

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1320**

OFFERED BY M ____.

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Nuclear Utilization
3 of Keynote Energy Act”.

4 SEC. 2. NUCLEAR REGULATORY COMMISSION USER FEES
5 AND ANNUAL CHARGES THROUGH FISCAL
6 YEAR 2020.

(a) IN GENERAL.—Section 6101(c)(2)(A) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(c)(2)(A)) is amended—

10 (1) in clause (iii), by striking “and” at the end;

11 (2) in clause (iv), by striking the period at the
12 end and inserting “; and”; and

13 (3) by adding at the end the following:

“(v) amounts appropriated to the Commission for the fiscal year for activities related to the development of a regulatory infrastructure for advanced nuclear reactor technologies.”.

1 (b) REPEAL.—Effective October 1, 2020, section
2 6101 of the Omnibus Budget Reconciliation Act of 1990
3 (42 U.S.C. 2214) is repealed.

4 **SEC. 3. NUCLEAR REGULATORY COMMISSION USER FEES**
5 **AND ANNUAL CHARGES FOR FISCAL YEAR**
6 **2021 AND EACH FISCAL YEAR THEREAFTER.**

7 (a) ANNUAL BUDGET JUSTIFICATION.—

8 (1) IN GENERAL.—In the annual budget jus-
9 tification submitted by the Commission to Congress,
10 the Commission shall expressly identify anticipated
11 expenditures necessary for completion of the re-
12 quested activities of the Commission anticipated to
13 occur during the applicable fiscal year.

14 (2) RESTRICTION.—The Commission shall, to
15 the maximum extent practicable, use any funds
16 made available to the Commission for a fiscal year
17 for the anticipated expenditures identified under
18 paragraph (1) for the fiscal year.

19 (3) LIMITATION ON CORPORATE SUPPORT
20 COSTS.—With respect to the annual budget justifica-
21 tion submitted to Congress, corporate support costs,
22 to the maximum extent practicable, shall not exceed
23 the following percentages of the total budget author-
24 ity of the Commission requested in the annual budg-
25 et justification:

1 (A) 30 percent for each of fiscal years
2 2021 and 2022.

3 (B) 29 percent for each of fiscal years
4 2023 and 2024.

5 (C) 28 percent for fiscal year 2025 and
6 each fiscal year thereafter.

7 (b) FEES AND CHARGES.—

8 (1) ANNUAL ASSESSMENT.—

9 (A) IN GENERAL.—Each fiscal year, the
10 Commission shall assess and collect fees and
11 charges in accordance with paragraphs (2) and
12 (3) in a manner that ensures that, to the max-
13 imum extent practicable, the amount assessed
14 and collected is equal to an amount that ap-
15 proximates—

16 (i) the total budget authority of the
17 Commission for that fiscal year; less

18 (ii) the budget authority of the Com-
19 mission for the activities described in sub-
20 paragraph (B).

21 (B) EXCLUDED ACTIVITIES DESCRIBED.—

22 The activities referred to in subparagraph
23 (A)(ii) are the following:

24 (i) Any fee-relief activity, as identified
25 by the Commission.

1 (ii) Amounts appropriated for the fis-
2 cal year to the Commission—

3 (I) from the Nuclear Waste Fund
4 established under section 302(c) of
5 the Nuclear Waste Policy Act of 1982
6 (42 U.S.C. 10222(c));

7 (II) for implementation of section
8 3116 of the Ronald W. Reagan Na-
9 tional Defense Authorization Act for
10 Fiscal Year 2005 (50 U.S.C. 2601
11 note; Public Law 108–375);

12 (III) for the homeland security
13 activities of the Commission (other
14 than for the costs of fingerprinting
15 and background checks required
16 under section 149 of the Atomic En-
17 ergy Act of 1954 (42 U.S.C. 2169)
18 and the costs of conducting security
19 inspections);

20 (IV) for the Inspector General
21 services of the Commission provided
22 to the Defense Nuclear Facilities
23 Safety Board;

24 (V) for the partnership program
25 with institutions of higher education

1 established under section 244 of the
2 Atomic Energy Act of 1954 (42
3 U.S.C. 2015c); and

4 (VI) for the scholarship and fel-
5 lowship programs under section 243
6 of the Atomic Energy Act of 1954 (42
7 U.S.C. 2015b).

8 (iii) Costs for activities related to the
9 development of regulatory infrastructure
10 for advanced nuclear reactor technologies.

11 (C) EXCEPTION.—The exclusion described
12 in subparagraph (B)(iii) shall cease to be effec-
13 tive on January 1, 2032.

14 (D) REPORT.—Not later than December
15 31, 2030, the Commission shall submit to the
16 Committee on Appropriations and the Com-
17 mittee on Environment and Public Works of the
18 Senate and the Committee on Appropriations
19 and the Committee on Energy and Commerce
20 of the House of Representatives a report de-
21 scribing the views of the Commission on the
22 continued appropriateness and necessity of
23 funding for the activities described in subpara-
24 graph (B)(iii).

1 (2) FEES FOR SERVICE OR THING OF VALUE.—

2 In accordance with section 9701 of title 31, United
3 States Code, the Commission shall assess and collect
4 fees from any person who receives a service or thing
5 of value from the Commission to cover the costs to
6 the Commission of providing the service or thing of
7 value.

8 (3) ANNUAL CHARGES.—

9 (A) IN GENERAL.—Subject to subpara-
10 graph (B) and except as provided in subpara-
11 graph (D), the Commission may charge to any
12 licensee or certificate holder of the Commission
13 an annual charge in addition to the fees set
14 forth in paragraph (2).

15 (B) CAP ON ANNUAL CHARGES OF CER-
16 TAIN LICENSEES.—

17 (i) IN GENERAL.—The annual charge
18 under subparagraph (A) charged to an op-
19 erating reactor licensee, to the maximum
20 extent practicable, shall not exceed the an-
21 nual fee amount per operating reactor li-
22 censee established in the final rule of the
23 Commission entitled “Revision of Fee
24 Schedules; Fee Recovery for Fiscal Year
25 2016” (81 Fed. Reg. 41171 (June 24,

2016)), as may be adjusted annually by the Commission to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor.

(ii) WAIVER.—The Commission may waive, for a period of 1 year, the cap on annual charges described in clause (i) if the Commission submits to the Committee on Appropriations and the Committee on Environment and Public Works of the Senate and the Committee on Appropriations and the Committee on Energy and Commerce of the House of Representatives a written determination that the cap on annual charges may compromise the safety and security mission of the Commission.

(C) AMOUNT PER LICENSEE.—

(i) IN GENERAL.—The Commission shall establish by rule a schedule of annual charges fairly and equitably allocating the aggregate amount of charges described in clause (ii) among licensees and certificate holders.

1 (ii) AGGREGATE AMOUNT.—For pur-
2 poses of this subparagraph, the aggregate
3 amount of charges for a fiscal year shall
4 equal an amount that approximates—

5 (I) the amount to be collected
6 under paragraph (1)(A) for the fiscal
7 year; less

8 (II) the amount of fees to be col-
9 lected under paragraph (2) for the fis-
10 cal year.

11 (iii) REQUIREMENT.—The schedule of
12 charges under clause (i)—

13 (I) to the maximum extent prac-
14 ticable, shall be based on the cost of
15 providing regulatory services; and

16 (II) may be based on the alloca-
17 tion of the resources of the Commis-
18 sion among licensees or certificate
19 holders or classes of licensees or cer-
20 tificate holders.

21 (D) EXEMPTION.—Subparagraph (A) shall
22 not apply to the holder of any license for a fed-
23 erally owned research reactor used primarily for
24 educational training and academic research pur-
25 poses.

1 (c) PERFORMANCE AND REPORTING.—

2 (1) IN GENERAL.—The Commission shall de-
3 velop for the requested activities of the Commis-
4 sion—

5 (A) performance metrics; and

6 (B) milestone schedules.

7 (2) DELAYS IN ISSUANCE OF FINAL SAFETY
8 EVALUATION.—If the final safety evaluation for a
9 requested activity of the Commission is not com-
10 pleted by the completion date required by the per-
11 formance metrics or milestone schedule under para-
12 graph (1), the Executive Director for Operations of
13 the Commission shall, not later than 30 days after
14 such required completion date, inform the Commis-
15 sion of the delay.

16 (3) DELAYS IN ISSUANCE OF FINAL SAFETY
17 EVALUATION EXCEEDING 180 DAYS.—If a final safe-
18 ty evaluation described in paragraph (2) is not com-
19 pleted by the date that is 180 days after the comple-
20 tion date required by the performance metrics or
21 milestone schedule under paragraph (1), the Com-
22 mission shall submit to the Committee on Environ-
23 ment and Public Works of the Senate and the Com-
24 mittee on Energy and Commerce of the House of
25 Representatives a timely report describing the delay,

1 including a detailed explanation accounting for the
2 delay and a plan for timely completion of the final
3 safety evaluation.

4 (d) ACCURATE INVOICING.—With respect to invoices
5 for fees charged under subsection (b)(2), the Commission
6 shall—

7 (1) ensure appropriate review and approval
8 prior to the issuance of invoices;

9 (2) develop and implement processes to audit
10 invoices to ensure accuracy, transparency, and fair-
11 ness; and

12 (3) modify regulations to ensure fair and appro-
13 priate processes to provide licensees and applicants
14 an opportunity to efficiently dispute or otherwise
15 seek review and correction of errors in invoices for
16 such fees.

17 (e) REPORT.—Not later than September 30, 2022,
18 the Commission shall submit to the Committee on Appro-
19 priations and the Committee on Environment and Public
20 Works of the Senate and the Committee on Appropria-
21 tions and the Committee on Energy and Commerce of the
22 House of Representatives a report describing the imple-
23 mentation of this section, including any effects of such im-
24 plementation and recommendations for improvement.

25 (f) DEFINITIONS.—In this section:

1 (1) ADVANCED NUCLEAR REACTOR.—The term
2 “advanced nuclear reactor” means a nuclear fission
3 or fusion reactor, including a prototype plant (as de-
4 fined in sections 50.2 and 52.1 of title 10, Code of
5 Federal Regulations), with significant improvements
6 compared to commercial nuclear reactors under con-
7 struction as of the date of enactment of this Act, in-
8 cluding improvements such as—

9 (A) additional inherent safety features;

10 (B) significantly lower levelized cost of
11 electricity;

12 (C) lower waste yields;

13 (D) greater fuel utilization;

14 (E) enhanced reliability;

15 (F) increased proliferation resistance;

16 (G) increased thermal efficiency; or

17 (H) ability to integrate into electric and
18 nonelectric applications.

19 (2) COMMISSION.—The term “Commission”
20 means the Nuclear Regulatory Commission.

21 (3) CORPORATE SUPPORT COSTS.—The term
22 “corporate support costs” means expenditures for
23 acquisitions, administrative services, financial man-
24 agement, human resource management, information

1 management, information technology, policy support,
2 outreach, and training.

3 (4) RESEARCH REACTOR.—The term “research
4 reactor” means a nuclear reactor that—

5 (A) is licensed by the Commission under
6 section 104 c. of the Atomic Energy Act of
7 1954 (42 U.S.C. 2134(c)) for operation at a
8 thermal power level of not more than 10
9 megawatts; and

10 (B) if so licensed for operation at a ther-
11 mal power level of more than 1 megawatt, does
12 not contain—

13 (i) a circulating loop through the core
14 in which the licensee conducts fuel experi-
15 ments;

16 (ii) a liquid fuel loading; or

17 (iii) an experimental facility in the
18 core in excess of 16 square inches in cross-
19 section.

20 (5) REQUESTED ACTIVITY OF THE COMMIS-
21 SION.—The term “requested activity of the Commis-
22 sion” means—

23 (A) the processing of applications for—

24 (i) design certifications or approvals;

25 (ii) licenses;

- 1 (iii) permits;
- 2 (iv) license amendments;
- 3 (v) license renewals;
- 4 (vi) certificates of compliance; and
- 5 (vii) power uprates; and
- 6 (B) any other activity requested by a li-
- 7 censee or applicant.
- 8 (g) EFFECTIVE DATE.—This section takes effect on
- 9 October 1, 2020.

10 **SEC. 4. STUDY ON ELIMINATION OF FOREIGN LICENSING**
11 **RESTRICTIONS.**

12 Not later than 18 months after the date of enactment
13 of this Act, the Comptroller General shall transmit to Con-
14 gress a report containing the results of a study on the
15 feasibility and implications of repealing restrictions under
16 sections 103 d. and 104 d. of the Atomic Energy Act of
17 1954 (42 U.S.C. 2133(d); 2134(d)) on issuing licenses for
18 certain nuclear facilities to an alien or an entity owned,
19 controlled, or dominated by an alien, a foreign corpora-
20 tion, or a foreign government.

21 **SEC. 5. STUDY ON THE IMPACT OF THE ELIMINATION OF**
22 **MANDATORY HEARING FOR UNCONTESTED**
23 **LICENSING APPLICATIONS.**

24 Not later than 18 months after the date of enactment
25 of this Act, the Comptroller General shall transmit to Con-

gress a report containing the results of a study on the effects of eliminating the hearings required under section 189 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)) for an application under section 103 or section 104 b. of such Act for a construction permit for a facility in the absence of a request of any person whose interest may be affected by the proceeding.

SEC. 6. INFORMAL HEARING PROCEDURES.

(a) PROCEDURES.—Section 189 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)) is amended by adding at the end the following:

“(3) The Commission may use informal adjudicatory procedures for any hearing required under this section for which the Commission determines that adjudicatory procedures under section 554 of title 5, United States Code, are unnecessary.”.

(b) HEARINGS ON LICENSING OF URANIUM ENRICHMENT FACILITIES.—Section 193(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2243(b)) is amended—

(1) in paragraph (1), by striking “on the record” and all that follows through “and 63” and inserting “if a person the interest of whom may be affected by the construction and operation of a uranium enrichment facility under sections 53 and 63

1 has requested a hearing regarding the licensing of
2 the construction and operation of the facility”; and
3 (2) in paragraph (2), by striking “Such hear-
4 ing” and inserting “If a hearing is requested under
5 paragraph (1), the hearing”.

6 **SEC. 7. APPLICATION REVIEWS FOR NUCLEAR ENERGY**
7 **PROJECTS.**

8 Section 185 of the Atomic Energy Act of 1954 (42
9 U.S.C. 2235) is amended by adding at the end the fol-
10 lowing:

11 “c. APPLICATION REVIEWS FOR NUCLEAR ENERGY
12 PROJECTS.—

13 “(1) STREAMLINING LICENSE APPLICATION RE-
14 VIEW.—With respect to an application that is dock-
15 eted seeking issuance of a construction permit, oper-
16 ating license, or combined construction permit and
17 operating license for a production or utilization facil-
18 ity, the Commission shall include the following pro-
19 cedures:

20 “(A) Undertake an environmental review
21 process and issue any draft environmental im-
22 pact statement to the maximum extent prac-
23 ticable within 24 months after the application is
24 accepted for docketing.

1 “(B) Complete the technical review process
2 and issue any safety evaluation report and any
3 final environmental impact statement to the
4 maximum extent practicable within 42 months
5 after the application is accepted for docketing.

6 “(2) EARLY SITE PERMIT.—

7 “(A) SUPPLEMENTAL ENVIRONMENTAL IM-
8 PACT STATEMENT.—In a proceeding for a com-
9 bined construction permit and operating license
10 for a site for which an early site permit has
11 been issued, any environmental impact state-
12 ment prepared by the Commission and cooper-
13 ating agencies shall be prepared as a supple-
14 ment to the environmental impact statement
15 prepared for the early site permit.

16 “(B) INCORPORATION BY REFERENCE.—
17 The supplemental environmental impact state-
18 ment shall—

19 “(i) incorporate by reference the anal-
20 ysis, findings, and conclusions from the en-
21 vironmental impact statement prepared for
22 the early site permit; and

23 “(ii) include additional discussion,
24 analyses, findings, and conclusions on mat-
25 ters resolved in the early site permit pro-

1 ceeding only to the extent necessary to ad-
2 dress information that is new and signifi-
3 cant in that the information would materi-
4 ally change the prior findings or conclu-
5 sions.

6 “(3) PRODUCTION OR UTILIZATION FACILITY
7 LOCATED AT AN EXISTING SITE.—In reviewing an
8 application for an early site permit, construction
9 permit, operating license, or combined construction
10 permit and operating license for a production or uti-
11 lization facility located at the site of a licensed pro-
12 duction or utilization facility, the Commission shall,
13 to the extent practicable, use information that was
14 part of the licensing basis of the licensed production
15 or utilization facility.

16 “(4) HEARING ON EARLY SITE PERMIT, CON-
17 STRUCTION PERMIT, AND COMBINED CONSTRUCTION
18 PERMIT AND OPERATING LICENSE.—The Commis-
19 sion shall issue and make immediately effective an
20 early site permit, construction permit, or combined
21 construction permit and operating license for a pro-
22 duction or utilization facility upon finding that the
23 application therefor satisfies the requirements of this
24 Act, notwithstanding the pendency before the Com-
25 mission of a request for a hearing. Following com-

1 pletion of any required hearing, the Commission
2 shall take any appropriate action with respect to the
3 early site permit, construction permit, or combined
4 construction permit and operating license to the ex-
5 tent necessary to account for the hearing results.

6 “(5) REGULATIONS.—The Commission shall
7 initiate a rulemaking, not later than 1 year after the
8 date of enactment of the Nuclear Utilization of Key-
9 note Energy Act, to amend the regulations of the
10 Commission to implement this subsection.

11 “(6) ENVIRONMENTAL IMPACT STATEMENT DE-
12 FINED.—In this subsection, the term ‘environmental
13 impact statement’ means a detailed statement re-
14 quired under section 102(C) of the National Envi-
15 ronmental Policy Act of 1969 (42 U.S.C. 4332(C)).

16 “(7) RELATIONSHIP TO OTHER LAW.—Nothing
17 in this subsection exempts the Commission from any
18 requirement for full compliance with section
19 102(2)(C) of the National Environmental Policy Act
20 of 1969 (42 U.S.C. 4332(2)(C)).”.

21 **SEC. 8. SENSE OF CONGRESS ON NUCLEAR REACTOR DE-**
22 **COMMISSIONING.**

23 It is the sense of Congress that—

24 (1) a safe, effective, and efficient decommis-
25 sioning process for nuclear reactors licensed under

1 section 103 or 104 b. of the Atomic Energy Act of
2 1954 that supports the principles of good regulation,
3 including openness, clarity, and reliability, is vital to
4 all licensees and local communities; and

5 (2) the Nuclear Regulatory Commission should
6 complete a final rulemaking to establish such a proc-
7 ess not later than 18 months after the date of enact-
8 ment of this section.

