

State of Arkansas
95th General Assembly
Regular Session, 2025

HCR 1009

By: Representative Ladyman
By: Senator C. Penzo

HOUSE CONCURRENT RESOLUTION

TO ADVANCE THE STUDY OF NUCLEAR FUEL RECYCLING AND COMPLY WITH ARKANSAS ACTS 2023, NO. 259; TO REQUEST FEDERAL FUNDING FOR THE NEXT STUDY PHASE; AND TO PETITION THE ARKANSAS CONGRESSIONAL DELEGATION TO INTRODUCE FEDERAL LEGISLATION TO RECTIFY MANY ENERGY ISSUES FOR THE STATE OF ARKANSAS AND THE UNITED STATES.

Subtitle

TO COMPLY WITH ARKANSAS ACTS 2023, NO. 259; TO REQUEST FEDERAL FUNDING FOR THE NEXT STUDY PHASE; AND TO PETITION THE ARKANSAS CONGRESSIONAL DELEGATION TO INTRODUCE FEDERAL LEGISLATION TO RECTIFY CERTAIN ENERGY ISSUES.

WHEREAS, in August 2016, the Argonne National Laboratory hosted a delegation from Arkansas, including staff from the Arkansas Economic Development Commission; and

WHEREAS, in January 2017, the Arkansas Alternative Energy Commission issued a recommendation to the Governor to support an institution of higher education in this state and the United States Department of Energy national laboratories to prepare and make recommendations and to offer options on using existing technology to convert spent nuclear fuel rods into new nuclear fuel; and



WHEREAS, in August 2017, the Joint Committee on Energy held hearings on advanced nuclear technology to reprocess spent nuclear fuel rods and unanimously approved an interim study resolution on the matter; and

WHEREAS, in November 2018, the Joint Committee on Energy held a meeting at Arkansas Nuclear One and further discussed the ongoing issues raised in 2016 and 2017 concerning conversion of spent nuclear fuel rods into new nuclear fuel and advanced nuclear technology to reprocess spent nuclear fuel rods, including without limitation that:

(1) An institution of higher education in this state, in conjunction with other institutions of higher education in this state, can and is willing to provide a detailed analysis examining the benefits of "New Nuclear" compared to the risks of continued storage of spent fuel at Arkansas Nuclear One;

(2) The fast reactor technology and electrochemical spent fuel reprocessing or recycling are ready for commercial development; and

(3) The Department of Health and the Department of Energy and Environment support the application for federal funding for the establishment of an education, risk analysis, and optimization design program; and

WHEREAS, Acts 2021, No. 1092, required the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor to jointly conduct a study on the commercial application of existing technology to reclaim and repurpose spent nuclear fuel rods; and

WHEREAS, it is appropriate to build upon the study conducted under Acts 2021, No. 1092, and to study the technical and economic feasibility and commercial viability of the interim storage and recycling of spent nuclear fuel at locations in Arkansas; and

WHEREAS, on November 7, 2022, the Senate Committee on Public Health, Welfare, and Labor and the House Committee on Public Health, Welfare, and Labor received the "Report of a Study on the Commercial Application of Existing Technology to Reclaim and Repurpose Spent Nuclear Fuel Rods required in Act 1092 of 2021" by Michael Grappe, Director of Special Projects, Office of Chief Counsel, Department of Energy and Environment; and

WHEREAS, on March 13, 2023, HB1142 was signed by the Honorable Sarah Sanders, Governor of the State of Arkansas, to be named Acts 2023, No. 259, Entitled: “An Act to create the Arkansas nuclear recycling program; To develop a fiscal model for commercial application; To develop a interim and long-term storage plan for residual material; To develop a fiscal model for the current and future market demand; To develop engineering documents for the recycling process; To perform site analysis for prospective recycling facility locations and development construction costs and schedule reports; To establish Arkansas as the only state to declare itself interested in pursuing a final solution for spent nuclear fuel through recycling; and for other purposes.”; and

NOW THEREFORE,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-FIFTH GENERAL ASSEMBLY OF THE STATE OF ARKANSAS, THE SENATE CONCURRING THEREIN:

THAT the General Assembly respectfully request that the members of the Arkansas congressional delegation introduce federal legislation to:

(a)(1) Require the United States Office of Management and Budget to report to the United States Congress to assess whether the application of budget rules to the Nuclear Waste Fund, 42 U.S.C. § 10222(c), complies with 42 U.S.C. § 10222(d), as it existed on January 1, 2025.

(2) The Nuclear Waste Fund, 42 U.S.C. § 10222, as it existed on January 1, 2025, differs from all other federal trust funds because it was established under the Nuclear Waste Policy Act of 1982, 42 U.S.C. § 10101 et seq., as it existed on January 1, 2025, as a fee paid to the United States Department of Energy for a specific service of disposing of nuclear waste.

(3) Waste generators were required to execute contracts, making this arrangement unique compared to other federal trust funds.

(4) The United States Office of Management and Budget report to the United States Congress that is requested under this resolution shall:

(A) Verify that receipts from nuclear utility fee collections were deposited into the United States Treasury in the fiscal year they were collected and credited to the Nuclear Waste Fund, 42 U.S.C. § 10222, as it existed on January 1, 2025, as assets available for

discretionary appropriations;

(B) Confirm that this revenue was accounted for as a negative direct spending item, thereby reducing total federal direct spending in the fiscal year of collection;

(C) Address concerns that this accounting method inappropriately uses contract fee income, which is statutorily designated exclusively for the purposes of radioactive waste disposal activities under 42 U.S.C. § 10222(d), as it existed on January 1, 2025, as a means of reducing discretionary spending caps; and

(D) Provide recommendations to rectify any deficiencies identified in the current budgeting treatment of the Nuclear Waste Fund, 42 U.S.C. § 10222, as it existed on January 1, 2025;

(b) Appropriate ten million dollars (\$10,000,000) from the Nuclear Waste Fund, 42 U.S.C. § 10222, as it existed on January 1, 2025, for an updated fee assessment.

(c) Allocate the amount under subsection (b) of this resolution from the Nuclear Waste Fund, 42 U.S.C. § 10222, as it existed on January 1, 2025, to the United States Department of Energy for a contract with an institution of higher education in this state to conduct an updated fee assessment as required by 42 U.S.C. § 10222(a)(4), as it existed on January 1, 2025.

(d) The updated fee assessment under subsection (c) of this resolution shall evaluate the cost implications of three (3) distinct spent nuclear fuel disposal plans, including:

(1)(A)(i) The "Kicking the Can Down the Road" for continued on-site storage.

(ii) The "Kicking the Can Down the Road" scenario assumes that nuclear waste remains stored at reactor sites indefinitely.

(iii) The United States Department of Energy annually updates its estimated liability for failing to dispose of the nuclear waste, which as of November 2024, ranged between thirty seven billion six hundred million dollars (\$37,600,000,000) and forty-four billion five hundred million dollars (\$44,500,000,000).

(iv) However, the liability estimate under subdivision (d)(1)(A)(iii) of this resolution is not a fee assessment but rather the net present value of annual payments due to contract default.

(B) The fee assessment for this plan shall include a

special calculation for new waste generators that have not contributed to the Nuclear Waste Fund, similar to 42 U.S.C. § 10222(a)(3), as it existed on January 1, 2025.

(C) For reference, Arkansas Nuclear One has a credit balance of approximately one billion dollars (\$1,000,000,000), generating thirty million dollars (\$30,000,000) annually in interest income.

(D) With an average waste output of thirty metric tons (30 mt) per year, the estimated cost is one million dollars (\$1,000,000) per metric tons per year.

(E)(i) Reactors that came online after the District of Columbia Circuit Court's ruling in Nat'l Ass'n of Regulatory Util. Comm'rs v. U.S. Dep't of Energy, 736 F.3d 517 (D.C. Cir. 2013), set the United States Department of Energy's fee to zero (0) include:

(a) Watts Bar Unit 2 (1,167 MW), completed in 2015;

(b) Vogtle Unit 3 (1,250 MW), completed in July 2023; and

(c) Vogtle Unit 4 (1,250 MW), completed in April 2024.

(ii)(a) These reactors generate nuclear waste yet have not contributed to the Nuclear Waste Fund.

(b) The fee assessment shall establish parity with existing reactors and account for disposal cost variations for different waste types, including:

(1) Uranium oxide used fuel;

(2) MOX fuel;

(3) Molten salt reactor fuel;

(4) TRISO fuel (Tri-structural Isotropic particle fuel); and

(5) Uranium metal fuel.

(2)(A) Refunding the Yucca Mountain Project;

(B) Despite political opposition, current law designates the Yucca Mountain Project as the sole federal nuclear waste repository.

(C) The Yucca Mountain Project site has undergone extensive study and remains legally authorized with a statutory disposal limit of seventy-seven thousand metric tons (77,000 mt).

(D) Nevada does not have legal standing to halt the Yucca Mountain Project.

(E) The disposal plan requires only an updated budget for the Yucca Mountain Project and a United States Department of Energy recommendation for a second site, along with an associated budget.

(F) If the Yucca Mountain Project is abandoned, nuclear waste generators could demand a refund with interest, as 42 U.S.C. § 10222(d) explicitly states that disposal fees may only be used for the purpose of radioactive waste disposal activities; and

(3) The recycling nuclear fuel or the "Arkansas Plan" proposes recycling spent nuclear fuel using fast reactor technology, as detailed in the General Assembly's official report considering the following:

(A) Arkansas Fuel Rod Report that is based on:

(i) The Experimental Breeder Reactor II program;

(ii) Recommendations from the Blue Ribbon Commission on America's Nuclear Future; and

(iii) France's unified reactor development policy;

and

(B) Notably, in a June 27, 1994, letter to the United States Senate, then-Secretary of Energy Hazel O'Leary stated:

"No further testing of the Integral Fast Reactor concept is required to prove the technical feasibility of actinide recycling and burning in a fast reactor, such as the experimental breeder reactor in Idaho. The basic physics and chemistry of this technology are well-established."

(e)(1) The State of Arkansas' Expression of Interest is needed for congressional funding for the United States Department of Energy and institution of higher education in this state contract and the General Assembly's approval of this resolution shall constitute the State of Arkansas' "Expression of Interest" under the United States Department of Energy's Consent-Based Siting Program.

(2) Importantly, this Expression of Interest does not commit the State of Arkansas or an institution of higher education to any action beyond conducting the fee assessment.

BE IT FURTHER RESOLVED THAT upon its adoption, a copy of this resolution be transmitted to the Arkansas congressional delegation by the Chief Clerk of

the House of Representatives.