To require the Secretary of Energy to offer to enter into temporary used fuel storage facility agreements.

A BILL

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Nuclear Fuel Storage Improvement Act of 2011”.

SEC. 2. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term “Commission” means the Nuclear Regulatory Commission.
(2) Secretary.—The term “Secretary” means the Secretary of Energy.

SEC. 3. INCENTIVES FOR SITING OF TEMPORARY USED FUEL STORAGE FACILITIES.

(a) Definitions.—In this section:

(1) Agreement.—The term “agreement” means a temporary used fuel storage facility agreement entered into under subsection (e).

(2) First used fuel receipt.—The term “first used fuel receipt” means the receipt of used fuel by a temporary used fuel storage facility at a site within the jurisdiction of a unit of local government that is a party to an agreement.


(4) Unit of local government.—The term “unit of local government” means any borough, city, county, parish, town, township, village, or other general purpose political subdivision of a State, or association of 2 or more political subdivisions of a State.

(5) Used fuel.—The term “used fuel” means nuclear fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent ele-
ments of which have not been separated by reprocessing.

(b) Authorization.—The Secretary shall offer to enter into temporary used fuel storage facility agreements in accordance with this section.

(c) Notice From Units of Local Government to Secretary.—Not later than January 1, 2013, representatives of a unit of local government, with the written approval of the Governor of the State in which the jurisdiction of the local government is located, may submit to the Secretary written notice that the unit of local government is willing to have a privately owned and operated temporary used fuel storage facility located at an identified site within the jurisdiction of the unit of local government.

(d) Preliminary Compensation.—

(1) In general.—The Secretary shall make payments of $1,000,000 each year to not more than 3 units of local government that have submitted notices under subsection (c).

(2) Multiple notices.—If more than 3 notices are received under subsection (c), the Secretary shall make payments to the first 3 units of local government, based on the order in which the notices are received.
(3) TIMING.—The payments shall be made annually for a 3-year period, on the anniversary date of the filing of the notice under subsection (c).

(e) AGREEMENT.—

(1) IN GENERAL.—On the docketing of an application for a license for a temporary used fuel storage facility, in accordance with part 72 of title 10, Code of Federal Regulations, at a site within the jurisdiction of a unit of local government by the Commission, the Secretary shall offer to enter into a temporary used fuel storage facility economic impact agreement with the unit of local government.

(2) TERMS AND CONDITIONS.—An agreement between the Secretary and a unit of local government under this subsection shall contain such terms and conditions (including such financial and institutional arrangements) as the Secretary and the unit of local government determine to be reasonable and appropriate.

(3) AMENDMENT.—An agreement may be—

(A) amended only with the mutual consent of the parties to the agreement; and

(B) terminated only in accordance with paragraph (4).
(4) **Termination.**—The Secretary shall terminate an agreement if the Secretary determines that any major element of the temporary used fuel storage facility required under the agreement will not be completed.

(5) **Number of agreements.**—Not more than 2 agreements may be in effect at any time.

(6) **Payment schedule.**—

(A) **In general.**—If the Secretary enters into an agreement under this subsection, the Secretary shall make to the unit of local government and the State in which the unit of local government is located—

(i) payments of—

(I) on the date of entering into the agreement under this subsection, $6,000,000;

(II) during the period beginning on the date of entering into an agreement and ending on the date of first used fuel receipt or denial of the license application for a temporary used fuel storage facility by the Commission, whichever is later, $10,000,000 for each year; and
(III) during the period beginning on the date of first used fuel receipt and ending on the date of closure of the facility, a total of the higher of—

(aa) $15,000,000 for each year; or

(bb) $15,000 per metric ton of used fuel received at the facility for each year, up to a maximum of $25,000,000 for each year; and

(ii) a payment of $20,000,000 on closure of the facility.

(B) TIMING OF ANNUAL PAYMENTS.—The Secretary shall make annual payments under subparagraph (A)(i)—

(i) in the case of annual payments described in subparagraph (A)(i)(II), on the anniversary of the date of the docketing of the license application by the Commission; and

(ii) in the case of annual payments described in subparagraph (A)(i)(III), on the date of the first used fuel receipt and thereafter on the anniversary date of the
first used fuel receipt, in lieu of annual payments described in subparagraph (A)(i)(II).

(C) TERMINATION OF AUTHORITY.—Subject to subparagraph (A)(ii), the authority to make payments under this paragraph terminates on the date of closure of the facility.

(f) FUNDING.—Funding for compensation and payments provided for, and made under, this section shall be made available from amounts available in the Nuclear Waste Fund.

SEC. 4. ACCEPTANCE, STORAGE, AND SETTLEMENT OF CLAIMS.

(a) IN GENERAL.—The Secretary shall offer to enter into a long-term contract for the storage of used fuel from civilian nuclear power plants with a private entity that owns or operates an independent used fuel storage facility licensed by the Commission that is located within the jurisdiction of a unit of local government to which payments are made pursuant to section 3(e).

(b) SETTLEMENT AND ACCEPTANCE OF USED FUEL.—

(1) IN GENERAL.—At the request of a party to a contract under section 302(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)), the
Secretary may enter into an agreement for the settlement of all claims against the Secretary under a contract for failure to dispose of high-level radioactive waste or used nuclear fuel not later than January 31, 1998.

(2) **Terms and Conditions.**—A settlement agreement described in paragraph (1)—

(A) shall contain such terms and conditions (including such financial and institutional arrangements) as the Secretary and the party to the contract determine to be reasonable and appropriate; and

(B) may include the acceptance of used fuel from the party to the contract for storage at a facility with respect to which the Secretary has a long-term contract under subsection (a).

(c) **Priority for Acceptance for Closed Facilities.**—

(1) **In general.**—If a request for fuel acceptance is made under this section by a facility that has produced used nuclear fuel and that is shut down permanently and the facility has been decommissioned, the Secretary shall provide priority for the acceptance of the fuel produced by the facility.
(2) SCHEDULE.—Spent nuclear fuel and high-level radioactive waste generated by a facility in existence as of the date of enactment of this Act shall be offered a schedule in accordance with the priority established pursuant to Article IV.b.5 of the contract entitled “Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste”, as specified in section 961.11 of title 10, Code of Federal Regulations.

(d) TRANSPORTATION OF USED FUEL.—

(1) IN GENERAL.—The Secretary shall provide for the transportation of used fuel accepted by the Secretary under this section.

(2) SYSTEMS AND COMPONENTS.—

(A) IN GENERAL.—The Secretary shall procure all systems and components necessary to transport used fuel from facilities designated by contract holders to 1 or more storage facilities under this section.

(B) CASKS.—The Secretary shall—

(i) use transportation and storage casks that are approved by the Commission in use at facilities designated by contract holders; and
(ii) compensate the owner and operator of each facility for the use of the casks.