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

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “National Commission on High-Level Radioactive Waste and Spent Nuclear Fuel Establishment Act of 2009”.

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Establishment of Commission.
SEC. 2. ESTABLISHMENT OF COMMISSION.

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

SEC. 3. PURPOSES.

The purposes of the Commission are—

(1) to evaluate potential improvements in the approach of the United States to high-level radioactive waste and spent nuclear fuel management in the event that the proposed Yucca Mountain high-level waste repository is never operational or constructed for any spent nuclear fuel, high-level waste, or other radioactive waste disposal; and

(2) to submit to the appropriate committees of Congress a report that contains a description of the findings, conclusions, and recommendations of the Commission to improve the approach of the United States for the management of defense waste, spent
nuclear fuel, high-level waste, and commercial radioactive waste.

SEC. 4. COMPOSITION.

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

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

(2) 2 shall be appointed by the minority leader of the Senate, in consultation with the ranking member of each appropriate committee of the Senate;

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

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

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

(b) QUALIFICATIONS.—
(1) **Nongovernmental Appointees.**—An individual appointed to the Commission may not be—

(A) engaged in any high-level radioactive waste or spent nuclear fuel activities under contract with the Department of Energy; or

(B) an officer or employee of—

   (i) the Federal Government;

   (ii) an Indian tribe;

   (iii) a State; or

   (iv) a unit of local government.

(2) **Other Qualifications.**—Individuals appointed to the Commission shall, to the maximum extent practicable, be prominent United States citizens, with national recognition and significant depth of experience in engineering, fields of science relevant to used nuclear fuel management, energy, governmental service, environmental policy, law, public administration, or foreign affairs.

(3) **Deadline for Appointment.**—All members of the Commission shall be appointed by not later than 90 days after the date of enactment of this Act.

(e) **Chairperson.**—The individual appointed under subsection (a)(5) shall serve as Chairperson of the Commission.
(d) **INITIAL MEETING.**—The Commission shall meet and begin the operations of the Commission as soon as practicable after the date of enactment of this Act.

(e) **ADMINISTRATION.**—

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

(2) **QUORUM.**—Five members of the Commission shall constitute a quorum.

(3) **VACANCIES.**—Any vacancy on the Commission—

(A) shall not affect the powers of the Commission; and

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

**SEC. 5. DUTIES.**

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

(1) conduct an evaluation to advise Congress on the feasibility, cost, risks, and legal, public health, and environmental impacts (including such impacts on local communities) of alternatives to the spent fuel and high-level waste strategies of the Federal Government including—
(A) transferring from the Department of Energy responsibility for the high-level radioactive waste and spent fuel management program of the United States to a Government corporation established for that purpose;

(B) endowing such a Federal Government corporation with authority and funding necessary to provide for storage and management of high-level radioactive waste and spent nuclear fuel;

(C) cost-sharing options between the Federal Government and private industry for the development of nuclear fuel management technology and licensing;

(D) establishing Federal or private centralized interim storage facilities in communities that are willing to serve as hosts;

(E) research and development leading to deployment of advanced fuel cycle technologies (including reprocessing, transmutation, and recycling technologies) that are not vulnerable to weapons proliferation;

(F) transferring to the Department of Energy title to—
(i) spent nuclear fuel inventories at reactor sites in existence as of the date of enactment of this Act; and

(ii) future nuclear fuel inventories at reactor sites;

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

(i) to at-reactor dry casks in a manner to ensure public safety and the security of the inventories; and

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

(H) permanent, deep geologic disposal for civilian and defense wastes, and interim strategies for the treatment of defense wastes; and

(I) additional management and technological approaches, including improved security of spent nuclear fuel storage installations, as the Commission determines to be appropriate for consideration;

(2) consult with Federal agencies (including the Nuclear Waste Technical Review Board and the Na-
tional Academy of Sciences), interested individuals, States, local governments, organizations, and busi-
nesses as the Commission determines to be nec-
essary to carry out the duties of the Commission;

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

(4) analyze the financial impacts of the rec-
ommendations of the Commission described in para-

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

SEC. 6. POWERS.

(a) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such
testimony, receive such evidence, and administer such
oaths as the Commission considers to be appropriate.

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

(c) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission may secure
directly from any executive department, bureau,
agency, board, commission, office, independent es-

tablishment, or instrumentality of the Federal Gov-

ernment, information, suggestions, estimates, and
statistics for the purposes of this Act.

(2) FURNISHING OF INFORMATION.—Each de-

deartment, bureau, agency, board, commission, office,
independent establishment, or instrumentality shall,
to the extent authorized by law, furnish such infor-
mation, suggestions, estimates, and statistics in a
timely manner directly to the Commission, on re-
quest made by the Chairperson of the Commission,
or any member designated by a majority of the
Commission.

(3) RECEIPT, HANDLING, STORAGE, AND DIS-

semination.—Information shall only be received,
handled, stored, and disseminated by members of
the Commission and staff of the Commission in a manner that is consistent with applicable law (including regulations and Executive orders).

(d) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—
The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the duties of the Commission.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the Federal Government may provide to the Commission such services, funds, facilities, staff, and other support services as the Commission may reasonably request and as may be authorized by law.

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

SEC. 7. APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Commission.
SEC. 8. STAFF.

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The Chairperson, in accordance with rules agreed on by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out the duties of the Commission, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of that title.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The staff director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.
(B) Members of commission.—Subparagraph (A) does not apply to members of the Commission.

(b) Detaillees.—

(1) In general.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission.

(2) Rights.—The detailee shall retain the rights, status, and privileges of the regular employment of the detailee without interruption.

(c) Consultant services.—The Commission may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of that title.

SEC. 9. COMPENSATION; TRAVEL EXPENSES.

(a) Compensation.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which the member is engaged in the actual performance of the duties of the Commission.
(b) TRAVEL EXPENSES.—While away from the home or regular place of business of a member of the Commission in the performance of services for the Commission, a member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 10. SECURITY CLEARANCES.

The appropriate Federal agencies or departments shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances to the maximum extent practicable pursuant to existing procedures and requirements, except that no person shall be provided with access to classified information under this Act without the appropriate security clearances.

SEC. 11. REPORTS.

(a) INTERIM REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall make available to the public for comment an interim report containing such findings, conclusions, and recommendatons as have been agreed to by a majority of the Commission members.
(b) Final Report.—Not later than 2 years after the date of the first meeting of the Commission, the Commission shall submit to Congress a final report, the contents of which shall—

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

(2) contain the opinion of each member of the Commission who does not approve of any item contained in the final report (including an explanation of the opinion and any alternative recommendation); and

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

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

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

SEC. 13. TERMINATION.

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

(b) Administrative Activities Before Termination.—During the 180-day period referred to in sub-
section (a), the Commission may conclude the activities
of the Commission, including providing testimony to com-
mittees of Congress concerning reports of the Commission
and disseminating the final report of the Commission.