

## Senate Resolution 407

By: Senators Shafer of the 48th, Ginn of the 47th, Watson of the 1st, Gooch of the 51st, Walker III of the 20th and others

## A RESOLUTION

1 Encouraging the Georgia Congressional Delegation to immediately enact legislation with the  
2 sole purpose of reestablishing a Nuclear Waste Program per the Nuclear Waste Policy Act;  
3 and for other purposes.

4 WHEREAS, the Georgia Public Service Commission (PSC) is the state's regulatory body  
5 responsible for the regulation of utilities, including electric utilities that generate or purchase  
6 electric power from nuclear powered electric generating plants; and

7 WHEREAS, the Georgia PSC has been actively monitoring the national policy and program  
8 to permanently dispose of high-level radioactive nuclear waste, including spent nuclear fuel  
9 from commercial nuclear plants since 1982; and

10 WHEREAS, the Nuclear Waste Policy Act of 1982 (NWPA) established that the United  
11 States Department of Energy (DOE) shall enter into contracts to dispose of spent nuclear fuel  
12 from commercial nuclear plants in return for payment of fees by the generators or owners of  
13 such spent fuel; and

14 WHEREAS, utility companies serving customers with electricity generated from civilian  
15 nuclear reactors hold those contracts, pay the fees, and pass the cost of such fees onto  
16 ratepayers. The Nuclear Waste Fund is a separate fund established in the United States  
17 Treasury to finance radioactive waste disposal activities; and

18 WHEREAS, the Georgia Power Company, as well as its coowners of nuclear facilities in  
19 Georgia, the Municipal Electric Authority of Georgia (MEAG), the Oglethorpe Power  
20 Corporation, and the City of Dalton Board of Water, Light and Sinking Fund Commissioners  
21 are assessed 1.0 mil per kilowatt-hour for electricity generated and sold; and

22 WHEREAS, the Georgia Power Company has collected approximately 17 cents per month  
23 from its customers through the company's Fuel Cost Recovery (FCR) tariff, which is  
24 currently on hold per the United States Court of Appeals for the D.C. Circuit; and

25 WHEREAS, the NWPA, as amended, provided that the Nuclear Regulatory Commission  
26 (NRC) shall consider the Department of Energy's license application to store nuclear waste  
27 at Yucca Mountain and "shall issue a final decision approving or disapproving" the  
28 application within up to four years; and

29 WHEREAS, in June, 2008, DOE filed a license application with the NRC, and in 2010, DOE  
30 moved to withdraw its application and terminate the project; and

31 WHEREAS, the NRC's Atomic Safety and Licensing Board (Board) denied the motion to  
32 withdraw, but on review, the NRC unanimously directed the Board to suspend the license  
33 application proceeding and preserve necessary records because of budgetary constraints; and

34 WHEREAS, on August 3, 2012, the United States Court of Appeals for the D.C. Circuit  
35 (Court) issued an order holding in abeyance a case seeking to compel the NRC to resume  
36 consideration of a license application filed by the DOE to develop a permanent nuclear waste  
37 repository in Yucca Mountain, Nevada (Yucca Mountain); and

38 WHEREAS, on August 13, 2013, the Court issued its opinion, concluding that a writ of  
39 mandamus should be issued against the NRC, and the writ of mandamus requires the NRC  
40 to continue the Yucca Mountain license application proceeding, as long as there is funding  
41 available; and

42 WHEREAS, DOE has failed to meet the mandate of the NWPA to begin accepting spent  
43 nuclear fuel for disposal in 1998; and

44 WHEREAS, funds collected by DOE for the purpose of constructing and operating the  
45 nation's nuclear waste repository in accordance with the NWPA were partially used to  
46 research the feasibility of Yucca Mountain and have since been held in abeyance due to the  
47 suspension of the license review where such funds are currently being held by the federal  
48 government without a nuclear waste repository, and there is no schedule of when DOE might  
49 begin receipt of any spent fuel; and

50 WHEREAS, costs to the federal government, and hence, United States taxpayers, due to  
51 liability for partial breach of contract suits, increase by approximately \$500 million from the  
52 Judgment Fund for each additional year after DOE fails to begin accepting spent fuel for  
53 disposal; and

54 WHEREAS, as of December, 2014, ratepayers in Georgia have contributed over \$1.6 billion,  
55 including interest, to the NWF fee with nothing to show for it; and

56 WHEREAS, the Secretary of Energy appointed the Blue Ribbon Commission on America's  
57 Nuclear Future (BRC) which reviewed the waste situation and made its recommendations  
58 to the Secretary in January, 2012, which was confirmed by DOE in its report of February,  
59 2013; and

60 WHEREAS, comprehensive nuclear waste legislation intended to put the troubled program  
61 back on track has been introduced in Congress many times, but has not been enacted; and

62 WHEREAS, the United States Court of Appeals for the D.C. Circuit on November 19, 2013,  
63 issued a decision mandating the Secretary for the Department of Energy to submit a proposal  
64 to Congress to adjust the current Nuclear Waste Fund fee to zero until such time as either  
65 DOE resumes its work toward the Yucca Mountain project or until Congress modifies the  
66 statutory framework and provides for an alternative waste management plan; and

67 WHEREAS, the D.C. Circuit explained that "so long as the government has no viable  
68 alternative to Yucca Mountain as a repository for nuclear waste [the nuclear plant owners and  
69 operators] should not be charged an annual fee to cover the cost of that disposal"; and the  
70 Secretary complied with the mandate on January 7, 2014, and the collection was temporarily  
71 placed on hold in May, 2014; and

72 WHEREAS, the United States Congress has the power and authority to act quickly and  
73 decisively for all of its citizens in bringing this matter to a close until such time as DOE  
74 complies with the NWPA.

75 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE that the members of this body  
76 encourage the Georgia Congressional Delegation to immediately enact legislation with the  
77 sole purpose of reestablishing a Nuclear Waste Program per the Nuclear Waste Policy Act  
78 as Georgia's ratepayers and citizens along with the rest of the country have paid, including

79 interest, over \$39 billion into the Nuclear Waste Fund in addition to paying for storage and  
80 security of the utilities' nuclear waste on-site in their respective states.

81 BE IT FURTHER RESOLVED that the Secretary of the Senate is authorized and directed  
82 to make appropriate copies of this resolution available for distribution to the public and the  
83 press.