

110TH CONGRESS
2D SESSION

H. R. 7086

To help our Nation meet our growing energy needs and strengthen our energy security through the development of nuclear power in the United States.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 25, 2008

Mr. BARRETT of South Carolina (for himself, Mr. BROWN of South Carolina, Mr. WILSON of South Carolina, and Mr. INGLIS of South Carolina) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Rules, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To help our Nation meet our growing energy needs and strengthen our energy security through the development of nuclear power in the United States.

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 “Pathway to Nuclear Power Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—NUCLEAR ENERGY

- Sec. 101. Incentives for innovative technologies.
- Sec. 102. Standby support for certain nuclear plant delays.
- Sec. 103. Authorization for Nuclear Power 2010 Program.
- Sec. 104. Domestic manufacturing base for nuclear components and equipment.
- Sec. 105. Nuclear energy workforce.
- Sec. 106. Licensing of new nuclear power plants.
- Sec. 107. Investment tax credit for investments in nuclear power facilities.
- Sec. 108. 5-year accelerated depreciation for new nuclear power facilities.
- Sec. 109. Modification of credit for production from advanced nuclear power facilities.
- Sec. 110. Joint Congressional Committee on Nuclear Energy.
- Sec. 111. Confidence in availability of waste disposal.

TITLE II—NUCLEAR WASTE

- Sec. 201. Short title.
- Sec. 202. United States High Level Nuclear Waste Management Corporation.
- Sec. 203. Termination of Office of Civilian Radioactive Waste Management.
- Sec. 204. Funding.
- Sec. 205. New plant contracts.

1 **TITLE I—NUCLEAR ENERGY**

2 **SEC. 101. INCENTIVES FOR INNOVATIVE TECHNOLOGIES.**

3 (a) DEFINITION OF PROJECT COST.—Section
 4 1701(1) of the Energy Policy Act of 2005 (42 U.S.C.
 5 16511(1)) is amended by inserting a new paragraph (4)
 6 and renumbering the paragraphs accordingly:

7 “(4) PROJECT COST.—The term ‘project cost’
 8 means all costs associated with the development,
 9 planning, design, engineering, permitting and licens-
 10 ing, construction, commissioning, start-up, shake-
 11 down and financing of the facility, including but not
 12 limited to reasonable escalation and contingencies,
 13 the cost of and fees for the guarantee, reasonably re-

1 quired reserve funds, initial working capital and in-
2 terest during construction.”.

3 (b) TERMS AND CONDITIONS.—Section 1702 of the
4 Energy Policy Act of 2005 (42 U.S.C. 16512) is amended
5 by striking subsection (b) and inserting the following:

6 “(b) SPECIFIC APPROPRIATION OR CONTRIBU-
7 TION.—

8 “(1) IN GENERAL.—No guarantee shall be
9 made unless—

10 “(A) an appropriation for the cost has
11 been made; or

12 “(B) the Secretary has received from the
13 borrower a payment in full for the cost of the
14 obligation and deposited the payment into the
15 Treasury; or

16 “(C) a combination of (A) and (B) has
17 been made, that when combined is sufficient to
18 cover the cost of the obligation.

19 “(2) RELATION TO OTHER LAWS.—Section 504
20 (b) of the Federal Credit Reform Act of 1990 (2
21 U.S.C. 661c (b)) shall not apply to a loan guarantee
22 made in accordance with paragraph (1)(B).”.

23 (c) AMOUNT.—Section 1702 of the Energy Policy Act
24 of 2005 (42 U.S.C. 16512) is amended by striking sub-
25 section (c) and inserting the following:

1 “(c) AMOUNT.—

2 “(1) IN GENERAL.—Subject to paragraph (2),
3 the Secretary shall guarantee 100 percent of the ob-
4 ligation for a facility that is the subject of the guar-
5 antee, or a lesser amount if requested by the bor-
6 rower.

7 “(2) LIMITATION.—The total amount of loans
8 guaranteed for a facility by the Secretary shall not
9 exceed 80 percent of the total cost of the facility, as
10 estimated at the time at which the guarantee is
11 issued.”.

12 (d) FEES.—Section 1702(h) of the Energy Policy Act
13 of 2005 (42 U.S.C. 16512(h)) is amended by striking
14 paragraph (2) and inserting the following:

15 “(2) AVAILABILITY.—Fees collected under this
16 subsection shall—

17 “(A) be deposited by the Secretary into a
18 special fund in the Treasury to be known as the
19 ‘Incentives For Innovative Technologies Fund’;
20 and

21 “(B) remain available to the Secretary for
22 expenditure, without further appropriation or
23 fiscal year limitation, for administrative ex-
24 penses incurred in carrying out this title.”.

1 **SEC. 102. STANDBY SUPPORT FOR CERTAIN NUCLEAR**
2 **PLANT DELAYS.**

3 (a) DEFINITIONS.—Section 638(a) of the Energy
4 Policy Act of 2005 (42 U.S.C. 16014(a)) is amended as
5 follows:

6 (1) By redesignating paragraph (4) as para-
7 graph (7).

8 (2) By inserting the following:

9 “(4) FULL POWER OPERATION.—The term ‘full
10 power operation’ means whichever occurs first of—

11 “(A) the ‘commercial operation date’ or
12 the equivalent under the terms of the financing
13 documents for such facility; or

14 “(B) operation of such facility at an aver-
15 age of 50 percent or greater of nameplate ca-
16 pacity over any consecutive 30-day period.

17 “(5) INCREASED PROJECT COSTS.—The term
18 ‘increased project costs’ means the increased cost of
19 constructing, commissioning, testing, operating or
20 maintaining a reactor prior to full-power operation
21 incurred as a result of a delay covered by the con-
22 tract including but not limited to costs of demobili-
23 zation and remobilization, increased costs of equip-
24 ment, materials and labor due to delay (including
25 idle time), increased general and administrative

1 costs, and escalation costs for completing construc-
2 tion.

3 “(6) LITIGATION.—The term ‘litigation’ means
4 adjudication in Federal, State, local or tribal courts
5 and administrative proceedings or hearings at or be-
6 fore Federal, State, local or tribal agencies or ad-
7 ministrative bodies.”.

8 (b) CONTRACT AUTHORITY.—Section 638(b) of the
9 Energy Policy Act of 2005 (42 U.S.C. 16014(b)) is
10 amended by striking paragraph (1) and inserting the fol-
11 lowing:

12 “(1) IN GENERAL.—The Secretary may enter
13 into contracts under this section with sponsors of an
14 advanced nuclear facility that cover at any one time
15 outstanding a total of not more than 6 reactors,
16 with the 6 reactors consisting of not more than 3
17 different reactor designs, in accordance with para-
18 graph (2). In the event that any contract entered
19 into under this section terminates or expires without
20 a claim being paid by the Secretary thereunder, then
21 the Secretary may enter into a new contract under
22 this section in replacement or substitution for such
23 contract.”.

24 (c) COVERED COSTS.—Section 638(d) of the Energy
25 Policy Act of 2005 (42 U.S.C. 16014(d)) is amended by

1 striking paragraphs (2) and (3) and inserting the fol-
2 lowing:

3 “(2) COVERAGE.—In the case of reactors that
4 receive combined licenses and on which construction
5 is commenced, the Secretary shall pay—

6 “(A) 100 percent of the covered costs of
7 delay that occur after the initial 30-day period
8 of covered delay; but

9 “(B) not more than \$500,000,000 per con-
10 tract.

11 “(3) COVERED DEBT OBLIGATIONS.—Debt obli-
12 gations covered under subparagraph (A) of para-
13 graph (5) shall include but not be limited to debt ob-
14 ligations incurred to pay increased project costs.”.

15 (d) DISPUTE RESOLUTION.—Section 638 of the En-
16 ergy Policy Act of 2005 (42 U.S.C. 16014) is amended
17 as follows:

18 (1) By designating subsections (f), (g), and (h)
19 as subsections (g), (h), and (i) respectively.

20 (2) By inserting the following:

21 “(f) DISPUTE RESOLUTION.—Any controversy or
22 claim arising out of or relating to any contract entered
23 into under this section shall be determined by arbitration
24 in Washington, DC according to the then prevailing Com-
25 mercial Arbitration Rules of the American Arbitration As-

1 sociation. A decision by the arbitrator(s) shall be final and
2 binding, and any court having jurisdiction may enter judg-
3 ment on it.”.

4 **SEC. 103. AUTHORIZATION FOR NUCLEAR POWER 2010 PRO-**
5 **GRAM.**

6 Section 952(c) of the Energy Policy Act of 2005 (42
7 U.S.C. 16272) is amended by striking subsections (1) and
8 (2) and substituting the following:

9 “(1) IN GENERAL.—The Secretary shall carry
10 out a Nuclear Power 2010 Program to position the
11 Nation to start construction of new nuclear power
12 plants by 2010 or as close to 2010 as achievable.

13 “(2) SCOPE OF PROGRAM.—The Nuclear Power
14 2010 Program shall be cost-shared with the private
15 sector and shall support the following objectives:

16 “(A) Demonstrating the licensing process
17 for new nuclear power plants, including the Nu-
18 clear Regulatory Commission process for ob-
19 taining early site permits (EPS), combined con-
20 struction/operating licenses (cols), and design
21 certifications.

22 “(B) Conducting first-of-a-kind design and
23 engineering work on at least two advanced nu-
24 clear reactor designs sufficient to bring those
25 designs to a state of design completion suffi-

1 cient to allow development of firm cost esti-
2 mates.

3 “(3) AUTHORIZATION OF APPROPRIATIONS.—

4 There are authorized to be appropriated to the Sec-
5 retary to carry out the Nuclear Power 2010 Pro-
6 gram—

7 “(A) \$182,800,000 for fiscal year 2008;

8 “(B) \$159,600,000 for fiscal year 2009;

9 “(C) \$135,600,000 for fiscal year 2010;

10 “(D) \$46,900,000 for fiscal year 2011;

11 and

12 “(E) \$2,200,000 for fiscal year 2012.”.

13 **SEC. 104. DOMESTIC MANUFACTURING BASE FOR NUCLEAR**
14 **COMPONENTS AND EQUIPMENT.**

15 (a) ESTABLISHMENT OF INTERAGENCY WORKING
16 GROUP.—

17 (1) PURPOSES.—The purposes of this section
18 are—

19 (A) to increase the competitiveness of the
20 United States nuclear energy products and
21 services industries;

22 (B) to identify the stimulus or incentives
23 necessary to cause United States manufacturers
24 of nuclear energy products to expand manufac-
25 turing capacity;

1 (C) to facilitate the export of United
2 States nuclear energy products and services;

3 (D) to reduce the trade deficit of the
4 United States through the export of United
5 States nuclear energy products and services;

6 (E) to retain and create nuclear energy
7 manufacturing and related service jobs in the
8 United States;

9 (F) to integrate the objectives in subpara-
10 graphs (A) through (E) in a manner consistent
11 with the interests of the United States, into the
12 foreign policy of the United States; and

13 (G) to authorize funds for increasing
14 United States capacity to manufacture nuclear
15 energy products and supply nuclear energy
16 services.

17 (2) ESTABLISHMENT.—

18 (A) There shall be established an inter-
19 agency working group that, in consultation with
20 representative industry organizations and man-
21 ufacturers of nuclear energy products, shall
22 make recommendations to coordinate the ac-
23 tions and programs of the Federal Government
24 in order to promote increasing domestic manu-

1 facturing capacity and export of domestic nu-
2 clear energy products and services.

3 (B) The Interagency Working Group shall
4 be composed as follows:

5 (i) The Secretary of Energy, or the
6 Secretary's designee, who shall chair the
7 interagency working group. The Secretary
8 of Energy shall provide staff for carrying
9 out the functions of the interagency work-
10 ing group established under this section.

11 (ii) Representatives of—

12 (I) the Department of Energy;

13 (II) the Department of Com-
14 merce;

15 (III) the Department of Defense;

16 (IV) the Department of Treas-
17 ury;

18 (V) the Department of State;

19 (VI) the Environmental Protec-
20 tion Agency;

21 (VII) the United States Agency
22 for International Development;

23 (VIII) the Export-Import Bank
24 of the United States;

1 (IX) the Trade and Development
2 Agency;

3 (X) the Small Business Adminis-
4 tration;

5 (XI) the Office of the U.S. Trade
6 Representative; and

7 (XII) other Federal agencies, as
8 determined by the President.

9 (iii) The heads of appropriate agencies
10 shall detail such personnel and furnish
11 such services to the interagency group,
12 with or without reimbursement, as may be
13 necessary to carry out the group's func-
14 tions.

15 (3) DUTIES OF THE INTERAGENCY WORKING
16 GROUP.—

17 (A) Within six months of enactment, the
18 interagency working group established under
19 paragraph (2)(A) shall identify the actions nec-
20 essary to promote the safe development and ap-
21 plication in foreign countries of nuclear energy
22 products and services in order to—

23 (i) increase electricity generation from
24 nuclear energy sources through develop-
25 ment of new generation facilities;

1 (ii) improve the efficiency, safety and/
2 or reliability of existing nuclear generating
3 facilities through modifications; and

4 (iii) enhance the safe treatment, han-
5 dling, storage and disposal of used nuclear
6 fuel.

7 (B) Within 6 months of enactment, the
8 interagency working group shall identify mecha-
9 nisms (including, but not limited to, tax stim-
10 ulus for investment, loans and loan guarantees,
11 and grants) necessary for United States compa-
12 nies to increase their capacity to produce or
13 provide nuclear energy products and services,
14 and to increase their exports of nuclear energy
15 products and services. The interagency working
16 group shall identify administrative or legislative
17 initiatives necessary to—

18 (i) encourage United States compa-
19 nies to increase their manufacturing capac-
20 ity for nuclear energy products;

21 (ii) provide technical and financial as-
22 sistance and support to small and mid-
23 sized businesses to establish quality assur-
24 ance programs in accordance with domestic

1 and international nuclear quality assurance
2 code requirements;

3 (iii) encourage, through financial in-
4 centives, private sector capital investment
5 to expand manufacturing capacity; and

6 (iv) provide technical assistance and
7 financial incentives to small and mid-sized
8 businesses to develop the work-force nec-
9 essary to increase manufacturing capacity
10 and meet domestic and international nu-
11 clear quality assurance code requirements.

12 (C) Within 9 months of enactment, the
13 interagency working group shall provide a re-
14 port to Congress on its findings under subpara-
15 graphs (A) and (B), including recommendations
16 for new legislative authority where necessary.

17 (D) The interagency working group shall
18 identify the trade barriers that exist globally to
19 the export of United States nuclear products
20 and services.

21 (4) TRADE ASSISTANCE.—The interagency
22 working group shall encourage the member agencies
23 of the interagency working group to—

1 (A) provide technical training and edu-
2 cation for international development personnel
3 and local users in their own country;

4 (B) provide financial and technical assist-
5 ance to nonprofit institutions that support the
6 marketing and export efforts of domestic com-
7 panies that provide nuclear energy products and
8 services;

9 (C) develop nuclear energy projects in for-
10 eign countries;

11 (D) provide technical assistance and train-
12 ing materials to loan officers of the World
13 Bank, international lending institutions, com-
14 mercial and energy attaches at embassies of the
15 United States and other appropriate personnel
16 in order to provide information about nuclear
17 energy products and services to foreign govern-
18 ments or other potential project sponsors;

19 (E) support, through financial incentives,
20 private sector efforts to commercialize and ex-
21 port nuclear energy products and services in ac-
22 cordance with the subsidy codes of the World
23 Trade Organization; and

24 (F) augment budgets for trade and devel-
25 opment programs in order to support

1 qualifying nuclear power manufacturing equip-
2 ment,

3 “(B)(i) the construction, reconstruction, or
4 erection of which is completed by the taxpayer,
5 or

6 “(ii) which is acquired by the taxpayer if
7 the original use of such property commences
8 with the taxpayer,

9 “(C) with respect to which depreciation (or
10 amortization in lieu of depreciation) is allow-
11 able, and

12 “(D) which is placed in service on or be-
13 fore December 31, 2015.

14 “(2) SPECIAL RULE FOR CERTAIN SUBSIDIZED
15 PROPERTY.—Rules similar to section 48(a)(4) shall
16 apply for purposes of this section.

17 “(3) CERTAIN QUALIFIED PROGRESS EXPENDI-
18 TURES RULES MADE APPLICABLE.—Rules similar to
19 the rules of subsections (c)(4) and (d) of section 46
20 (as in effect on the day before the enactment of the
21 Revenue Reconciliation Act of 1990) shall apply for
22 purposes of this section.

23 “(c) DEFINITIONS.—For purposes of this section—

24 “(1) QUALIFYING NUCLEAR POWER MANUFAC-
25 TURING PROJECT.—The term ‘qualifying nuclear

1 power manufacturing project’ means any project
2 which is designed primarily to enable the taxpayer to
3 produce or test equipment necessary for the design,
4 construction, or operation of a nuclear power plant.

5 “(2) QUALIFYING NUCLEAR POWER MANUFAC-
6 TURING EQUIPMENT.—The term ‘qualifying nuclear
7 power manufacturing equipment’ means machine
8 tools and other similar equipment, including com-
9 puters and other peripheral equipment, acquired or
10 constructed primarily to enable the taxpayer to
11 produce or test equipment necessary for the design,
12 construction, or operation of a nuclear power plant.

13 “(3) PROJECT.—The term ‘project’ includes
14 any building constructed to house qualifying nuclear
15 power manufacturing equipment.”.

16 (c) CONFORMING AMENDMENTS.—

17 (1) ADDITIONAL INVESTMENT CREDIT.—Sec-
18 tion 46 of such Code is amended by—

19 (A) striking “and” at the end of paragraph

20 (3);

21 (B) striking the period at the end of para-
22 graph (4) and inserting “, and”; and

23 (C) inserting after paragraph (4) the fol-
24 lowing new paragraph:

1 “(5) the qualifying nuclear power manufac-
2 turing credit.”.

3 (2) APPLICATION OF SECTION 49.—Subpara-
4 graph (C) of section 49(a)(1) of such Code is
5 amended by—

6 (A) striking “and” at the end of clause
7 (iii);

8 (B) striking the period at the end of clause
9 (iv) and inserting “, and”; and

10 (C) inserting after clause (iv) the following
11 new clause:

12 “(v) the basis of any property which
13 is part of a qualifying nuclear power equip-
14 ment manufacturing project under section
15 48C.”.

16 (3) TABLE OF SECTIONS.—The table of sections
17 preceding section 46 of such Code is amended by in-
18 serting after the line for section 48B the following
19 new line:

“Sec. 48C. Qualifying nuclear power manufacturing credit.”.

20 (d) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to property—

22 (1) the construction, reconstruction, or erection
23 of which of began after the date of enactment; or

24 (2) which was acquired by the taxpayer on or
25 after the date of enactment and not pursuant to a

1 binding contract which was in effect on the day prior
2 to the date of enactment.

3 **SEC. 105. NUCLEAR ENERGY WORKFORCE.**

4 (a) AMENDMENT.—Section 1101 of the Energy Pol-
5 icy Act of 2005 (42 U.S.C. 16411) is amended—

6 (1) by redesignating subsection (d) as sub-
7 section (e); and

8 (2) by inserting after subsection (c) the fol-
9 lowing:

10 “(d) WORKFORCE TRAINING.—

11 “(1) IN GENERAL.—The Secretary of Labor, in
12 cooperation with the Secretary of Energy, shall pro-
13 mulgate regulations to implement a program to pro-
14 vide workforce training to meet the high demand for
15 workers skilled in the nuclear utility and nuclear en-
16 ergy products and services industries.

17 “(2) CONSULTATION.—In carrying out this sub-
18 section, the Secretary of Labor shall consult with
19 representatives of the nuclear utility and nuclear en-
20 ergy products and services industries, and organized
21 labor, concerning skills that are needed in those in-
22 dustries.

23 “(3) AUTHORIZATION OF APPROPRIATIONS.—
24 There are authorized to be appropriated to the Sec-
25 retary of Labor, working in coordination with the

1 Secretaries of Education and Energy \$20,000,000
2 for each of fiscal years 2009 through 2013 for use
3 in implementing a program to provide workforce
4 training to meet the high demand for workers skilled
5 in the nuclear utility and nuclear energy products
6 and services industries.”.

7 (b) COLLABORATIVE PROGRAMS.—Federal agencies
8 shall take appropriate actions to encourage private sector
9 companies to collaborate with local institutions of higher
10 education to develop programs to expand the United
11 States nuclear workforce.

12 **SEC. 106. LICENSING OF NEW NUCLEAR POWER PLANTS.**

13 Sections 189 and 185 of the Atomic Energy Act of
14 1954 are amended thus:

15 (1) HEARINGS AND JUDICIAL REVIEW.—Section
16 189a.(1)(A) is modified thus: “In any proceeding
17 under this Act, for the granting, suspending, revok-
18 ing, or amending of any license or construction per-
19 mit, or application to transfer control, and in any
20 proceeding for the issuance or modification of rules
21 and regulations dealing with the activities of licens-
22 ees, and in any proceeding for the payment of com-
23 pensation, an award, or royalties under section 153,
24 157, 186c., or 188, the Commission shall grant a
25 hearing upon the request of any person whose inter-

1 est may be affected by the proceeding, and shall
2 admit any such person as a party to such pro-
3 ceeding. The Commission may, in the absence of a
4 request therefor by any person whose interest may
5 be affected, issue a construction permit, an oper-
6 ating license or an amendment to a construction per-
7 mit or an amendment to an operating license with-
8 out a hearing, but upon thirty days' notice and pub-
9 lication once in the Federal Register of its intent to
10 do so. The Commission may dispense with such thir-
11 ty days' notice and publication with respect to any
12 application for an amendment to a construction per-
13 mit or an amendment to an operating license upon
14 a determination by the Commission that the amend-
15 ment involves no significant hazards consideration.”.

16 (2) CONSTRUCTION PERMITS AND OPERATING
17 LICENSES.—Section 185b is modified thus: “After
18 any public hearing held under section 189a.(1)(A),
19 the Commission shall issue to the applicant a com-
20 bined construction and operating license if the appli-
21 cation contains sufficient information to support the
22 issuance of a combined license and the Commission
23 determines that there is reasonable assurance that
24 the facility will be constructed and will operate in
25 conformity with the license, the provisions of this

1 Act, and the Commission’s rules and regulations.
2 The Commission shall identify within the combined
3 license the inspections, tests, and analyses, including
4 those applicable to emergency planning, that the li-
5 censee shall perform, and the acceptance criteria
6 that, if met, are necessary and sufficient to provide
7 reasonable assurance that the facility has been con-
8 structed and will be operated in conformity with the
9 license, the provisions of this Act, and the Commis-
10 sion’s rules and regulations. Following issuance of
11 the combined license, the Commission shall ensure
12 that the prescribed inspections, tests, and analyses
13 are performed and, prior to operation of the facility,
14 shall find that the prescribed acceptance criteria are
15 met. Any finding made under this subsection shall
16 not require a hearing except as provided in section
17 189a.(1)(B).”.

18 **SEC. 107. INVESTMENT TAX CREDIT FOR INVESTMENTS IN**

19 **NUCLEAR POWER FACILITIES.**

20 (a) NEW CREDIT FOR NUCLEAR POWER FACILI-
21 TIES.—Section 46 of the Internal Revenue Code of 1986,
22 as amended by this Act, is amended by—

- 23 (1) striking “and” at the end of paragraph (4);
24 (2) striking the period at the end of paragraph
25 (5) and inserting “, and”; and

1 (3) inserting after paragraph (5) the following
2 new paragraph:

3 “(6) the nuclear power facility construction
4 credit.”.

5 (b) NUCLEAR POWER FACILITY CONSTRUCTION
6 CREDIT.—Subpart E of part IV of subchapter A of chap-
7 ter 1 of such Code, as amended by this Act, is amended
8 by inserting after section 48C the following new section:
9 **“SEC. 48D. NUCLEAR POWER FACILITY CONSTRUCTION**
10 **CREDIT.**

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

16 “(b) WHEN EXPENDITURES TAKEN INTO AC-
17 COUNT.—

18 “(1) IN GENERAL.—Qualified nuclear power fa-
19 cility expenditures shall be taken into account for
20 the taxable year in which the qualified nuclear power
21 facility is placed in service.

22 “(2) COORDINATION WITH SUBSECTION (c).—
23 The amount which would (but for this paragraph) be
24 taken into account under paragraph (1) with respect
25 to any qualified nuclear power facility shall be re-

1 duced (but not below zero) by any amount of quali-
2 fied nuclear power facility expenditures taken into
3 account under subsection (c) by the taxpayer or a
4 predecessor of the taxpayer (or, in the case of a sale
5 and leaseback described in section 50(a)(2)(C), by
6 the lessee), to the extent any amount so taken into
7 account has not been required to be recaptured
8 under section 50(a).

9 “(c) PROGRESS EXPENDITURES.—

10 “(1) IN GENERAL.—A taxpayer may elect to
11 take into account qualified nuclear power facility ex-
12 penditures.

13 “(A) SELF-CONSTRUCTED PROPERTY.—In
14 the case of a qualified nuclear power facility
15 which is a self-constructed facility, in the tax-
16 able year for which such expenditures are prop-
17 erly chargeable to capital account with respect
18 to such facility.

19 “(B) ACQUIRED FACILITY.—In the case of
20 a qualified nuclear facility which is not self-con-
21 structed property, in the taxable year in which
22 such expenditures are paid.

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

1 “(A) COMPONENT PARTS, ETC.—Property
2 which is not self-constructed property and
3 which is to be a component part of, or is other-
4 wise to be included in, any facility to which this
5 subsection applies shall be taken into account in
6 accordance with paragraph (1)(B).

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

13 “(C) LIMITATION FOR FACILITIES OR COM-
14 PONENTS WHICH ARE NOT SELF-CON-
15 STRUCTED.—

16 “(i) IN GENERAL.—In the case of a
17 facility or a component of a facility which
18 is not self-constructed, the amount taken
19 into account under paragraph (1)(B) for
20 any taxable year shall not exceed the
21 amount which represents the portion of the
22 overall cost to the taxpayer of the facility
23 or component of a facility which is prop-
24 erly attributable to the portion of the facil-

1 ity or component which is completed dur-
2 ing such taxable year.

3 “(ii) CARRY-OVER OF CERTAIN
4 AMOUNTS.—In the case of a facility or
5 component of a facility which is not self-
6 constructed, if for the taxable year—

7 “(I) the amount which (but for
8 clause (i)) would have been taken into
9 account under paragraph (1)(B) ex-
10 ceeds the limitation of clause (i), then
11 the amount of such excess shall be
12 taken into account under paragraph
13 (1)(B) for the succeeding taxable
14 year; or

15 “(II) the limitation of clause (i)
16 exceeds the amount taken into ac-
17 count under paragraph (1)(B), then
18 the amount of such excess shall in-
19 crease the limitation of clause (i) for
20 the succeeding taxable year.

21 “(D) DETERMINATION OF PERCENTAGE OF
22 COMPLETION.—The determination under sub-
23 paragraph (C)(i) of the portion of the overall
24 cost to the taxpayer of the construction which
25 is properly attributable to construction com-

1 pleted during any taxable year shall be made on
2 the basis of engineering or architectural esti-
3 mates or on the basis of cost accounting
4 records. Unless the taxpayer establishes other-
5 wise by clear and convincing evidence, the con-
6 struction shall be deemed to be completed not
7 more rapidly than ratably over the normal con-
8 struction period.

9 “(E) NO PROGRESS EXPENDITURES FOR
10 CERTAIN PRIOR PERIODS.—No qualified nuclear
11 facility expenditures shall be taken into account
12 under this subsection for any period before the
13 first day of the first taxable year to which an
14 election under this subsection applies.

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

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

23 “(ii) the first taxable year for which
24 recapture is required under section

1 50(a)(2) with respect to such facility, or
2 for any taxable year thereafter.

3 “(3) SELF-CONSTRUCTED.—For purposes of
4 this subsection:

5 “(A) The term ‘self-constructed facility’
6 means any facility if it is reasonable to believe
7 that more than half of the qualified nuclear fa-
8 cility expenditures for such facility will be made
9 directly by the taxpayer.

10 “(B) A component of a facility shall be
11 treated as not self-constructed if the cost of the
12 component is at least 5 percent of the expected
13 cost of the facility and the component is ac-
14 quired by the taxpayer.

15 “(4) ELECTION.—An election shall be made
16 under this section for a qualified nuclear power facil-
17 ity by claiming the nuclear power facility construc-
18 tion credit for expenditures described in paragraph
19 (1) on a tax return filed by the due date for such
20 return (taking into account extensions). Such an
21 election shall apply to the taxable year for which
22 made and all subsequent taxable years. Such an
23 election, once made, may be revoked only with the
24 consent of the Secretary.

1 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
2 poses of this section:

3 “(1) QUALIFIED NUCLEAR POWER FACILITY.—

4 The term ‘qualified nuclear power facility’ means an
5 advanced nuclear power facility, as defined in section
6 45J, the construction of which was approved by the
7 Nuclear Regulatory Commission on or before De-
8 cember 31, 2013.

9 “(2) QUALIFIED NUCLEAR POWER FACILITY
10 EXPENDITURES.—

11 “(A) IN GENERAL.—The term ‘qualified
12 nuclear power facility expenditures’ means any
13 amount properly chargeable to capital ac-
14 count—

15 “(i) with respect to a qualified nuclear
16 power facility;

17 “(ii) for which depreciation is allow-
18 able under section 168; and

19 “(iii) which are incurred before the
20 qualified nuclear power facility is placed in
21 service or in connection with the placement
22 of such facility in service.

23 “(B) PRE-EFFECTIVE DATE EXPENDI-
24 TURES.—Qualified nuclear power facility ex-
25 penditures do not include any expenditures in-

1 curred by the taxpayer before January 1, 2007,
2 unless such expenditures constitute less than 20
3 percent of the total qualified nuclear power fa-
4 cility expenditures (determined without regard
5 to this subparagraph) for the qualified nuclear
6 power facility.

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

9 “(A) IN GENERAL.—For purposes of ap-
10 plying this section and section 50, a nuclear
11 power facility that is under construction shall
12 cease to be treated as a facility that will be a
13 qualified nuclear power facility as of the earlier
14 of—

15 “(i) the date on which the taxpayer
16 decides to terminate construction of the fa-
17 cility; or

18 “(ii) the last day of any 24-month pe-
19 riod in which the taxpayer has failed to
20 incur qualified nuclear power facility ex-
21 penditures totaling at least 20 percent of
22 the expected total cost of the nuclear
23 power facility.

24 “(B) AUTHORITY TO WAIVE.—The Sec-
25 retary may waive the application of clause (ii)

1 of subparagraph (A) if the Secretary deter-
2 mines that the taxpayer intended to continue
3 the construction of the qualified nuclear power
4 facility and the expenditures were not incurred
5 for reasons outside the control of the taxpayer.

6 “(C) RESUMPTION OF CONSTRUCTION.—If
7 a nuclear power facility that is under construc-
8 tion ceases to be a qualified nuclear power facil-
9 ity by reason of paragraph (2) and work is sub-
10 sequently resumed on the construction of such
11 facility—

12 “(i) the date work is subsequently re-
13 sumed shall be treated as the date that
14 construction began for purposes of para-
15 graph (1); and

16 “(ii) if the facility is a qualified nu-
17 clear power facility, the qualified nuclear
18 power facility expenditures shall be deter-
19 mined without regard to any delay or tem-
20 porary termination of construction of the
21 facility.”.

22 (c) PROVISIONS RELATING TO CREDIT RECAP-
23 TURE.—

24 (1) PROGRESS EXPENDITURE RECAPTURE
25 RULES.—

1 (A) BASIC RULES.—Subparagraph (A) of
2 section 50(a)(2) of such Code is amended to
3 read as follows:

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

20 (B) AMENDMENT TO EXCESS CREDIT RE-
21 CAPTURE RULE.—Subparagraph (B) of section
22 50(a)(2) of such Code is amended by—

23 (i) inserting “or paragraph (2) of sec-
24 tion 48D(b)” after “paragraph (2) of sec-
25 tion 47(b)”;

1 (ii) inserting “or section 48D(b)(1)”
2 after “section 47(b)(1)”; and

3 (iii) inserting “or facility” after
4 “building”.

5 (C) AMENDMENT OF SALE AND LEASE-
6 BACK RULE.—Subparagraph (C) of section
7 50(a)(2) of such Code is amended by—

8 (i) inserting “or section 48D(c)” after
9 “section 47(d)”; and

10 (ii) inserting “or qualified nuclear
11 power facility expenditures” after “quali-
12 fied rehabilitation expenditures”.

13 (D) OTHER AMENDMENT.—Subparagraph
14 (D) of section 50(a)(2) of such Code is amend-
15 ed by inserting “or section 48D(c)” after “sec-
16 tion 47(d)”.

17 (d) NO BASIS ADJUSTMENT.—Section 50(e) of such
18 Code is amended by inserting at the end thereof the fol-
19 lowing new paragraph:

20 “(6) NUCLEAR POWER FACILITY CONSTRUC-
21 TION CREDIT.—Paragraphs (1) and (2) shall not
22 apply to the nuclear power facility construction cred-
23 it.”.

24 (e) TECHNICAL AMENDMENTS.—The table of sec-
25 tions for subpart E of part IV of subchapter A of chapter

1 1 of such Code is amended by inserting after the item
 2 relating to section 48C the following new item:

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

3 (f) **EFFECTIVE DATE.**—The amendments made by
 4 this section of this Act shall be effective for expenditures
 5 incurred and property placed in service in taxable years
 6 beginning after the date of enactment.

7 **SEC. 108. 5-YEAR ACCELERATED DEPRECIATION FOR NEW**
 8 **NUCLEAR POWER FACILITIES.**

9 (a) **IN GENERAL.**—Subparagraph (B) of section
 10 168(e)(3) of the Internal Revenue Code of 1986 (relating
 11 to 5-year property) is amended—

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

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

15 (3) by inserting after clause (vi) the following
 16 new clause:

17 “(vii) any qualified nuclear power fa-
 18 cility described in paragraph (1) of section
 19 48D(d) (without regard to the last sen-
 20 tence thereof) the original use of which
 21 commences with the taxpayer.”.

22 (b) **CONFORMING AMENDMENT.**—Section
 23 168(e)(3)(E)(vii) of the Internal Revenue Code of 1986
 24 is amended by inserting “and not described in subpara-

1 graph (B)(vii) of this paragraph” after “section
2 1245(a)(3)”.

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

7 **SEC. 109. MODIFICATION OF CREDIT FOR PRODUCTION**
8 **FROM ADVANCED NUCLEAR POWER FACILI-**
9 **TIES.**

10 (a) ALLOCATION OF CREDIT TO PRIVATE PARTNERS
11 OF TAX-EXEMPT ENTITIES.—

12 (1) IN GENERAL.—Section 45J of the Internal
13 Revenue Code of 1986 (relating to credit for produc-
14 tion from advanced nuclear power facilities) is
15 amended—

16 (A) by redesignating subsection (e) as sub-
17 section (f); and

18 (B) by inserting after subsection (d) the
19 following new subsection:

20 “(e) SPECIAL RULE FOR PUBLIC-PRIVATE PARTNER-
21 SHIPS.—

22 “(1) IN GENERAL.—In the case of an advanced
23 nuclear power facility which is owned by a public-
24 private partnership, any qualified public entity which
25 is a member of such partnership may transfer such

1 entity’s allocation of the credit under subsection (a)
2 to any non-public entity which is a member of such
3 partnership, except that the aggregate allocations of
4 such credit claimed by such non-public entity shall
5 be subject to the limitations under subsections (b)
6 and (c) and section 38(c).

7 “(2) QUALIFIED PUBLIC ENTITY.—For pur-
8 poses of this subsection, the term ‘qualified public
9 entity’ means a Federal, State, or local government
10 entity, or any political subdivision thereof, or a coop-
11 erative organization described in section 1381(a).

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

19 “(2) COORDINATION WITH GENERAL BUSINESS
20 CREDIT.—Subsection (c) of section 38 of such Code
21 (relating to limitation based on amount of tax) is
22 amended by adding at the end the following new
23 paragraph:

1 “(6) SPECIAL RULE FOR CREDIT FOR PRODUC-
2 TION FROM ADVANCED NUCLEAR POWER FACILI-
3 TIES.—

4 “(A) IN GENERAL.—In the case of the
5 credit for production from advanced nuclear
6 power facilities determined under section
7 45J(a), paragraph (1) shall not apply with re-
8 spect to any qualified public entity (as defined
9 in section 45J(e)(2)) which transfers the enti-
10 ty’s allocation of such credit to a non-public
11 partner as provided in section 45J(e)(1).

12 “(B) VERIFICATION OF TRANSFER.—Sub-
13 paragraph (A) shall not apply to any qualified
14 public entity unless such entity provides
15 verification of a transfer of credit allocation as
16 required under section 45J(e)(3).”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years beginning after
19 the date of the enactment of this Act.

20 **SEC. 110. JOINT CONGRESSIONAL COMMITTEE ON NU-**
21 **CLEAR ENERGY.**

22 (a) ESTABLISHMENT.—There is hereby established a
23 Joint Committee on Nuclear Energy (hereafter in this sec-
24 tion referred to as the “joint committee”).

1 (b) COMPOSITION.—The joint committee shall be
2 composed of 10 Members of the Senate and 10 Members
3 of the House of Representatives, to be appointed by the
4 majority leader of the Senate and the Speaker of the
5 House of Representatives. In each instance, not more than
6 12 members shall be members of the same political party.
7 A vacancy in the membership of the joint committee shall
8 be filled in the same manner as the original appointment.

9 (c) JURISDICTION.—The joint committee shall not
10 have legislative jurisdiction and shall have no authority to
11 take legislative action on any bill or resolution. Its sole
12 authority shall be to investigate, study, make findings, and
13 develop recommendations on policies, strategies, tech-
14 nologies, and other innovations intended to further the de-
15 velopment of nuclear energy in the United States.

16 (d) CHAIRMAN.—The joint committee shall select a
17 chairman and a vice chairman from among its members
18 at the beginning of each Congress. The vice chairman shall
19 act in place of the chairman in the absence of the chair-
20 man. The chairmanship shall alternate between the Senate
21 and the House of Representatives with each Congress, and
22 the chairman shall be selected by the members from that
23 House entitled to the chairmanship. The vice chairman
24 shall be chosen from the House other than that of the
25 chairman by the members from that House.

1 (e) POWERS.—In carrying out its duties under this
2 section, the joint committee, or any duly authorized sub-
3 committee thereof, is authorized to—

4 (1) hold such hearings, to sit and act at such
5 places and times within the United States during the
6 sessions, recesses, and adjourned periods of Con-
7 gress;

8 (2) require the attendance of such witnesses
9 and the production of such books, papers, and docu-
10 ments, administer such oaths, take such testimony,
11 procure such printing and binding as it deems nec-
12 essary; and

13 (3) make such rules respecting its organization
14 and procedures as it deems necessary.

15 (f) STAFF.—The joint committee may appoint and fix
16 the compensation of such experts, consultants, and staff
17 as it deems necessary.

18 (g) FUNDING.—(1) There shall be paid out of the ap-
19 plicable accounts of the House of Representatives such
20 sums as may be necessary for one-half of the expenses of
21 the joint committee. Such payments shall be made on
22 vouchers signed by the chairman or vice chairman of the
23 joint committee who is a Member of the House of Rep-
24 resentatives, as the case may be, and approved in the man-
25 ner directed by the Committee on House Administration

1 of the House of Representatives. Amounts made available
2 under this paragraph shall be expended in accordance with
3 regulations prescribed by the Committee on House Admin-
4 istration of the House of Representatives.

5 (2) **【To be supplied by the Senate】.**

6 **SEC. 111. CONFIDENCE IN AVAILABILITY OF WASTE DIS-**
7 **POSAL.**

8 (a) CONGRESSIONAL DETERMINATION.—The Con-
9 gress finds that—

10 (1) there is reasonable assurance that high-level
11 radioactive waste and spent nuclear fuel generated
12 in reactors licensed by the Nuclear Regulatory Com-
13 mission in the past, currently, or in the future will
14 be managed in a safe manner without significant en-
15 vironmental impact until capacity for ultimate dis-
16 posal is available; and

17 (2) the Federal Government is responsible and
18 has established a policy for the ultimate safe and en-
19 vironmentally sound disposal of such high-level ra-
20 dioactive waste and spent nuclear fuel.

21 (b) REGULATORY CONSIDERATION.—Notwith-
22 standing any other provision of law, for the period fol-
23 lowing the licensed operation of a civilian nuclear power
24 reactor or any facility for the treatment or storage of
25 spent nuclear fuel or high-level radioactive waste, no con-

1 sideration of the public health and safety, common defense
2 and security, or environmental impacts of the storage of
3 high-level radioactive waste and spent nuclear fuel gen-
4 erated in reactors licensed by the Nuclear Regulatory
5 Commission in the past, currently, or in the future, is re-
6 quired by the Department of Energy or the Nuclear Regu-
7 latory Commission in connection with the development,
8 construction, and operation of, or any permit, license, li-
9 cense amendment, or siting approval for, a civilian nuclear
10 power reactor or any facility for the treatment or storage
11 of spent nuclear fuel or high-level radioactive waste. Noth-
12 ing in this section shall affect the Department of Energy's
13 and Nuclear Regulatory Commission's obligation to con-
14 sider the public health and safety, common defense and
15 security, and environmental impacts of storage during the
16 period of licensed operation of a civilian nuclear power re-
17 actor or facility for the treatment or storage of spent nu-
18 clear fuel or high-level radioactive waste.

19 **TITLE II—NUCLEAR WASTE**

20 **SEC. 201. SHORT TITLE.**

21 This title may be cited as the “United States High
22 Level Nuclear Waste Management Corporation Act”.

1 **SEC. 202. UNITED STATES HIGH LEVEL NUCLEAR WASTE**
2 **MANAGEMENT CORPORATION.**

3 The Nuclear Waste Policy Act of 1982 (42 U.S.C.
4 10101 et seq.) is amended by adding at the end the fol-
5 lowing new title:

6 **“TITLE VI—UNITED STATES**
7 **HIGH LEVEL NUCLEAR**
8 **WASTE MANAGEMENT COR-**
9 **PORATION**

10 **“SEC. 601. DEFINITIONS.**

11 “For purposes of this title:

12 “(1) The term ‘Board’ means the Board of Di-
13 rectors of the Corporation under section 606.

14 “(2) The term ‘Corporation’ means the United
15 States High Level Nuclear Waste Management Cor-
16 poration established under section 603.

17 “(3) The term ‘Department’ means the Depart-
18 ment of Energy.

19 “(4) The term ‘Secretary’ means the Secretary
20 of Energy.

21 **“SEC. 602. PURPOSES.**

22 “The Corporation is created for the following pur-
23 poses:

24 “(1) To carry out the functions of the Secretary
25 under this Act, subject to the general supervision of
26 the Secretary.

1 “(2) To operate as a business enterprise on a
2 cost-effective and efficient basis.

3 “(3) To conduct research and development as
4 required to meet business objectives for the purposes
5 of identifying, evaluating, improving, and testing al-
6 ternative technologies for high level waste manage-
7 ment and disposal as provided in this Act.

8 “(4) To comply with laws, and regulations pro-
9 mulgated thereunder, to protect the public health,
10 safety, and the environment.

11 “(5) To continue at all times to meet the objec-
12 tives of ensuring the Nation’s common defense and
13 security, including abiding by United States laws
14 and policies concerning special nuclear materials and
15 nonproliferation of atomic weapons and other non-
16 peaceful uses of atomic energy.

17 “(6) To take all other lawful actions in further-
18 ance of these purposes.

19 **“SEC. 603. ESTABLISHMENT OF THE CORPORATION.**

20 “(a) IN GENERAL.—There is established a body cor-
21 porate to be known as the United States High Level Nu-
22 clear Waste Management Corporation.

23 “(b) GOVERNMENT CORPORATION.—The Corpora-
24 tion shall be established as a wholly owned Government
25 corporation subject to chapter 91 of title 31, United States

1 Code (commonly referred to as the Government Corpora-
2 tion Control Act), except as otherwise provided in this
3 title.

4 “(c) FEDERAL AGENCY.—The Corporation shall be
5 an agency and instrumentality of the United States.

6 **“SEC. 604. CORPORATE OFFICES.**

7 “The Corporation shall maintain an office for the
8 service of process and papers in the District of Columbia,
9 and shall be deemed, for purposes of venue in civil actions,
10 to be a resident thereof. The Corporation may establish
11 offices in such other place or places as it may deem nec-
12 essary or appropriate in the conduct of its business.

13 **“SEC. 605. POWERS OF THE CORPORATION.**

14 “In order to accomplish its purposes, the Corpora-
15 tion—

16 “(1) shall, except as provided in this title or ap-
17 plicable Federal law, have all the powers of a private
18 corporation incorporated under the District of Co-
19 lumbia Business Corporation Act;

20 “(2) shall have the priority of the United States
21 with respect to the payment of debts out of bank-
22 rupt, insolvent, and decedents’ estates;

23 “(3) may obtain from the Administrator of
24 General Services the services the Administrator is
25 authorized to provide agencies of the United States,

1 on the same basis as those services are provided to
2 other agencies of the United States; and

3 “(4) may conduct, or provide for conducting,
4 those research and development activities related to
5 radioactive waste management and disposal and re-
6 lated processes and activities the Corporation con-
7 siders necessary or advisable to maintain the Cor-
8 poration as a commercial enterprise operating on a
9 cost-effective and efficient basis.

10 **“SEC. 606. BOARD OF DIRECTORS.**

11 “(a) IN GENERAL.—The powers of the Corporation
12 are vested in the Board of Directors.

13 “(b) APPOINTMENT.—The Board of Directors shall
14 consist of—

15 “(1) the Secretary, who shall serve an ex-officio
16 member of the Board; and

17 “(2) 7 individuals, to be appointed by the Presi-
18 dent by and with the advice and consent of the Sen-
19 ate.

20 The members of the Board shall select 1 of the members
21 to act as chairman of the Board.

22 “(c) QUALIFICATIONS.—Members of the Board—

23 “(1) shall be citizens of the United States;

24 “(2) shall not be an employee of the Corpora-
25 tion or have any direct financial relationship with

1 the Corporation other than that of being a member
2 of the Board;

3 “(3) shall make full disclosure to Congress of
4 any investment or other financial interest that the
5 individual holds in the energy industry; and

6 “(4) shall affirm support for the objectives and
7 missions of the Corporation.

8 “(d) TERMS.—

9 “(1) IN GENERAL.—Except as provided in para-
10 graph (2), members of the Board shall serve 7-year
11 terms.

12 “(2) INITIAL MEMBERS.—Of the members first
13 appointed to the Board—

14 “(A) 2 shall be appointed for an initial
15 term of 5 years;

16 “(B) 2 shall be appointed for an initial
17 term of 4 years;

18 “(C) 2 shall be appointed for an initial
19 term of 3 years; and

20 “(D) 1 shall be appointed for an initial
21 term of 2 years.

22 “(3) REAPPOINTMENT.—Members of the Board
23 may be reappointed by the President, by and with
24 the advice and consent of the Senate.

1 “(4) REMOVAL.—Any appointed member of the
2 Board of Directors may be removed from office by
3 the President for good cause.

4 “(e) VACANCIES.—Upon the occurrence of a vacancy
5 on the Board, the President by and with the advice and
6 consent of the Senate shall appoint an individual to fill
7 such vacancy for the remainder of the applicable term.

8 “(f) MEETINGS AND QUORUM.—The Board shall
9 meet at any time pursuant to the call of the Chairman
10 and as provided by the bylaws of the Corporation, but not
11 less than quarterly. Four voting members of the Board
12 shall constitute a quorum. A majority of the Board shall
13 adopt and from time to time may amend bylaws for the
14 operation of the Board.

15 “(g) POWERS.—The Board shall be responsible for
16 general management of the Corporation and shall have the
17 same authority, privileges, and responsibilities as the
18 board of directors of a private corporation incorporated
19 under the District of Columbia Business Corporation Act.

20 “(h) COMPENSATION.—Members of the Board shall
21 serve on a part-time basis and shall receive per diem, when
22 engaged in the actual performance of Corporation duties,
23 plus reimbursement for travel, subsistence, and other nec-
24 essary expenses incurred in the performance of their du-
25 ties.

1 “(i) CONFLICT OF INTEREST REQUIREMENTS.—No
2 director, officer, or other management level employee of
3 the Corporation may have a financial interest in any cus-
4 tomer, contractor, or competitor of the Corporation or in
5 any business that may be adversely affected by the success
6 of the Corporation.

7 **“SEC. 607. EMPLOYEES OF THE CORPORATION.**

8 “(a) CHIEF EXECUTIVE OFFICER.—

9 “(1) APPOINTMENT.—The Board shall appoint
10 a person to serve as chief executive officer of the
11 Corporation.

12 “(2) QUALIFICATIONS.—

13 “(A) IN GENERAL.—To serve as chief execu-
14 tive officer of the Corporation, a person—

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

18 “(ii) shall not be a current member of
19 the Board or have served as a member of
20 the Board within 2 years before being ap-
21 pointed chief executive officer; and

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

24 “(B) EXPERTISE.—In appointing a chief
25 executive officer, the Board shall give particular

1 consideration to appointing an individual with
2 expertise in the management of nuclear activi-
3 ties and with strong financial skills.

4 “(3) TENURE.—The chief executive officer shall
5 serve for a term of 7 years, renewable at the pleas-
6 ure of the Board. The chief executive officer may be
7 removed from office by the Board of Directors for
8 good cause.

9 “(b) APPOINTMENT BY THE CHIEF EXECUTIVE OF-
10 FICER.—The chief executive officer shall appoint, with the
11 advice and consent of the Board, and without regard to
12 the provisions of civil service laws applicable to officers
13 and employees of the United States, such managers, as-
14 sistant managers, officers, employees, attorneys, and
15 agents, as are necessary for the transaction of the business
16 of the Corporation.

17 “(c) COMPENSATION, DUTIES, AND REMOVAL.—The
18 Board shall, without regard to section 5301 of title 5,
19 United States Code, fix the compensation of all officers
20 and employees of the Corporation, define their duties, and
21 provide a system of organization to fix responsibility and
22 promote efficiency. Any officer or employee of the Cor-
23 poration may be removed in the discretion of the Board.

24 “(d) APPLICABLE CRITERIA.—The Board shall en-
25 sure that the personnel function and organization is con-

1 sistent with the principles of section 2301(b) of title 5,
2 United States Code, relating to merit system principles.
3 Officers and employees shall be appointed, promoted, and
4 assigned on the basis of merit and fitness, and other per-
5 sonnel actions shall be consistent with the principles of
6 fairness and due process but without regard to those pro-
7 visions of title 5 of the United States Code governing ap-
8 pointments and other personnel actions in the competitive
9 service.

10 “(e) TREATMENT OF PERSONS EMPLOYED PRIOR TO
11 TRANSITION DATE.—Compensation, benefits, and other
12 terms and conditions of employment in effect immediately
13 prior to the transition date, whether provided by statute
14 or by rules of the Department or the executive branch,
15 shall continue to apply to officers and employees who
16 transfer to the Corporation from other Federal employ-
17 ment until changed by the Board.

18 “(f) PROTECTION OF EXISTING EMPLOYEES.—

19 “(1) IN GENERAL.—It is the purpose of this
20 subsection to ensure that the establishment of the
21 Corporation pursuant to this chapter shall not result
22 in any adverse effects on the employment rights,
23 wages, or benefits of employees at facilities that are
24 operated, directly or under contract, in the perform-
25 ance of the functions vested in the Corporation.

1 “(2) APPLICABILITY OF EXISTING COLLECTIVE
2 BARGAINING AGREEMENT.—Any employer (including
3 the Corporation) at a facility described in paragraph
4 (1) shall abide by the terms of a collective bar-
5 gaining agreement in effect on April 30, 1991, at
6 each individual facility until—

7 “(A) the earlier of the date on which a new
8 bargaining agreement is signed; or

9 “(B) the end of the 2-year period begin-
10 ning on the date of the enactment of this title.

11 “(3) APPLICABILITY OF NLRA.—Except as spe-
12 cifically provided in this subsection, the Corporation
13 is subject to the provisions of the National Labor
14 Relations Act (29 U.S.C. 151 et seq.).

15 “(4) BENEFITS OF TRANSFEREES AND
16 DETAILEES.—At the request of the Board and sub-
17 ject to the approval of the Secretary, an employee of
18 the Department may be transferred or detailed as
19 provided for in section 611(f), to the Corporation
20 without any loss in accrued benefits or standing
21 within the Civil Service System. For those employees
22 who accept transfer to the Corporation, it shall be
23 their option as to whether to have any accrued re-
24 tirement benefits transferred to a retirement system
25 established by the Corporation or to retain their cov-

1 erage under either the Civil Service Retirement Sys-
2 tem or the Federal Employees' Retirement System,
3 as applicable, in lieu of coverage by the Corpora-
4 tion's retirement system. For those employees elect-
5 ing to remain with one of the Federal retirement
6 systems, the Corporation shall withhold pay and
7 make such payments as are required under the Fed-
8 eral retirement system. For those Department em-
9 ployees detailed, the Department shall offer those
10 employees a position of like grade, compensation,
11 and proximity to their official duty station after
12 their services are no longer required by the Corpora-
13 tion.

14 **“SEC. 608. SECURITIZATION.**

15 “(a) SECURITIZATION.—

16 “(1) AUTHORIZED ACTIONS.—On such terms
17 and conditions as the Corporation may prescribe, the
18 Corporation may—

19 “(A) borrow;

20 “(B) give security;

21 “(C) pay interest or other return; and

22 “(D) issue notes, debentures, bonds, or
23 other obligations or securities.

24 “(b) NO FEDERAL GUARANTEE.—The Corporation
25 shall insert appropriate language in all of the obligations

1 and securities of the Corporation issued under this section
2 that clearly indicates that the obligations and securities
3 (together with the interest)—

4 “(1) are not guaranteed by the United States;
5 and

6 “(2) do not constitute a debt or obligation of
7 the United States or any agency or instrumentality
8 other than the Corporation.

9 “(c) EXEMPT SECURITIES.—All securities issued or
10 guaranteed by the Corporation shall, to the same extent
11 as securities that are direct obligations of or obligations
12 guaranteed as to principal or interest by the United
13 States, be considered to be exempt securities within the
14 meaning of the laws administered by the Securities and
15 Exchange Commission.

16 **“SEC. 609. FEDERAL OWNERSHIP OF OBLIGATIONS.**

17 “(a) IN GENERAL.—In order to maintain sufficient
18 liquidity, the Corporation may issue notes, debentures,
19 bonds, or other obligations for purchase by the Secretary
20 of the Treasury.

21 “(b) PUBLIC DEBT TRANSACTIONS.—For the pur-
22 pose of subsection (a)—

23 “(1) the Secretary of the Treasury may use as
24 a public debt transaction the proceeds of the sale of

1 any securities issued under chapter 31 of title 31,
2 United States Code; and

3 “(2) the purposes for which securities may be
4 issued under that chapter are extended to include
5 any purchase under this subsection.

6 “(c) MAXIMUM OUTSTANDING HOLDING.—The Sec-
7 retary of the Treasury shall not purchase any obligations
8 under this section if the purchase would increase the ag-
9 gregate principal amount of the outstanding holdings of
10 obligations under this section by the Secretary to an
11 amount that is greater than \$1,500,000,000.

12 “(d) RATE OF RETURN.—Each purchase of obliga-
13 tions by the Secretary of the Treasury under this section
14 shall be on terms and conditions established to yield a rate
15 of return determined by the Secretary to be appropriate,
16 taking into account the current average rate on out-
17 standing marketable obligations of the United States as
18 of the last day of the month preceding the purchase.

19 “(e) SALE OF OBLIGATIONS.—The Secretary of the
20 Treasury may at any time sell, on terms and conditions
21 and at prices determined by the Secretary, any of the obli-
22 gations acquired by the Secretary under this section.

23 “(f) PUBLIC DEBT TRANSACTIONS.—All redemp-
24 tions, purchases, and sales by the Secretary of the Treas-

1 ury of obligations under this section shall be treated as
2 public debt transactions of the United States.

3 **“SEC. 610. GENERAL PROVISIONS.**

4 “(a) IMMUNITY FROM IMPAIRMENT, LIMITATION, OR
5 RESTRICTION.—

6 “(1) IN GENERAL.—All rights and remedies of
7 the Corporation (including any rights and remedies
8 of the Corporation on, under, or with respect to any
9 mortgage or any obligation secured by a mortgage)
10 shall be immune from impairment, limitation, or re-
11 striction by or under—

12 “(A) any law (other than a law enacted by
13 Congress expressly in limitation of this para-
14 graph) that becomes effective after the acquisi-
15 tion by the Corporation of the subject or prop-
16 erty on, under, or with respect to which the
17 right or remedy arises or exists or would so
18 arise or exist in the absence of the law; or

19 “(B) any administrative or other action
20 that becomes effective after the acquisition.

21 “(2) STATE LAW.—The Corporation may con-
22 duct the business of the Corporation without regard
23 to any qualification or law of any State relating to
24 incorporation.

1 “(b) POWERS.—Subject to subsection (c), the Cor-
2 poration shall have all the powers of a private corporation
3 incorporated under the District of Columbia Business Cor-
4 poration Act (D.C. Code, sec. 29 et seq.).

5 “(c) ADMINISTRATION.—

6 “(1) PERFORMANCE-BASED COMPENSATION.—A
7 significant portion of potential compensation of all
8 executive officers of the Corporation shall be based
9 on the performance of the Corporation, all without
10 regard to any other law except as may be provided
11 by the Corporation or by a law enacted after the
12 date of enactment of this title that expressly limits
13 this paragraph.

14 “(2) USE OF OTHER AGENCIES.—With the con-
15 sent of a department, establishment, or instrumen-
16 tality (including any field office), the Corporation
17 may—

18 “(A) use and act through any department,
19 establishment, or instrumentality; and

20 “(B) use, and pay compensation for, infor-
21 mation, services, facilities, and personnel of the
22 department, establishment, or instrumentality.

23 “(d) FINANCIAL MATTERS.—

1 “(1) INVESTMENTS.—Funds of the Corporation
2 may be invested in such investments as the Board
3 of Directors may prescribe.

4 “(2) FISCAL AGENTS.—

5 “(A) IN GENERAL.—Any Federal Reserve
6 bank or any bank as to which at the time of the
7 designation of the bank by the Corporation
8 there is outstanding a designation by the Sec-
9 retary of the Treasury as a general or other de-
10 pository of public money, may be designated by
11 the Corporation as a depository or custodian or
12 as a fiscal or other agent of the Corporation.

13 “(B) DEPOSITARY OF PUBLIC MONEY.—If
14 designated for that purpose by the Secretary of
15 the Treasury, the Corporation—

16 “(i) shall be a depository of public
17 money, under such regulations as may be
18 promulgated by the Secretary of the Treas-
19 ury;

20 “(ii) may also be employed as a fiscal
21 or other agent of the United States; and

22 “(iii) shall perform all such reasonable
23 duties of such depository or agent as may
24 be required.

25 “(e) TAXATION.—

1 “(1) IN GENERAL.—Subject to paragraph (2),
2 the Corporation (including the franchise, activities,
3 capital, reserves, surplus, and income of the Cor-
4 poration) shall be exempt from all taxation imposed
5 by any State or local political subdivision of a State.

6 “(2) REAL PROPERTY.—Any real property of
7 the Corporation shall be subject to taxation by a
8 State or political subdivision of a State to the same
9 extent according to the value of the real property as
10 other real property is taxed.

11 “(f) JURISDICTION.—Notwithstanding section 1349
12 of title 28, United States Code, or any other provision of
13 law—

14 “(1) the Corporation shall be considered an
15 agency covered by sections 1345 and 1442 of title
16 28, United States Code;

17 “(2) all civil actions to which the Corporation
18 is a party shall be considered to arise under the laws
19 of the United States, and the district courts of the
20 United States shall have original jurisdiction of all
21 such actions, without regard to amount or value;
22 and

23 “(3) any civil or other action, case or con-
24 troversy in a court of a State, or in any court other
25 than a district court of the United States, to which

1 the Corporation is a party may at any time before
2 trial be removed by the Corporation, without the giv-
3 ing of any bond or security and by following any
4 procedure for removal of causes in effect at the time
5 of the removal—

6 “(A) to the district court of the United
7 States for the district and division embracing
8 the place in which the same is pending; or

9 “(B) if there is no such district court, to
10 the district court of the United States for the
11 district in which the principal office of the Cor-
12 poration is located.

13 “(g) ANNUAL REPORTS.—Not later than 1 year after
14 incorporation of the Corporation and annually thereafter,
15 the Corporation shall submit to the Committee on Energy
16 and Natural Resources of the Senate and the Committee
17 on Energy and Commerce in the House a report that in-
18 cludes—

19 “(1) a description of—

20 “(A) how the activities of the Corporation
21 advance the purposes of this Act;

22 “(B) the performance of the Corporation
23 on meeting the goals established by the Sec-
24 retary;

1 “(C) the comparability of the compensation
2 policies of the Corporation with the compensa-
3 tion policies of other similar businesses;

4 “(D) in the aggregate, the percentage of
5 total cash compensation and payments under
6 employee benefit plans (which shall be defined
7 in a manner consistent with the proxy state-
8 ment of the Corporation for the annual meeting
9 of shareholders for the preceding year) earned
10 by executive officers of the Corporation during
11 the preceding year that was based on the per-
12 formance of the Corporation; and

13 “(E) the comparability of the financial per-
14 formance of the Corporation with the perform-
15 ance of other similar businesses; and

16 “(2) the proxy statement of the Corporation for
17 the annual meeting of shareholders for the preceding
18 year.

19 “(h) AUDITS BY THE COMPTROLLER GENERAL.—

20 “(1) IN GENERAL.—The programs, activities,
21 receipts, expenditures, and financial transactions of
22 the Corporation shall be subject to audit by the
23 Comptroller General of the United States under
24 such rules and regulations as may be prescribed by
25 the Comptroller General.

1 “(2) ACCESS.—The representatives of the Gov-
2 ernment Accountability Office shall—

3 “(A) have access to the personnel and to
4 all books, accounts, documents, records (includ-
5 ing electronic records), reports, files, and all
6 other papers, automated data, things, or prop-
7 erty belonging to, under the control of, or in
8 use by the Corporation and necessary to facili-
9 tate the audit;

10 “(B) be afforded full facilities for verifying
11 transactions with the balances or securities held
12 by depositories, fiscal agents, and custodians;

13 “(C) be authorized to obtain and duplicate
14 any such books, accounts, documents, records,
15 working papers, automated data and files, or
16 other information relevant to the audit without
17 cost to the Comptroller General; and

18 “(D) have the right of access of the Comp-
19 troller General to such information be enforce-
20 able pursuant to section 716(c) of title 31,
21 United States Code.

22 “(3) REPORT.—

23 “(A) IN GENERAL.—The Comptroller Gen-
24 eral shall submit to Congress a report on each
25 audit conducted under this subsection.

1 “(B) CONTENTS.—The report shall include
2 a description of—

3 “(i) the scope of the audit;

4 “(ii) any surplus or deficit;

5 “(iii) income and expenses;

6 “(iv) sources and application of funds;

7 “(v) such comments and information
8 as is necessary to inform Congress of the
9 financial operations and condition of the
10 Corporation; and

11 “(vi) any recommendations as the
12 Comptroller General considers appropriate.

13 “(4) ASSISTANCE AND COST.—

14 “(A) IN GENERAL.—For the purpose of
15 conducting an audit under this subsection, the
16 Comptroller General may, in the discretion of
17 the Comptroller General, employ by contract,
18 without regard to section 3709 of the Revised
19 Statutes (41 U.S.C. 5), professional services of
20 firms and organizations of certified public ac-
21 countants for temporary periods or for special
22 purposes.

23 “(B) REIMBURSEMENT.—On the request
24 of the Comptroller General, the Corporation
25 shall reimburse the Government Accountability

1 Office for the full cost of any audit conducted
2 by the Comptroller General under this sub-
3 section.

4 “(i) ANNUAL INDEPENDENT AUDIT.—

5 “(1) IN GENERAL.—The Corporation shall have
6 an annual independent audit made of the financial
7 statements of the Corporation by an independent
8 public accountant in accordance with generally ac-
9 cepted auditing standards.

10 “(2) CONTENT.—In conducting an audit under
11 this subsection, the independent public accountant
12 shall determine and report on whether the financial
13 statements of the Corporation—

14 “(A) are presented fairly in accordance
15 with generally accepted accounting principles;
16 and

17 “(B) to the extent determined necessary by
18 the Director, comply with any disclosure re-
19 quirements imposed under this Act.

20 **“SEC. 611. TRANSITION.**

21 “(a) TRANSITION MANAGER.—Within 30 days after
22 the date of the enactment of this title, the President shall
23 appoint a Transition Manager, who shall serve at the
24 pleasure of the President until a quorum of the Board has

1 been appointed and confirmed in accordance with section
2 606.

3 “(b) POWERS.—

4 “(1) IN GENERAL.—Until a quorum of the
5 Board has qualified, the Transition Manager shall
6 exercise the powers and duties of the Board and
7 shall be responsible for taking all actions needed to
8 effect the transfer of the Office of Civilian Radio-
9 active Waste Management from the Secretary to the
10 Corporation on the transition date.

11 “(2) CONTINUATION UNTIL BOARD HAS
12 QUORUM.—In the event that a quorum of the Board
13 has not qualified by the transition date, the Transi-
14 tion Manager shall continue to exercise the powers
15 and duties of the Board until a quorum has quali-
16 fied.

17 “(c) RATIFICATION OF TRANSITION MANAGER’S AC-
18 TIONS.—All actions taken by the Transition Manager be-
19 fore the qualification of a quorum of the Board shall be
20 subject to ratification by the Board.

21 “(d) RESPONSIBILITIES OF SECRETARY.—Before the
22 transition date, the Secretary shall—

23 “(1) continue to be responsible for the functions
24 assigned by this Act;

1 “(2) provide funds, to the extent provided in
2 appropriations Acts, to the Transition Manager to
3 pay salaries and expenses;

4 “(3) delegate Department employees to assist
5 the Transition Manager in meeting his responsibil-
6 ities under this section; and

7 “(4) assist and cooperate with the Transition
8 Manager in preparing for the transfer of the func-
9 tions assigned to the Secretary by this Act to the
10 Corporation on the transition date.

11 “(e) **TRANSITION DATE.**—The transition date shall
12 be July 1, 2009.

13 “(f) **DETAIL OF PERSONNEL.**—For the purpose of
14 continuity of operations, maintenance, and authority, the
15 Department shall detail, for up to 18 months after the
16 date of the enactment of this title, appropriate Depart-
17 ment personnel as may be required in an acting capacity,
18 until such time as a Board is confirmed and top officers
19 of the Corporation are hired. The Corporation shall reim-
20 burse the Department and its contractors for the detail
21 of such personnel.

22 **“SEC. 612. OVERSIGHT BY THE SECRETARY.**

23 “(a) **DUTIES.**—The Secretary shall—

24 “(1) oversee the operations of the Corporation;
25 and

1 “(2) ensure that—

2 “(A) the Corporation operates in a safe
3 and sound manner, including maintenance of
4 adequate capital and internal controls;

5 “(B) the Corporation carries out the statu-
6 tory mission of the Corporation only through
7 activities that are authorized under and con-
8 sistent with this Act; and

9 “(C) the activities of the Corporation and
10 the manner in which the Corporation is oper-
11 ated is consistent with the public interest.

12 “(b) FINANCIAL REPORTS.—

13 “(1) IN GENERAL.—The Corporation shall sub-
14 mit to the Secretary annual and quarterly reports of
15 the financial condition and operations of the Cor-
16 poration which shall be in such form, contain such
17 information, and be submitted on such dates as the
18 Secretary shall require.

19 “(2) CONTENTS OF ANNUAL REPORTS.—Each
20 annual report shall include—

21 “(A) financial statements prepared in ac-
22 cordance with generally accepted accounting
23 principles;

1 “(B) any supplemental information or al-
2 ternative presentation that the Secretary may
3 require; and

4 “(C) an assessment (as of the end of the
5 most recent fiscal year of the Corporation),
6 signed by the chief executive officer and chief
7 accounting or financial officer of the Corpora-
8 tion, of—

9 “(i) the effectiveness of the internal
10 control structure and procedures of the
11 Corporation; and

12 “(ii) the compliance of the Corpora-
13 tion with designated safety and soundness
14 laws.

15 “(3) SPECIAL REPORTS.—The Secretary may
16 require the Corporation to submit other reports on
17 the condition (including financial condition), man-
18 agement, activities, or operations of the Corporation,
19 as the Secretary considers appropriate.

20 “(4) ACCURACY.—Each report of financial con-
21 dition shall contain a declaration by the president,
22 vice president, treasurer, or any other officer des-
23 ignated by the Board of Directors of the Corporation
24 to make the declaration, that the report is true and

1 correct to the best of the knowledge and belief of the
2 officer.

3 “(c) MANAGEMENT AND OPERATION STANDARDS.—

4 The Secretary shall establish standards, by regulation or
5 guideline, for the Corporation relating to—

6 “(1) the adequacy of internal controls and in-
7 formation systems;

8 “(2) the independence and adequacy of internal
9 audit systems;

10 “(3) the management of market risk, including
11 standards to provide for systems that measure, mon-
12 itor, and control market risks and, as warranted, to
13 establish limitations on market risk;

14 “(4) risk management processes, including the
15 adequacy of oversight by senior management and the
16 Board of Directors and of processes and policies to
17 measure, monitor, and control material risks, includ-
18 ing reputational risks, and for adequate, well-tested
19 business resumption plans in the case of disruptive
20 events;

21 “(5) the maintenance of adequate records, in
22 accordance with consistent accounting policies and
23 practices to enable the Secretary to evaluate the fi-
24 nancial condition of the Corporation; and

1 “(6) such other operational and management
2 standards as the Secretary determines to be appro-
3 priate.

4 “(d) FAILURE TO MEET STANDARDS.—

5 “(1) IN GENERAL.—If the Secretary determines
6 that the Corporation fails to meet any standard es-
7 tablished under subsection (c), the Secretary may re-
8 quire the Corporation to submit an acceptable plan
9 to the Secretary within a reasonable time that speci-
10 fies the actions that the Corporation will take to cor-
11 rect the deficiency.

12 “(2) REQUIRED ORDER ON FAILURE TO SUBMIT
13 OR IMPLEMENT PLAN.—If the Corporation fails to
14 submit an acceptable plan within the time specified
15 by the Secretary or fails in any material respect to
16 implement a plan accepted by the Secretary, the
17 Secretary shall, by order, require the Corporation to
18 correct the deficiency.

19 “(e) PROHIBITION AND WITHHOLDING OF EXECU-
20 TIVE COMPENSATION.—

21 “(1) IN GENERAL.—The Secretary shall pro-
22 hibit the Corporation from providing compensation
23 to any executive officer that is not reasonable and
24 comparable with compensation for employment in
25 other similar businesses (including other publicly

1 held financial institutions or major financial services
2 companies) involving similar duties and responsibil-
3 ities.

4 “(2) FACTORS.—In making any determination
5 under paragraph (1), the Secretary may take into
6 consideration any factors the Secretary considers rel-
7 evant, including any wrongdoing on the part of the
8 executive officer.

9 “(3) WITHHOLDING OF COMPENSATION.—In
10 carrying out paragraph (1), the Secretary may re-
11 quire the Corporation to withhold any payment,
12 transfer, or disbursement of compensation to an ex-
13 ecutive officer, or to place such compensation in an
14 escrow account, during the review of reasonableness
15 and comparability of compensation.

16 “(4) PROHIBITION OF SETTING COMPENSA-
17 TION.—In carrying out paragraph (1), the Secretary
18 may not prescribe or set a specific level or range of
19 compensation.

20 **“SEC. 613. ISSUANCE OF COMMON STOCK TO EXPAND OP-**
21 **ERATIONS.**

22 “(a) IN GENERAL.—Not later than 5 years after the
23 date of enactment of this title, the Corporation may pre-
24 pare a strategic plan for issuing common stock to raise

1 the capital needed to expand the operations of the Cor-
2 poration in carrying out this title.

3 “(b) CONSIDERATION OF ALTERNATIVES FOR GOV-
4 ERNANCE.—The strategic plan shall include consideration
5 of alternatives for restructuring the Board of Directors to
6 allow for a majority of the members to be selected by vot-
7 ing common stockholders.

8 “(c) EVALUATION AND RECOMMENDATION.—The
9 strategic plan shall—

10 “(1) evaluate the relative merits of the alter-
11 natives considered; and

12 “(2) include the recommendation of the Cor-
13 poration on a proposed alternative.

14 “(d) TRANSMITTAL.—On completion of the strategic
15 plan, the Corporation shall submit copies of the strategic
16 plan to the President and Congress, along with any rec-
17 ommendations for legislative changes required to imple-
18 ment the plan.

19 “(e) IMPLEMENTATION.—Subject to subsections (f)
20 and (g), subsequent to submitting a strategic plan pursu-
21 ant to this section, the Corporation may implement the
22 strategic plan.

23 “(f) REQUIREMENT FOR PRESIDENTIAL AP-
24 PROVAL.—The Corporation may not implement the stra-
25 tegic plan without the approval of the President.

1 “(g) NOTIFICATION OF CONGRESS.—

2 “(1) IN GENERAL.—The Corporation shall no-
3 tify Congress of any intent to implement the stra-
4 tegic plan if the Corporation determines, in consulta-
5 tion with the Secretary and other appropriate agen-
6 cies of the United States, that no further legislation
7 is required for the implementation.

8 “(2) IMPLEMENTATION.—The Corporation may
9 not implement the strategic plan under this sub-
10 section earlier than 60 days after notification of
11 Congress.”.

12 **SEC. 203. TERMINATION OF OFFICE OF CIVILIAN RADIO-**
13 **ACTIVE WASTE MANAGEMENT.**

14 Section 304 of the Nuclear Waste Policy Act of 1982
15 (42 U.S.C. 10224) is repealed.

16 **SEC. 204. FUNDING.**

17 (a) CONTRACTS AND FEES.—Section 302(a) of the
18 Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a))
19 is amended—

20 (1) in paragraph (2)—

21 (A) by striking “(2) For” and inserting
22 the following:

23 “(2) FEE FOR ELECTRICITY FROM CIVILIAN NU-
24 CLEAR POWER REACTORS.—

25 “(A) IN GENERAL.—For”; and

1 (B) by adding at the end the following:

2 “(B) ADJUSTED FEE.—For electricity gen-
3 erated by a civilian nuclear power reactor and
4 sold on or after the date that is 90 days after
5 the date of enactment of this subparagraph, the
6 fee under paragraph (1) shall be 1 mill per kilo-
7 watt-hour.”;

8 (2) in paragraph (4)—

9 (A) by designating the first through fifth
10 sentences as subparagraphs (A) through (E),
11 respectively;

12 (B) by striking subparagraph (D) (as so
13 designated) and inserting the following:

14 “(D) In the event the Secretary determines
15 that either insufficient or excess revenues are
16 being collected, in order to recover the costs in-
17 curred by the Federal Government that are
18 specified in subsection (d), and with the concur-
19 rence of the Federal Energy Regulatory Com-
20 mission, the Secretary shall propose an adjust-
21 ment to the fee to insure full cost recovery.”;

22 and

23 (C) by striking subparagraph (E) (as so
24 designated) and inserting the following:

1 “(E) EFFECTIVE DATE OF ADJUSTED
2 FEE.—The adjusted fee proposed by the Sec-
3 retary shall be effective after a period of 90
4 days of continuous session have elapsed fol-
5 lowing the receipt of such transmittal.”; and

6 (3) by adding at the end the following new
7 paragraph:

8 “(6) The Secretary may renegotiate or amend
9 contracts with individual waste owners or generators
10 to reduce future fee payments or refund of fees al-
11 ready paid in exchange for actions by the contract
12 holder that reduce the overall cost of waste manage-
13 ment activities financed by the Funds established in
14 section 302(c). Within 180 days of the enactment of
15 this paragraph, the Secretary shall promulgate by
16 rule and publish a methodology for determining such
17 fee reductions or refunds. Such methodology shall
18 recognize the value of efficient use of repository area
19 and shall reflect the cost of developing repository
20 area beyond the area included in the initial license
21 application for Yucca Mountain.”.

22 (b) AUTHORIZED USES OF NUCLEAR WASTE
23 FUNDS.—Section 302(d) of the Nuclear Waste Policy Act
24 (42 U.S.C. 10222(d)) is amended in the first sentence by
25 inserting after paragraph (6) the following:

1 “(7) any interest or returns paid on securities
2 issued by the United States High Level Nuclear
3 Waste Management Corporation under title VI.”.

4 (c) ESTABLISHMENT OF NUCLEAR WASTE FUNDS.—
5 Section 302 of the Nuclear Waste Policy Act of 1982 (42
6 U.S.C. 10222) is amended by striking subsection (c) and
7 inserting the following:

8 “(c) ESTABLISHMENT OF NUCLEAR WASTE
9 FUNDS.—

10 “(1) NUCLEAR WASTE REVOLVING FUND.—

11 “(A) ESTABLISHMENT.—There is estab-
12 lished in the Treasury of the United States a
13 separate revolving fund, to be known as the Nu-
14 clear Waste Revolving Fund (referred to in this
15 section as the ‘Waste Fund’).

16 “(B) CONTENTS.—Subject to paragraph
17 (2)(B)(i), the Waste Fund shall consist of—

18 “(i) all interest realized by the Sec-
19 retary under subsection (e), which have
20 been and shall be deposited in the Waste
21 Fund immediately on receipt;

22 “(ii) fees paid under subsections (a)
23 and (b);

24 “(iii) any appropriation made to the
25 Waste Fund; and

1 “(iv) any unexpended balances avail-
2 able on January 7, 1983, for functions or
3 activities necessary or incident to the dis-
4 posal of civilian high level radioactive
5 waste or civilian used nuclear fuel, which
6 shall be transferred to the Waste Fund on
7 the date of enactment of this subpara-
8 graph.

9 “(2) NUCLEAR WASTE LEGACY FUND.—

10 “(A) ESTABLISHMENT.—There is estab-
11 lished in the Treasury of the United States a
12 separate fund, to be known as the Nuclear
13 Waste Legacy Fund (referred to in this section
14 as the ‘Legacy Fund’).

15 “(B) CONTENTS.—The Legacy Fund shall
16 consist of—

17 “(i) the amount of the corpus minus
18 \$1 billion which shall be transferred from
19 the Waste Fund on the date of enactment
20 of this subparagraph; and

21 “(ii) any appropriations made to the
22 Legacy Fund.”.

23 (d) ADMINISTRATION OF FUNDS.—Section 302(e) of
24 the Nuclear Waste Policy Act of 1982 (42 U.S.C.
25 10222(e)) is amended—

1 (1) by redesignating paragraphs (4) through
2 (6) as paragraphs (6) through (8), respectively; and

3 (2) by striking “(e) ADMINISTRATION OF
4 WASTE FUND” and all that follows through the end
5 of paragraph (3) and inserting the following:

6 “(e) ADMINISTRATION OF FUNDS.—

7 “(1) IN GENERAL.—The Secretary of the
8 Treasury shall maintain the Waste Fund and the
9 Legacy Fund (referred to in this subsection as the
10 ‘Funds’).

11 “(2) ANNUAL REPORTS.—After consultation
12 with the Secretary of the Treasury, the Secretary
13 shall report annually to Congress on the financial
14 condition and operations of the Funds during the
15 preceding fiscal year.

16 “(3) BUDGET.—

17 “(A) SUBMISSION.—The Secretary shall
18 submit the budget of the Funds to the Office
19 of Management and Budget triennially along
20 with the budget of the Department of Energy
21 submitted in accordance with chapter 11 of title
22 31, United States Code.

23 “(B) ADMINISTRATION.—The budget of
24 the Funds shall—

1 “(i) contain estimates made by the
2 Secretary of expenditures from the Funds,
3 and other relevant financial matters, for
4 the succeeding 3 fiscal years; and

5 “(ii) be included in the budget for the
6 United States Government.

7 “(4) EXPENDITURES.—

8 “(A) WASTE FUND.—

9 “(i) IN GENERAL.—Subject to sub-
10 section (d) and any limitations in appro-
11 priations Acts, the Secretary may make ex-
12 penditures from the Waste Fund without
13 further appropriation and without fiscal
14 year limitation to carry out this Act.

15 “(B) LEGACY FUND.—The Secretary may
16 make expenditures from the Legacy Fund, sub-
17 ject to appropriations, to remain available until
18 expended.

19 “(5) INVESTMENTS.—If the Secretary deter-
20 mines that either of the Funds contains at any time
21 amounts in excess of current needs, the Secretary
22 may request the Secretary of the Treasury to invest
23 such amounts, or any portion of such amounts as
24 the Secretary determines to be appropriate, in obli-
25 gations of the United States—

1 “(A) having maturities determined by the
2 Secretary of the Treasury to be appropriate to
3 the needs of the Fund; and

4 “(B) bearing interest at rates determined
5 to be appropriate by the Secretary of the Treas-
6 ury, taking into consideration the current aver-
7 age market yield on outstanding marketable ob-
8 ligations of the United States with remaining
9 periods to maturity comparable to the matu-
10 rities of those investments, except that the in-
11 terest rate on the investments shall not exceed
12 the average interest rate applicable to existing
13 borrowing.”.

14 (e) CONFORMING AMENDMENTS.—

15 (1) Section 6 of the Nuclear Waste Policy Act
16 of 1982 (42 U.S.C. 10105) is repealed.

17 (2) Section 302 of the Nuclear Waste Policy
18 Act of 1982 (42 U.S.C. 10222) is amended by strik-
19 ing the section heading and inserting the following:
20 “**NUCLEAR WASTE FUNDS**”.

21 **SEC. 205. NEW PLANT CONTRACTS.**

22 Section 302(a) of the Nuclear Waste Policy Act of
23 1982 (42 U.S.C. 10222(a)) is amended by striking para-
24 graph (5) and inserting the following:

25 “(5) **REQUIRED PROVISIONS.**—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), any contract entered into
3 under this section shall provide that—

4 “(i) following issuance of a license to
5 construct and operate facilities to receive
6 and store spent nuclear fuel at the Yucca
7 Mountain site, the Secretary shall take
8 title to the high-level radioactive waste or
9 spent nuclear fuel involved as expeditiously
10 as practicable upon the request of the gen-
11 erator or owner of such waste or spent
12 fuel; and

13 “(ii) in return for the payment of fees
14 established by this section, the Secretary,
15 beginning not later than January 31,
16 1998, shall dispose of the high-level radio-
17 active waste or spent nuclear fuel involved
18 as provided in this subtitle.

19 “(B) EXCEPTION.—Notwithstanding sub-
20 paragraph (A), with respect to a nuclear power
21 facility for which a license application is filed
22 with the Commission after January 1, 2008,
23 under section 103 or 104 of the Atomic Energy
24 Act of 1954 (42 U.S.C. 2133, 2134), a contract
25 entered into under this section shall—

1 “(i) except as provided in clause (ii)
2 and any terms and conditions relating to
3 spent nuclear fuel generated before the
4 date of enactment of the United States
5 High Level Nuclear Waste Management
6 Corporation Act, be consistent with the
7 terms and conditions of the contract enti-
8 tled ‘Contract for Disposal of Spent Nu-
9 clear Fuel and/or High-Level Radioactive
10 Waste’ that is included in section 961.11
11 of title 10 of the Code of Federal Regula-
12 tions (as in effect on the date of enactment
13 of the Nuclear Fuel Management and Dis-
14 posal Act);

15 “(ii) provide for the taking of title to,
16 and removal of, high-level waste or spent
17 nuclear fuel beginning not later than 30
18 years after the date on which the nuclear
19 power facility begins commercial oper-
20 ations; and

21 “(iii) be entered into not later than 60
22 days after the date on which the license
23 application is docketed by the Commis-
24 sion.”.

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