

111TH CONGRESS
1ST SESSION

S. 591

To establish a National Commission on High-Level Radioactive Waste and Spent Nuclear Fuel, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 12, 2009

Mr. REID (for himself and Mr. ENSIGN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To establish a National Commission on High-Level Radioactive Waste and Spent Nuclear Fuel, 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 “National Commission on High-Level Radioactive Waste
6 and Spent Nuclear Fuel Establishment Act of 2009”.

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

Sec. 1. Short title; table of contents.
Sec. 2. Establishment of Commission.

Sec. 3. Purposes.
Sec. 4. Composition.
Sec. 5. Duties.
Sec. 6. Powers.
Sec. 7. Applicability of Federal Advisory Committee Act.
Sec. 8. Staff.
Sec. 9. Compensation; travel expenses.
Sec. 10. Security clearances.
Sec. 11. Reports.
Sec. 12. Authorization of appropriations.
Sec. 13. Termination.

1 **SEC. 2. ESTABLISHMENT OF COMMISSION.**

2 There is established a commission to be known as the
3 “National Commission on High-Level Radioactive Waste
4 and Spent Nuclear Fuel” (referred to in this Act as the
5 “Commission”).

6 **SEC. 3. PURPOSES.**

7 The purposes of the Commission are—

8 (1) to evaluate potential improvements in the
9 approach of the United States to high-level radio-
10 active waste and spent nuclear fuel management in
11 the event that the proposed Yucca Mountain high-
12 level waste repository is never operational or con-
13 structed for any spent nuclear fuel, high-level waste,
14 or other radioactive waste disposal; and

15 (2) to submit to the appropriate committees of
16 Congress a report that contains a description of the
17 findings, conclusions, and recommendations of the
18 Commission to improve the approach of the United
19 States for the management of defense waste, spent

1 nuclear fuel, high-level waste, and commercial radio-
2 active waste.

3 **SEC. 4. COMPOSITION.**

4 (a) MEMBERS.—The Commission shall be composed
5 of 9 members who meet each qualification described in
6 subsection (b), of whom—

7 (1) 2 shall be appointed by the majority leader
8 of the Senate, in consultation with the chairperson
9 of each appropriate committee of the Senate;

10 (2) 2 shall be appointed by the minority leader
11 of the Senate, in consultation with the ranking mem-
12 ber of each appropriate committee of the Senate;

13 (3) 2 shall be appointed by the Speaker of the
14 House of Representatives, in consultation with the
15 chairperson of each appropriate committee of the
16 House of Representatives;

17 (4) 2 shall be appointed by the minority leader
18 of the House of Representatives, in consultation with
19 the ranking member of each appropriate committee
20 of the House of Representatives; and

21 (5) 1 shall be appointed jointly by the majority
22 leader of the Senate and the Speaker of the House
23 of Representatives.

24 (b) QUALIFICATIONS.—

1 (1) NONGOVERNMENTAL APPOINTEES.—An in-
2 dividual appointed to the Commission may not be—

3 (A) engaged in any high-level radioactive
4 waste or spent nuclear fuel activities under con-
5 tract with the Department of Energy; or

6 (B) an officer or employee of—

7 (i) the Federal Government;

8 (ii) an Indian tribe;

9 (iii) a State; or

10 (iv) a unit of local government.

11 (2) OTHER QUALIFICATIONS.—Individuals ap-
12 pointed to the Commission shall, to the maximum
13 extent practicable, be prominent United States citi-
14 zens, with national recognition and significant depth
15 of experience in engineering, fields of science rel-
16 evant to used nuclear fuel management, energy, gov-
17 ernmental service, environmental policy, law, public
18 administration, or foreign affairs.

19 (3) DEADLINE FOR APPOINTMENT.—All mem-
20 bers of the Commission shall be appointed by not
21 later than 90 days after the date of enactment of
22 this Act.

23 (c) CHAIRPERSON.—The individual appointed under
24 subsection (a)(5) shall serve as Chairperson of the Com-
25 mission.

1 (d) INITIAL MEETING.—The Commission shall meet
2 and begin the operations of the Commission as soon as
3 practicable after the date of enactment of this Act.

4 (e) ADMINISTRATION.—

5 (1) MEETINGS.—After the initial meeting of the
6 Commission, the Commission shall meet on the call
7 of the Chairperson or a majority of the members of
8 the Commission.

9 (2) QUORUM.—Five members of the Commis-
10 sion shall constitute a quorum.

11 (3) VACANCIES.—Any vacancy on the Commis-
12 sion—

13 (A) shall not affect the powers of the Com-
14 mission; and

15 (B) shall be filled in the same manner in
16 which the original appointment was made.

17 **SEC. 5. DUTIES.**

18 (a) IN GENERAL.—The Commission shall—

19 (1) conduct an evaluation to advise Congress on
20 the feasibility, cost, risks, and legal, public health,
21 and environmental impacts (including such impacts
22 on local communities) of alternatives to the spent
23 fuel and high-level waste strategies of the Federal
24 Government including—

1 (A) transferring from the Department of
2 Energy responsibility for the high-level radio-
3 active waste and spent fuel management pro-
4 gram of the United States to a Government
5 corporation established for that purpose;

6 (B) endowing such a Federal Government
7 corporation with authority and funding nec-
8 essary to provide for storage and management
9 of high-level radioactive waste and spent nu-
10 clear fuel;

11 (C) cost-sharing options between the Fed-
12 eral Government and private industry for the
13 development of nuclear fuel management tech-
14 nology and licensing;

15 (D) establishing Federal or private central-
16 ized interim storage facilities in communities
17 that are willing to serve as hosts;

18 (E) research and development leading to
19 deployment of advanced fuel cycle technologies
20 (including reprocessing, transmutation, and re-
21 cycling technologies) that are not vulnerable to
22 weapons proliferation;

23 (F) transferring to the Department of En-
24 ergy title to—

1 (i) spent nuclear fuel inventories at
2 reactor sites in existence as of the date of
3 enactment of this Act; and

4 (ii) future nuclear fuel inventories at
5 reactor sites;

6 (G) while long-term solutions for spent nu-
7 clear fuel management are developed, requiring
8 the transfer of spent nuclear fuel inventories—

9 (i) to at-reactor dry casks in a man-
10 ner to ensure public safety and the security
11 of the inventories; and

12 (ii) after the date on which the spent
13 nuclear fuel inventory has been stored in a
14 cooling pond for a period of not less than
15 7 years;

16 (H) permanent, deep geologic disposal for
17 civilian and defense wastes, and interim strate-
18 gies for the treatment of defense wastes; and

19 (I) additional management and techno-
20 logical approaches, including improved security
21 of spent nuclear fuel storage installations, as
22 the Commission determines to be appropriate
23 for consideration;

24 (2) consult with Federal agencies (including the
25 Nuclear Waste Technical Review Board and the Na-

1 tional Academy of Sciences), interested individuals,
2 States, local governments, organizations, and busi-
3 nesses as the Commission determines to be nec-
4 essary to carry out the duties of the Commission;

5 (3) submit recommendations on the disposition
6 of the existing fees charged to nuclear energy rate-
7 payers, and the recommended disposition of the
8 available balances consistent with the recommenda-
9 tions of the Commission regarding the management
10 of spent nuclear fuel; and

11 (4) analyze the financial impacts of the rec-
12 ommendations of the Commission described in para-
13 graph (3) on the contractual liability of the Federal
14 Government under section 302 of the Nuclear Waste
15 Policy Act of 1982 (42 U.S.C. 10222).

16 (b) REPORT.—The Commission shall submit to Con-
17 gress a final report in accordance with this Act containing
18 such findings, conclusions, and recommendations as the
19 Commission considers appropriate.

20 **SEC. 6. POWERS.**

21 (a) HEARINGS AND EVIDENCE.—The Commission or,
22 on the authority of the Commission, any subcommittee
23 may, for the purpose of carrying out this Act, hold such
24 hearings, sit and act at such times and places, take such

1 testimony, receive such evidence, and administer such
2 oaths as the Commission considers to be appropriate.

3 (b) CONTRACTING.—The Commission may, to such
4 extent and in such amounts as are provided in appropria-
5 tion Acts, enter into contracts to enable the Commission
6 to discharge the duties of the Commission under this Act.

7 (c) INFORMATION FROM FEDERAL AGENCIES.—

8 (1) IN GENERAL.—The Commission may secure
9 directly from any executive department, bureau,
10 agency, board, commission, office, independent es-
11 tablishment, or instrumentality of the Federal Gov-
12 ernment, information, suggestions, estimates, and
13 statistics for the purposes of this Act.

14 (2) FURNISHING OF INFORMATION.—Each de-
15 partment, bureau, agency, board, commission, office,
16 independent establishment, or instrumentality shall,
17 to the extent authorized by law, furnish such infor-
18 mation, suggestions, estimates, and statistics in a
19 timely manner directly to the Commission, on re-
20 quest made by the Chairperson of the Commission,
21 or any member designated by a majority of the
22 Commission.

23 (3) RECEIPT, HANDLING, STORAGE, AND DIS-
24 SEMINATION.—Information shall only be received,
25 handled, stored, and disseminated by members of

1 the Commission and staff of the Commission in a
2 manner that is consistent with applicable law (in-
3 cluding regulations and Executive orders).

4 (d) ASSISTANCE FROM FEDERAL AGENCIES.—

5 (1) GENERAL SERVICES ADMINISTRATION.—

6 The Administrator of General Services shall provide
7 to the Commission on a reimbursable basis adminis-
8 trative support and other services for the perform-
9 ance of the duties of the Commission.

10 (2) OTHER DEPARTMENTS AND AGENCIES.—In

11 addition to the assistance prescribed in paragraph
12 (1), departments and agencies of the Federal Gov-
13 ernment may provide to the Commission such serv-
14 ices, funds, facilities, staff, and other support serv-
15 ices as the Commission may reasonably request and
16 as may be authorized by law.

17 (e) POSTAL SERVICES.—The Commission may use
18 the United States mails in the same manner and under
19 the same conditions as departments and agencies of the
20 Federal Government.

21 **SEC. 7. APPLICABILITY OF FEDERAL ADVISORY COM-**
22 **MITTEE ACT.**

23 The Federal Advisory Committee Act (5 U.S.C. App.)
24 shall apply to the Commission.

1 **SEC. 8. STAFF.**

2 (a) IN GENERAL.—

3 (1) APPOINTMENT AND COMPENSATION.—The
4 Chairperson, in accordance with rules agreed on by
5 the Commission, may appoint and fix the compensa-
6 tion of a staff director and such other personnel as
7 may be necessary to enable the Commission to carry
8 out the duties of the Commission, without regard to
9 the provisions of title 5, United States Code, gov-
10 erning appointments in the competitive service, and
11 without regard to the provisions of chapter 51 and
12 subchapter III of chapter 53 of that title relating to
13 classification and General Schedule pay rates, except
14 that no rate of pay fixed under this subsection may
15 exceed the equivalent of that payable for a position
16 at level V of the Executive Schedule under section
17 5316 of that title.

18 (2) PERSONNEL AS FEDERAL EMPLOYEES.—

19 (A) IN GENERAL.—The staff director and
20 any personnel of the Commission who are em-
21 ployees shall be employees under section 2105
22 of title 5, United States Code, for purposes of
23 chapters 63, 81, 83, 84, 85, 87, 89, and 90 of
24 that title.

1 (B) MEMBERS OF COMMISSION.—Subpara-
2 graph (A) does not apply to members of the
3 Commission.

4 (b) DETAILEES.—

5 (1) IN GENERAL.—Any Federal Government
6 employee may be detailed to the Commission without
7 reimbursement from the Commission.

8 (2) RIGHTS.—The detailee shall retain the
9 rights, status, and privileges of the regular employ-
10 ment of the detailee without interruption.

11 (c) CONSULTANT SERVICES.—The Commission may
12 procure the services of experts and consultants in accord-
13 ance with section 3109 of title 5, United States Code, but
14 at rates not to exceed the daily rate paid a person occu-
15 pying a position at level IV of the Executive Schedule
16 under section 5315 of that title.

17 **SEC. 9. COMPENSATION; TRAVEL EXPENSES.**

18 (a) COMPENSATION.—Each member of the Commis-
19 sion may be compensated at not to exceed the daily equiva-
20 lent of the annual rate of basic pay in effect for a position
21 at level IV of the Executive Schedule under section 5315
22 of title 5, United States Code, for each day during which
23 the member is engaged in the actual performance of the
24 duties of the Commission.

1 (b) TRAVEL EXPENSES.—While away from the home
2 or regular place of business of a member of the Commis-
3 sion in the performance of services for the Commission,
4 a member of the Commission shall be allowed travel ex-
5 penses, including per diem in lieu of subsistence, in the
6 same manner as persons employed intermittently in the
7 Government service are allowed expenses under section
8 5703(b) of title 5, United States Code.

9 **SEC. 10. SECURITY CLEARANCES.**

10 The appropriate Federal agencies or departments
11 shall cooperate with the Commission in expeditiously pro-
12 viding to the Commission members and staff appropriate
13 security clearances to the maximum extent practicable
14 pursuant to existing procedures and requirements, except
15 that no person shall be provided with access to classified
16 information under this Act without the appropriate secu-
17 rity clearances.

18 **SEC. 11. REPORTS.**

19 (a) INTERIM REPORT.—Not later than 1 year after
20 the date of enactment of this Act, the Commission shall
21 make available to the public for comment an interim re-
22 port containing such findings, conclusions, and rec-
23 ommendations as have been agreed to by a majority of
24 the Commission members.

1 (b) FINAL REPORT.—Not later than 2 years after the
2 date of the first meeting of the Commission, the Commis-
3 sion shall submit to Congress a final report, the contents
4 of which shall—

5 (1) contain the items described in subsection
6 (a), as agreed to by a majority of the members of
7 the Commission;

8 (2) contain the opinion of each member of the
9 Commission who does not approve of any item con-
10 tained in the final report (including an explanation
11 of the opinion and any alternative recommendation);
12 and

13 (3) take into account public comments received
14 under subsection (a).

15 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

16 There are authorized to be appropriated such sums
17 as are necessary to carry out this Act, to remain available
18 until expended.

19 **SEC. 13. TERMINATION.**

20 (a) IN GENERAL.—The authority provided to the
21 Commission by this Act terminates on the last day of the
22 180-day period beginning on the date on which the final
23 report is submitted under section 11(b).

24 (b) ADMINISTRATIVE ACTIVITIES BEFORE TERMI-
25 NATION.—During the 180-day period referred to in sub-

1 section (a), the Commission may conclude the activities
2 of the Commission, including providing testimony to com-
3 mittees of Congress concerning reports of the Commission
4 and disseminating the final report of the Commission.

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