

“Sec. 3112. Transition and transfer requirements.

“Subtitle B—Rights, Privileges, and Assets

“Sec. 3201. Marketing and contracting authority.

“Sec. 3202. Pricing.

“Sec. 3203. Acquisition of Department land and facilities.

“Sec. 3204. Patents and inventions.

“Sec. 3205. Liabilities.

“Sec. 3206. Predeployment activities by Corporation.

“Sec. 3207. Construction and operation of facilities.

“Sec. 3208. Price-Anderson coverage.

“Sec. 3209. References.

“Sec. 3210. Severability.”.

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