

1 S.149

2 Introduced by Senator White

3 Referred to Committee on

4 Date:

5 Subject: Energy; taxation; funding; spent nuclear fuel

6 Statement of purpose of bill as introduced: This bill proposes to require the  
7 owner and operator of a nuclear energy generating plant to establish a trust to  
8 fund the management of spent nuclear fuel and proposes to tax the storage of  
9 spent nuclear fuel.

10 An act relating to funding the management and taxing the storage of spent  
11 nuclear fuel

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 Sec. 1. 30 V.S.A. chapter 5, subchapter 2 is added to read:

14 Subchapter 2. Funding the Management of Spent Fuel; Nuclear Energy

15 Generating Plants

16 § 271. PURPOSE

17 The purpose of this subchapter is to reduce the risk that taxpayers,  
18 ratepayers, or retail electric utilities will experience adverse claims or costs  
19 resulting from a shortage of available funds for the management of spent fuel  
20 at a nuclear energy generating plant.

1        § 272. DEFINITIONS

2            In this subchapter:

3            (1) “Board” means the Public Service Board under section 3 of this title.

4            (2) “Department” means the Department of Public Service under  
5            section 1 of this title.

6            (3) “Existing nuclear energy generating plant” means a nuclear energy  
7            generating plant in existence as of January 1, 2013.

8            (4) “Managing spent fuel,” “management of spent fuel,” or “spent fuel  
9            management” means the control and supervision of uranium fuel that has been  
10           used in and removed from the reactor of a nuclear energy generating plant until  
11           such time as the fuel is removed from Vermont and placed in a federally  
12           certified long-term storage facility. The term includes the storage of such fuel  
13           at the site of a nuclear energy generating plant and all associated operations,  
14           security, and maintenance.

15           (5) “Nuclear energy generating plant” means a facility located in  
16           Vermont that produces or has produced electricity using an atomic reaction as  
17           an energy source for heat to provide steam to a turbine generator. The term  
18           includes a nuclear energy generating plant that has ceased producing  
19           electricity.

20           (6) “Operator” means a person or entity that, on or after  
21           January 1, 2003, operated or operates a nuclear energy generating plant or held

1 or holds a certificate under this title allowing the person or entity to operate a  
2 nuclear energy generating plant.

3 (7) "Owner" means a person or entity that, on or after January 1, 2003,  
4 owned or owns a nuclear energy generating plant or held or holds a certificate  
5 under this title consenting to the purchase of such a plant by the person or  
6 entity.

7 § 273. SPENT FUEL MANAGEMENT FUNDING TRUST

8 (a) To achieve the purpose set out in section 271 of this title, it is the law of  
9 this State that, on and after July 1, 2013, the owner and operator of a nuclear  
10 energy generating plant shall have in place a trust for the purpose of funding  
11 the management of spent fuel associated with the plant that the Board has  
12 determined to be adequate to fund the full projected cost of such spent fuel  
13 management.

14 (b) In determining whether a trust is adequate under this section, the Board:

15 (1) shall find that the trust conforms to the requirements of this section  
16 and may include such conditions and requirements as it deems necessary to  
17 protect the public good;

18 (2) for an existing nuclear energy generating plant, may allow periodic  
19 additions of funds to the trust rather than requiring that the full projected  
20 amount be in place on July 1, 2013, provided that the trust is 50-percent funded  
21 by July 1, 2016, and fully funded by July 1, 2018; and

1           (3) shall not:

2                   (A) assume or account for any payment by the federal government  
3 for managing spent fuel associated with the plant unless and until such  
4 payment is made and placed into the trust; or

5                   (B) assume that monies from a decommissioning trust fund required  
6 by the NRC for the plant are available for managing spent fuel unless and until  
7 the NRC has affirmatively approved a request by the plant owner for such use.

8           (c) This section does not require the inclusion in a trust of funds necessary  
9 for decommissioning. A trust under this section shall be separate from any  
10 decommissioning trust required for a plant.

11           (d) A trust under this section and any included funds and financial  
12 instruments shall be subject to the laws of Vermont, shall be usable by the  
13 beneficiary only for the purpose of the trust, and shall include a spendthrift  
14 provision sufficient under Vermont law to restrain both voluntary and  
15 involuntary transfers of the beneficiary's interest.

16           (e) A trust under this section shall be funded by cash, letter of credit held  
17 by and payable to the trustee, or surety bond held by and payable to the trustee  
18 that is executed by a surety company authorized to do business in this State.  
19 Any such letter of credit or surety bond shall be subject to the Board's  
20 approval.

1       (f) The trustee of a trust under this subchapter shall be independent of the  
2       owner, operator, and any affiliated entity.

3       (g) With respect to a trust established under this subchapter, the Board shall  
4       provide for periodic monitoring of the trust, the timely addition to the trust of  
5       additional funds if needed to achieve the purpose of the trust, and the return of  
6       any excess funds once the purpose of the trust is achieved.

7       (h) The liability of an owner or operator or affiliated entity to fund and  
8       conduct postclosure activities at a nuclear energy generating plant shall not be  
9       limited by the amount of funds in a trust or a determination by the Board under  
10       this section concerning the adequacy of a trust.

11       (i) With respect to an existing nuclear energy generating plant, on or before  
12       July 31, 2013, the Board shall open an investigation to determine whether the  
13       owner and operator of the plant have created a trust for managing spent fuel  
14       that meets the requirements of this subchapter. The Board shall have full  
15       authority to order revisions to the terms of the trust. The Board shall render its  
16       decision in such investigation on or before October 31, 2013 and shall issue  
17       such orders as it determines necessary to ensure compliance with this section.

1       Sec. 2. 32 V.S.A. chapter 151, subchapter 14 is added to read:

2               Subchapter 14. Franchise Tax on Storage of Spent Nuclear Fuel

3       § 5961. IMPOSITION OF TAX

4               (a) A tax is imposed for each calendar quarter or part thereof upon the  
5       franchise or privilege of doing business of every person storing or disposing of  
6       spent nuclear fuel at a facility in the State. The tax shall be imposed in the  
7       following amounts:

8               (1) \$6.00 per ton of spent nuclear fuel stored in a hardened cask  
9       surrounded by inert gas;

10              (2) \$30.00 per ton of spent nuclear fuel stored at the facility that is not in  
11       such a hardened cask; and

12              (3) an additional \$100.00 per ton of spent nuclear fuel stored at the  
13       facility that was not generated at the site of the facility.

14              (b) The tax imposed by this section shall be in addition to any other taxes  
15       imposed on the taxpayer.

16              (c) If a return required by this chapter is not filed, or if a return, when filed,  
17       is incorrect or insufficient, the Commissioner shall determine the amount of  
18       tax due from any information available.

19              (d) Every person required to pay the tax imposed by this subchapter shall  
20       use a weight scale that accurately gauges the weight of the spent nuclear fuel  
21       and shall keep accurate contemporaneous records of the volume or weight of

1 all spent nuclear fuel delivered for storage or disposal. The taxpayer's records  
2 relating to imposition of the tax imposed by this subchapter shall be available  
3 for inspection or examination at any time upon demand by the Commissioner  
4 of Taxes or the Commissioner of Public Service or their duly authorized agents  
5 or employees and shall be preserved for a period of three years.

6 § 5962. FILING OF RETURN AND PAYMENT OF TAX

7 (a) Every person required to pay this tax shall on or before the 30th day of  
8 the month following each calendar quarter file a return with the Commissioner  
9 of Taxes and pay the amount of tax due.

10 (b) Copies of this return shall be filed with the Commissioner of Public  
11 Service at the same time, or as otherwise required by that Commissioner.  
12 Information filed with the Commissioner of Public Service under this section  
13 shall be a public record and made available by the Department of Public  
14 Service in accordance with the provisions of 1 V.S.A. chapter 5 without being  
15 subject to the exception created by 1 V.S.A. § 317(c)(6).

16 § 5963. DISPOSITION OF REVENUES

17 Revenues under this chapter shall be deposited into the Clean Energy  
18 Development Fund established under 30 V.S.A. § 8015.

19 **Sec. 3. SEVERABILITY**

20 The provisions of this act are severable. If any provision of this act is  
21 invalid or if any application thereof to any person or circumstance is invalid,

1 the invalidity shall not affect other provisions or applications which can be  
2 given effect without the invalid provision or application.

3 Sec. 4. EFFECTIVE DATE

4 This act shall take effect on passage.