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107TH CONGRESS

1ST SESSION

H. R. 4

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AN ACT

To enhance energy conservation, research and development and to provide for security and diversity in the energy supply for the American people, and for other purposes.

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

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TITLE III-NUCLEAR ENERGY

SEC. 301. LICENSE PERIOD.

Section 103 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2133(c)) is amended-

(1) by striking "c. Each such" and inserting the following:

"c. LICENSE PERIOD.-

"(1) IN GENERAL.-Each such"; and

(2) by adding at the end the following:

"(2) COMBINED LICENSES.-In the case of a combined construction and operating license issued under section 185 b., the initial duration of the license may not exceed 40 years from the date on which the Commission finds, before operation of the facility, that the acceptance criteria required by section 185 b. are met.".

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SEC. 302. COST RECOVERY FROM GOVERNMENT AGENCIES.

Section 161 w. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(w)) is amended-

(1) by striking "for or is issued" and all that follows through "1702" and inserting "to the Commission for, or is issued by the Commission, a license or certificate";

(2) by striking "483a" and inserting "9701"; and

(3) by striking ", of applicants for, or holders of, such licenses or certificates".

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SEC. 303. DEPLETED URANIUM HEXAFLUORIDE.

Section 1(b) of Public Law 105-204 is amended by striking "fiscal year 2002" and inserting "fiscal year 2005".

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SEC. 304. NUCLEAR REGULATORY COMMISSION MEETINGS.

If a quorum of the Nuclear Regulatory Commission gathers to discuss official Commission business the discussions shall be recorded, and the Commission shall notify the public of such discussions within 15 days after they occur. The Commission shall promptly make a transcript of the recording available to the public on request, except to the extent that public disclosure is exempted or prohibited by law. This section shall not apply to a meeting, within the meaning of that term under section 552b(a)(2) of title 5, United States Code.

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SEC. 305. COOPERATIVE RESEARCH AND DEVELOPMENT AND SPECIAL DEMONSTRATION PROJECTS FOR THE URANIUM MINING INDUSTRY.

(a) AUTHORIZATION OF APPROPRIATIONS.-There are authorized to be appropriated to the Secretary $10,000,000 for each of fiscal years 2002, 2003, and 2004 for-

(1) cooperative, cost-shared, agreements between the Department of Energy and domestic uranium producers to identify, test, and develop improved in situ leaching mining technologies, including low-cost environmental restoration technologies that may be applied to sites after completion of in situ leaching operations; and

(2) funding for competitively selected demonstration projects with domestic uranium producers relating to-

(A) enhanced production with minimal environmental impacts;

(B) restoration of well fields; and

(C) decommissioning and decontamination activities.

(b) DOMESTIC URANIUM PRODUCER.-For purposes of this section, the term "domestic uranium producer" has the meaning given that term in section 1018(4) of the Energy Policy Act of 1992 (42 U.S.C. 2296b-7(4)), except that the term shall not include any producer that has not produced uranium from domestic reserves on or after July 30, 1998.

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SEC. 306. MAINTENANCE OF A VIABLE DOMESTIC URANIUM CONVERSION INDUSTRY.

There are authorized to be appropriated to the Secretary $800,000 for contracting with the Nation´s sole remaining uranium converter for the purpose of performing research and development to improve the environmental and economic performance of United States uranium

conversion operations.

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SEC. 307. PADUCAH DECONTAMINATION AND DECOMMISSIONING PLAN.

The Secretary of Energy shall prepare and submit a plan to Congress within 180 days after the date of the enactment of this Act that establishes scope, cost, schedule, sequence of activities, and contracting strategy for-

(1) the decontamination and decommissioning of the Department of Energy´s surplus buildings and facilities at the Paducah Gaseous Diffusion Plant that have no future anticipated reuse; and

(2) the remediation of Department of Energy Material Storage Areas at the Paducah Gaseous Diffusion Plant.

Such plan shall inventory all surplus facilities and buildings, and identify and rank health and safety risks associated with such facilities and buildings. Such plan shall inventory all Department of Energy Material Storage Areas, and identify and rank health and safety risks associated with such Department of Energy Material Storage Areas. The Department of Energy shall incorporate these risk factors in designing the sequence and schedule for the plan. Such plan shall identify funding requirements that are in addition to the expected outlays included in the Department of Energy´s Environmental Management Plan for the Paducah Gaseous Diffusion Plan.

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SEC. 308. STUDY TO DETERMINE FEASIBILITY OF DEVELOPING COMMERCIAL NUCLEAR ENERGY PRODUCTION FACILITIES AT EXISTING DEPARTMENT OF ENERGY SITES.

(a) IN GENERAL.-The Secretary of Energy shall conduct a study to determine the feasibility of developing commercial nuclear energy production facilities at Department of Energy sites in existence on the date of the enactment of this Act, including-

(1) options for how and where nuclear power plants can be developed on existing Department of Energy sites;

(2) estimates on cost savings to the Federal Government that may be realized by locating new nuclear power plants on Federal sites;

(3) the feasibility of incorporating new technology into nuclear power plants located on Federal sites;

(4) potential improvements in the licensing and safety oversight procedures of nuclear power plants located on Federal sites;

(5) an assessment of the effects of nuclear waste management policies and projects as a result of locating nuclear power plants located on Federal sites; and

(6) any other factors that the Secretary believes would be relevant in making the determination.

(b) REPORT.-Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report describing the results of the study under subsection (a).

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SEC. 309. PROHIBITION OF COMMERCIAL SALES OF URANIUM BY THE UNITED STATES UNTIL 2009.

Section 3112 of the USEC Privatization Act (42 U.S.C. 2297h-10) is amended by adding at the end the following new subsection:

"(g) PROHIBITION ON SALES.-With the exception of sales pursuant to subsection (b)(2) (42 U.S.C.2297h-10(b)(2)), notwithstanding any other provision of law, the United States Government shall not sell or transfer any uranium (including natural uranium concentrates, natural uranium hexafluoride, enriched uranium, depleted uranium, or uranium in any other form) through March 23, 2009 (except sales or transfers for use by the Tennessee Valley Authority in relation to the Department of Energy´s HEU or Tritium programs, or the Department or Energy research reactor sales program, or any depleted uranium hexaflouride to be transferred to a designated Department of Energy contractor in conjunction with the planned construction of the Depleted Uranium Hexaflouride conversion plants in Portsmouth, Ohio, and Paducah, Kentucky, to any natural uranium transferred to the U.S. Enrichment Corporation from the Department of Energy to replace contaminated uranium received from the Department of Energy when the U.S. Enrichment Corporation was privatized in July, 1998, or for emergency purposes in the event of a disruption in supply to end users in the United States). The aggregate of sales or transfers of uranium by the United States Government after March 23, 2009, shall not exceed 3,000,000 pounds U*3O8* per calendar year.".

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TITLE VIII-MISCELLANEOUS PROVISIONS

SEC. 801. WASTE REDUCTION AND USE OF ALTERNATIVES.

(a) GRANT AUTHORITY.-The Secretary of Energy is authorized to make a single grant to a qualified institution to examine and develop the feasibility of burning post-consumer carpet in cement kilns as an alternative energy source. The purposes of the grant shall include determining-

(1) how post-consumer carpet can be burned without disrupting kiln operations;

(2) the extent to which overall kiln emissions may be reduced; and

(3) how this process provides benefits to both cement kiln operations and carpet suppliers.

(b) QUALIFIED INSTITUTION.-For the purposes of subsection (a), a qualified institution is a research-intensive institution of higher learning with demonstrated expertise in the fields of fiber recycling and logistical modeling of carpet waste collection and preparation.

(c) AUTHORIZATION OF APPROPRIATIONS.-There are authorized to be appropriated to

the Secretary of Energy for carrying out this section $275,000 for fiscal year 2002, to remain available until expended.

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SEC. 802. ANNUAL REPORT ON UNITED STATES ENERGY INDEPENDENCE.

(a) REPORT.-The Secretary of Energy, in consultation with the heads of other relevant Federal agencies, shall include in each report under section 801(c) of the Department of Energy Organization Act a section which evaluates the progress the United States has made toward obtaining the goal of not more than 50 percent dependence on foreign oil sources by 2010.

(b) ALTERNATIVES.-The information required under this section to be included in the reports under section 801(c) of the Department of Energy Organization Act shall include a specification of what legislative or administrative actions must be implemented to meet this goal and set forth a range of options and alternatives with a cost/benefit analysis for each option or alternative together with an estimate of the contribution each option or alternative could make to reduce foreign oil imports. The Secretary shall solicit information from the public and request information from the Energy Information Agency and other agencies to develop the information required under this section. The information shall indicate, in detail, options and alternatives to-

(1) increase the use of renewable domestic energy sources, including conventional and nonconventional sources;

(2) conserve energy resources, including improving efficiencies and decreasing consumption; and

(3) increase domestic production and use of oil, natural gas, nuclear, and coal, including any actions necessary to provide access to, and transportation of, these energy resources.

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TITLE III-NUCLEAR ENERGY

Subtitle A-University Nuclear Science and Engineering

SEC. 2301. SHORT TITLE.

This subtitle may be cited as "Department of Energy University Nuclear Science and Engineering Act".

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SEC. 2302. FINDINGS.

The Congress finds the following:

(1) United States university nuclear science and engineering programs are in a state of serious decline, with nuclear engineering enrollment at a 35-year low. Since 1980, the number of nuclear engineering university programs has declined nearly 40 percent, and over two-thirds of the faculty in these programs are 45 years of age or older. Also, since 1980, the number of university research and training reactors in the United States has declined by over 50 percent. Most of these reactors were built in the late 1950s and 1960s with 30-year to 40-year operating licenses, and many will require relicensing in the next several years.

(2) A decline in a competent nuclear workforce, and the lack of adequately trained nuclear scientists and engineers, will affect the ability of the United States to solve future nuclear waste storage issues, operate existing and design future fission reactors in the United States, respond to future nuclear events worldwide, help stem the proliferation of nuclear weapons, and design and operate naval nuclear reactors.

(3) The Department of Energy´s Office of Nuclear Energy, Science and Technology, a principal Federal agency for civilian research in nuclear science and engineering, is well suited to help maintain tomorrow´s human resource and training investment in the nuclear sciences and engineering.

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SEC. 2303. DEPARTMENT OF ENERGY PROGRAM.

(a) ESTABLISHMENT.-The Secretary, through the Office of Nuclear Energy, Science and Technology, shall support a program to maintain the Nation's human resource investment and infrastructure in the nuclear sciences and engineering consistent with the Department's statutory authorities related to civilian nuclear research, development, and demonstration and commercial application of energy technology.

(b) DUTIES OF THE OFFICE OF NUCLEAR ENERGY, SCIENCE AND TECHNOLOGY.-In carrying out the program under this subtitle, the Director of the Office of Nuclear Energy, Science and Technology shall-

(1) develop a robust graduate and undergraduate fellowship program to attract new and talented students;

(2) assist universities in recruiting and retaining new faculty in the nuclear sciences and engineering through a Junior Faculty Research Initiation Grant Program;

(3) maintain a robust investment in the fundamental nuclear sciences and engineering through the Nuclear Engineering Education Research Program;

(4) encourage collaborative nuclear research among industry, national laboratories, and universities through the Nuclear Energy Research Initiative;

(5) assist universities in maintaining reactor infrastructure; and

(6) support communication and outreach related to nuclear science and engineering.

(c) MAINTAINING UNIVERSITY RESEARCH AND TRAINING REACTORS AND ASSOCIATED INFRASTRUCTURE.-The Secretary, through the Office of Nuclear Energy, Science and Technology, shall provide for the following university research and training reactor infrastructure maintenance and research activities:

(1) Refueling of university research reactors with low enriched fuels, upgrade of operational instrumentation, and sharing of reactors among universities.

(2) In collaboration with the United States nuclear industry, assistance, where necessary, in relicensing and upgrading university training reactors as part of a student training program.

(3) A university reactor research and training award program that provides for reactor improvements as part of a focused effort that emphasizes research, training, and education.

(d) UNIVERSITY-DOE LABORATORY INTERACTIONS.-The Secretary, through the Office of Nuclear Energy, Science and Technology, shall develop-

(1) a sabbatical fellowship program for university faculty to spend extended periods of time at Department of Energy laboratories in the areas of nuclear science and technology; and

(2) a visiting scientist program in which laboratory staff can spend time in academic nuclear science and engineering departments.

The Secretary may under subsection (b)(1) provide for fellowships for students to spend time at Department of Energy laboratories in the areas of nuclear science and technology under the mentorship of laboratory staff.

(e) OPERATIONS AND MAINTENANCE.-To the extent that the use of a university research reactor is funded under this subtitle, funds authorized under this subtitle may be used to supplement operation of the research reactor during the investigator's proposed effort. The host institution shall provide at least 50 percent of the cost of the reactor's operation.

(f) MERIT REVIEW REQUIRED.-All grants, contracts, cooperative agreements, or other financial assistance awards under this subtitle shall be made only after independent merit review.

(g) REPORT.-Not later than 6 months after the date of the enactment of this Act, the Secretary shall prepare and transmit to the appropriate congressional committees a 5-year plan on how the programs authorized in this subtitle will be implemented. The plan shall include a review of the projected personnel needs in the fields of nuclear science and engineering and of the scope of nuclear science and engineering education programs at the Department and other Federal agencies.

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SEC. 2304. AUTHORIZATION OF APPROPRIATIONS.

(a) TOTAL AUTHORIZATION.-The following sums are authorized to be appropriated to

the Secretary, to remain available until expended, for the purposes of carrying out this subtitle:

(1) $30,200,000 for fiscal year 2002.

(2) $41,000,000 for fiscal year 2003.

(3) $47,900,000 for fiscal year 2004.

(4) $55,600,000 for fiscal year 2005.

(5) $64,100,000 for fiscal year 2006.

(b) GRADUATE AND UNDERGRADUATE FELLOWSHIPS.-Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(b)(1):

(1) $3,000,000 for fiscal year 2002.

(2) $3,100,000 for fiscal year 2003.

(3) $3,200,000 for fiscal year 2004.

(4) $3,200,000 for fiscal year 2005.

(5) $3,200,000 for fiscal year 2006.

(c) JUNIOR FACULTY RESEARCH INITIATION GRANT PROGRAM.-Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(b)(2):

(1) $5,000,000 for fiscal year 2002.

(2) $7,000,000 for fiscal year 2003.

(3) $8,000,000 for fiscal year 2004.

(4) $9,000,000 for fiscal year 2005.

(5) $10,000,000 for fiscal year 2006.

(d) NUCLEAR ENGINEERING EDUCATION RESEARCH PROGRAM.-Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(b)(3):

(1) $8,000,000 for fiscal year 2002.

(2) $12,000,000 for fiscal year 2003.

(3) $13,000,000 for fiscal year 2004.

(4) $15,000,000 for fiscal year 2005.

(5) $20,000,000 for fiscal year 2006.

(e) COMMUNICATION AND OUTREACH RELATED TO NUCLEAR SCIENCE AND ENGINEERING.-Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(b)(5):

(1) $200,000 for fiscal year 2002.

(2) $200,000 for fiscal year 2003.

(3) $300,000 for fiscal year 2004.

(4) $300,000 for fiscal year 2005.

(5) $300,000 for fiscal year 2006.

(f) REFUELING OF UNIVERSITY RESEARCH REACTORS AND INSTRUMENTATION UPGRADES.-Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(c)(1):

(1) $6,000,000 for fiscal year 2002.

(2) $6,500,000 for fiscal year 2003.

(3) $7,000,000 for fiscal year 2004.

(4) $7,500,000 for fiscal year 2005.

(5) $8,000,000 for fiscal year 2006.

(g) RELICENSING ASSISTANCE.-Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(c)(2):

(1) $1,000,000 for fiscal year 2002.

(2) $1,100,000 for fiscal year 2003.

(3) $1,200,000 for fiscal year 2004.

(4) $1,300,000 for fiscal year 2005.

(5) $1,300,000 for fiscal year 2006.

(h) REACTOR RESEARCH AND TRAINING AWARD PROGRAM.-Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(c)(3):

(1) $6,000,000 for fiscal year 2002.

(2) $10,000,000 for fiscal year 2003.

(3) $14,000,000 for fiscal year 2004.

(4) $18,000,000 for fiscal year 2005.

(5) $20,000,000 for fiscal year 2006.

(i) UNIVERSITY-DOE LABORATORY INTERACTIONS.-Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(d):

(1) $1,000,000 for fiscal year 2002.

(2) $1,100,000 for fiscal year 2003.

(3) $1,200,000 for fiscal year 2004.

(4) $1,300,000 for fiscal year 2005.

(5) $1,300,000 for fiscal year 2006.

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Subtitle B-Advanced Fuel Recycling Technology Research and Development Program

SEC. 2321. PROGRAM.

(a) IN GENERAL.-The Secretary, through the Director of the Office of Nuclear Energy, Science and Technology, shall conduct an advanced fuel recycling technology research and development program to further the availability of proliferation-resistant fuel recycling technologies as an alternative to aqueous reprocessing in support of evaluation of alternative national strategies for spent nuclear fuel and the Generation IV advanced reactor concepts, subject to annual review by the Secretary´s Nuclear Energy Research Advisory Committee or other independent entity, as appropriate.

(b) REPORTS.-The Secretary shall report on the activities of the advanced fuel recycling technology research and development program, as part of the Department´s annual budget submission.

(c) AUTHORIZATION OF APPROPRIATIONS.-There are authorized to be appropriated to the Secretary to carry out this section-

(1) $10,000,000 for fiscal year 2002; and

(2) such sums as are necessary for fiscal year 2003 and fiscal year 2004.

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Subtitle C-Department of Energy Authorization of Appropriations

SEC. 2341. NUCLEAR ENERGY RESEARCH INITIATIVE.

(a) PROGRAM.-The Secretary, through the Office of Nuclear Energy, Science and Technology, shall conduct a Nuclear Energy Research Initiative for grants to be competitively awarded and subject to peer review for research relating to nuclear energy.

(b) OBJECTIVES.-The program shall be directed toward accomplishing the objectives of-

(1) developing advanced concepts and scientific breakthroughs in nuclear fission and reactor technology to address and overcome the principal technical and scientific obstacles to the expanded use of nuclear energy in the United States;

(2) advancing the state of nuclear technology to maintain a competitive position in foreign markets and a future domestic market;

(3) promoting and maintaining a United States nuclear science and engineering infrastructure to meet future technical challenges;

(4) providing an effective means to collaborate on a cost-shared basis with international agencies and research organizations to address and influence nuclear technology development worldwide; and

(5) promoting United States leadership and partnerships in bilateral and multilateral nuclear energy research.

(c) AUTHORIZATION OF APPROPRIATIONS.-There are authorized to be appropriated to the Secretary to carry out this section-

(1) $60,000,000 for fiscal year 2002; and

(2) such sums as are necessary for fiscal year 2003 and fiscal year 2004.

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SEC. 2342. NUCLEAR ENERGY PLANT OPTIMIZATION PROGRAM.

(a) PROGRAM.-The Secretary, through the Office of Nuclear Energy, Science and Technology, shall conduct a Nuclear Energy Plant Optimization research and development program jointly with industry and cost-shared by industry by at least 50 percent and subject to annual review by the Secretary´s Nuclear Energy Research Advisory Committee or other independent entity, as appropriate.

(b) OBJECTIVES.-The program shall be directed toward accomplishing the objectives of-

(1) managing long-term effects of component aging; and

(2) improving the efficiency and productivity of existing nuclear power stations.

(c) AUTHORIZATION OF APPROPRIATIONS.-There are authorized to be appropriated to the Secretary to carry out this section-

(1) $15,000,000 for fiscal year 2002; and

(2) such sums as are necessary for fiscal years 2003 and 2004.

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SEC. 2343. NUCLEAR ENERGY TECHNOLOGIES.

(a) IN GENERAL.-The Secretary, through the Office of Nuclear Energy, Science and Technology, shall conduct a study of Generation IV nuclear energy systems, including development of a technology roadmap and performance of research and development necessary to make an informed technical decision regarding the most promising candidates for commercial application.

(b) REACTOR CHARACTERISTICS.-To the extent practicable, in conducting the study under subsection (a), the Secretary shall study nuclear energy systems that offer the highest probability of achieving the goals for Generation IV nuclear energy systems, including-

(1) economics competitive with any other generators;

(2) enhanced safety features, including passive safety features;

(3) substantially reduced production of high-level waste, as compared with the quantity of waste produced by reactors in operation on the date of the enactment of this Act;

(4) highly proliferation-resistant fuel and waste;

(5) sustainable energy generation including optimized fuel utilization; and

(6) substantially improved thermal efficiency, as compared with the thermal efficiency of reactors in operation on the date of the enactment of this Act.

(c) CONSULTATION.-In conducting the study under subsection (a), the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, and international, professional, and technical organizations.

(d) REPORT.-

(1) IN GENERAL.-Not later than December 31, 2002, the Secretary shall transmit to the appropriate congressional committees a report describing the activities of the Secretary under this section, and plans for research and development leading to a public/private cooperative demonstration of one or more Generation IV nuclear energy systems.

(2) CONTENTS.-The report shall contain-

(A) an assessment of all available technologies;

(B) a summary of actions needed for the most promising candidates to be considered as viable commercial options within the five to ten years after the date of the report, with consideration of regulatory, economic, and technical issues;

(C) a recommendation of not more than three promising Generation IV nuclear energy system concepts for further development;

(D) an evaluation of opportunities for public/private partnerships;

(E) a recommendation for structure of a public/private partnership to share in development and construction costs;

(F) a plan leading to the selection and conceptual design, by September 30, 2004, of at least one Generation IV nuclear energy system concept recommended under subparagraph (C) for demonstration through a public/private partnership;

(G) an evaluation of opportunities for siting demonstration facilities on Department of Energy land; and

(H) a recommendation for appropriate involvement of other Federal agencies.

(e) AUTHORIZATION OF APPROPRIATIONS.-There are authorized to be appropriated to the Secretary to carry out this section and to carry out the recommendations in the report transmitted under subsection (d)-

(1) $20,000,000 for fiscal year 2002; and

(2) such sums as are necessary for fiscal year 2003 and fiscal year 2004.

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SEC. 2344. AUTHORIZATION OF APPROPRIATIONS.

(a) OPERATION AND MAINTENANCE.-There are authorized to be appropriated to the Secretary to carry out activities authorized under this title for nuclear energy operation and maintenance, including amounts authorized under sections 2304(a), 2321(c), 2341(c), 2342(c), and 2343(e), and including Advanced Radioisotope Power Systems, Test Reactor Landlord, and Program Direction, $191,200,000 for fiscal year 2002, $199,000,000 for fiscal year 2003, and $207,000,000 for fiscal year 2004, to remain available until expended.

(b) CONSTRUCTION.-There are authorized to be appropriated to the Secretary-

(1) $950,000 for fiscal year 2002, $2,200,000 for fiscal year 2003, $1,246,000 for fiscal year 2004, and $1,699,000 for fiscal year 2005 for completion of construction of Project 99-E-200, Test Reactor Area Electric Utility Upgrade, Idaho National Engineering and Environmental Laboratory; and

(2) $500,000 for fiscal year 2002, $500,000 for fiscal year 2003, $500,000 for fiscal year 2004, and $500,000 for fiscal year 2005, for completion of construction of Project 95-E-201, Test Reactor Area Fire and Life Safety Improvements, Idaho National Engineering and Environmental Laboratory.

(c) LIMITS ON USE OF FUNDS.-None of the funds authorized to be appropriated in subsection (a) may be used for-

(1) Nuclear Energy Isotope Support and Production;

(2) Argonne National Laboratory-West Operations;

(3) Fast Flux Test Facility; or

(4) Nuclear Facilities Management.

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SEC. 3210. MODIFICATIONS TO SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS.

(a) REPEAL OF LIMITATION ON DEPOSITS INTO FUND BASED ON COST OF SERVICE; CONTRIBUTIONS AFTER FUNDING PERIOD.-Subsection (b) of section 468A is amended to read as follows:

"(b) LIMITATION ON AMOUNTS PAID INTO FUND.-

"(1) IN GENERAL.-The amount which a taxpayer may pay into the Fund for any taxable year shall not exceed the ruling amount applicable to such taxable year.

"(2) CONTRIBUTIONS AFTER FUNDING PERIOD.-Notwithstanding any other provision of this section, a taxpayer may pay into the Fund in any taxable year after the last taxable year to which the ruling amount applies. Payments may not be made under the preceding sentence to the extent such payments would cause the assets of the Fund to exceed the nuclear decommissioning costs allocable to the taxpayer´s current or former interest in the nuclear powerplant to which the Fund relates. The limitation under the preceding sentence shall be determined by taking into account a reasonable rate of inflation for the nuclear decommissioning costs and a reasonable after-tax rate of return on the assets of the Fund until such assets are anticipated to be expended.".

(b) CLARIFICATION OF TREATMENT OF FUND TRANSFERS.-Subsection (e) of section 468A is amended by adding at the end the following new paragraph:

"(8) TREATMENT OF FUND TRANSFERS.-If, in connection with the transfer of the taxpayer´s interest in a nuclear powerplant, the taxpayer transfers the Fund with respect to such powerplant to the transferee of such interest and the transferee elects to continue the application of this section to such Fund-

"(A) the transfer of such Fund shall not cause such Fund to be disqualified from the application of this section, and

"(B) no amount shall be treated as distributed from such Fund, or be includible in gross income, by reason of such transfer.".

(c) TREATMENT OF CERTAIN DECOMMISSIONING COSTS.-

(1) IN GENERAL.-Section 468A is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

"(f) TRANSFERS INTO QUALIFIED FUNDS.-

"(1) IN GENERAL.-Notwithstanding subsection (b), any taxpayer maintaining a Fund to which this section applies with respect to a nuclear powerplant may transfer into such Fund up to an amount equal to the excess of the total nuclear decommissioning costs with respect to such nuclear powerplant over the portion of such costs taken into account in determining the ruling amount in effect immediately before the transfer.

"(2) DEDUCTION FOR AMOUNTS TRANSFERRED.-

"(A) IN GENERAL.-The deduction allowed by subsection (a) for any transfer permitted by this subsection shall be allowed ratably over the remaining estimated useful life (within the meaning of subsection (d)(2)(A)) of the nuclear powerplant beginning with the taxable year during which the transfer is made.

"(B) DENIAL OF DEDUCTION FOR PREVIOUSLY DEDUCTED AMOUNTS.-No deduction shall be allowed for any transfer under this subsection of an amount for which a deduction was previously allowed or a corresponding amount was not included in gross income. For purposes of the preceding sentence, a ratable portion of each transfer shall be treated as being from previously deducted or excluded amounts to the extent thereof.

"(C) TRANSFERS OF QUALIFIED FUNDS.-If-

"(i) any transfer permitted by this subsection is made to any Fund to which this section applies, and

"(ii) such Fund is transferred thereafter,

any deduction under this subsection for taxable years ending after the date that such Fund is transferred shall be allowed to the transferee and not to the transferor. The preceding sentence shall not apply if the transferor is an organization exempt from tax imposed by this chapter.

"(D) SPECIAL RULES.-

"(i) GAIN OR LOSS NOT RECOGNIZED.-No gain or loss shall be recognized on any transfer permitted by this subsection.

"(ii) TRANSFERS OF APPRECIATED PROPERTY.-If appreciated property is transferred in a transfer permitted by this subsection, the amount of the deduction shall be the adjusted basis of such property.

"(3) NEW RULING AMOUNT REQUIRED.-Paragraph (1) shall not apply to any transfer unless the taxpayer requests from the Secretary a new schedule of ruling amounts in connection with such transfer.

"(4) NO BASIS IN QUALIFIED FUNDS.-Notwithstanding any other provision of law, the taxpayer's basis in any Fund to which this section applies shall not be increased by reason of any transfer permitted by this subsection.".

(2) NEW RULING AMOUNT TO TAKE INTO ACCOUNT TOTAL COSTS.-Subparagraph (A) of section 468A(d)(2) is amended to read as follows:

"(A) fund the total nuclear decommissioning costs with respect to such powerplant over the estimated useful life of such powerplant, and".

(d) DEDUCTION FOR NUCLEAR DECOMMISSIONING COSTS WHEN PAID.-Paragraph (2) of section 468A(c) is amended to read as follows:

"(2) DEDUCTION OF NUCLEAR DECOMMISSIONING COSTS.-In addition to any deduction under subsection (a), nuclear decommissioning costs paid or incurred by the taxpayer during any taxable year shall constitute ordinary and necessary expenses in carrying on a trade or business under section 162.".

(e) EFFECTIVE DATE.-The amendments made by this section shall apply to taxable years beginning after December 31, 2001.
