

A RESOLUTION

To petition the United States Department of Energy to promulgate rules and establish programs allowing states, in collaboration with the Department, to develop new nuclear technologies and laboratories and construct nuclear experimentation containment facility testing platforms.

Be it resolved by the House of Representatives of the State of Ohio:

WHEREAS, The United States Department of Energy (USDOE) has nuclear energy development agreements with foreign nations such as China; and

WHEREAS, The State of Ohio has the sovereign right to protect its citizens, protect its environment, and improve its economy, if doing so does not negatively affect any other state within the United States; and

WHEREAS, The federal government has failed to provide for a national long-term repository for our nation's high-level nuclear waste; and

WHEREAS, Ohio's nuclear reactors produce high-level nuclear waste, and this waste is currently stored on-site in temporary facilities; and

WHEREAS, The federal government has failed to provide a stable, secure, and economically viable supply of medical isotopes; and

WHEREAS, Ohio's hospitals use lifesaving medical isotopes in diagnostic imaging and in the treatment of diseases such as cancer; and

WHEREAS, There are known technologies, and new fields of study that are developing technologies, that can consume high-level nuclear waste and produce medical isotopes; and

WHEREAS, 42 U.S.C. 2013 directs authorized federal agencies to:

(A) Encourage widespread participation in the development and utilization of atomic energy for peaceful purposes to the maximum extent consistent with the common defense and security of the nation and with the health and safety of the public in mind; and

(B) Administer domestic activities and programs consistent with the policies and programs for nuclear activities, with international arrangements, and with agreements for cooperation; and

WHEREAS, 42 U.S.C. 2021 provides:

(A) That the federal government and its authorized agencies must do the following:

(1) Recognize the interests of the states in the peaceful uses of atomic energy; and

(2) Promote an orderly regulatory pattern with respect to nuclear development, without federally exclusive powers to develop nuclear technologies, and within federally defined regulatory powers overseeing the handling and storage of nuclear materials; and

(B) That, as the states improve their capabilities to regulate effectively such nuclear materials, additional legislation may be desirable; and

WHEREAS, 42 U.S.C. 2021 provides for the establishment of procedures and criteria for discontinuance of certain federal regulatory responsibilities with respect to byproduct, source, and

special nuclear materials, and the assumption of those responsibilities by the states; and

WHEREAS, 42 U.S.C. 5801 transferred the authority for the development of nuclear technology from the Atomic Energy Commission to the Energy Research and Development Administration, and 42 U.S.C. 7151 transferred the authority from the Energy Research and Development Administration to the USDOE, and 42 U.S.C. 5841 transferred the licensing and regulation of nuclear reactors from the Atomic Energy Commission to the United States Nuclear Regulatory Commission (USNRC); and

WHEREAS, The Administrative Procedure Act, 5 U.S.C. 551, and 553, requires each federal agency to "give an interested person the right to petition for the issuance, amendment, or repeal of a rule" and defines a "person" to include an individual, partnership, corporation, association, or public or private organization other than an agency; and

WHEREAS, The House of Representatives of the State of Ohio is a public organization other than an agency of the federal government and is recognized as a person by the Administrative Procedure Act, 5 U.S.C. 551, and therefore has the legal right to petition federal agencies regarding the issuance of rules; and

WHEREAS, Directives from Congress to the USNRC to provide safety, and to the USDOE to provide for a program of maximum development of nuclear technologies, are in opposition to each other, if taken to an extreme; and

WHEREAS, The widespread domestic participation in the development and utilization of atomic energy for peaceful purposes to the maximum extent consistent with international arrangements and international agreements of cooperation is largely dependent upon the cost of regulation; and

WHEREAS, Regulations promulgated by the USNRC have become so prohibitively expensive that they prevent the maximum development of nuclear technologies; and

WHEREAS, The intent of the laws passed by the United States Congress is clear that as states gain greater expertise with nuclear materials, they should be allowed greater research and development autonomy consistent with international arrangements and that of international agreements of cooperation; and

WHEREAS, The House of Representatives of the State of Ohio recognizes that the decentralization of nuclear research and development from the federal government to the states will help to accelerate innovation in the development of nuclear technologies and allow the United States to once again lead the world in the development of nuclear technologies; and

WHEREAS, It is not the purpose or mission of the USNRC to:

(A) Provide and encourage widespread participation in the development and utilization of atomic energy for peaceful purposes to the maximum extent consistent with the common defense and security of the nation;

(B) Provide a program administering domestic activities and programs consistent with policies and programs of nuclear activities, with international arrangements, and with international agreements for cooperation; and

(C) Recognize the interests of the states in the development of peaceful uses of atomic energy; and

WHEREAS, The State of Ohio has the sovereign right to research and develop new nuclear technologies for peaceful purposes, to improve the Ohio economy, to ensure a stable supply of isotopes for Ohio citizens, to reduce and consume high-level nuclear waste, and to generate energy for Ohioans; and

WHEREAS, The State of Ohio has an interest in developing new nuclear technologies to produce medical isotopes, industrial isotopes, isotopes for space exploration, and isotopes for the peaceful defense of our nation; technologies to consume nuclear waste produced in Ohio; and safer and more cost-effective nuclear technologies that produce zero carbon energy and less high-level nuclear waste than traditional light water reactors; now therefore be it

RESOLVED, That we, the members of the House of Representatives of the 132nd General Assembly of the State of Ohio, hereby petition the USDOE, under its authority, to promulgate rules

and establish programs that will allow states and their agents to collaboratively develop new nuclear technologies with the USDOE, including, but not limited to, the development of small nuclear reactors that are designed to produce ten megawatts or less of thermal energy, thus providing for a program of maximum development that recognizes the interests of states; and be it further

RESOLVED, That we, the members of the House of Representatives of the 132nd General Assembly of the State of Ohio, hereby petition the USDOE to promulgate rules and programs that will allow states to develop collaborative nuclear and non-nuclear laboratories with the USDOE on currently licensed or formerly licensed nuclear facility grounds, within their respective states, and allow for the construction of collaborative nuclear experimentation containment facility testing platforms; and be it further

RESOLVED, That the Clerk of the House of Representatives transmit duly authenticated copies, formatted according to USDOE rules for rulemaking petitions, by registered postal mail or by any other means that confirms delivery, receipt, and acceptance of this petition to the USDOE Office of the General Counsel, GC-1, Attention: John T. Lucas, United States Department of Energy, 1000 Independence Avenue, S.W., Washington D.C. 20585; and be it further

RESOLVED, That the Clerk of the House of Representatives transmit electronic copies to: Eric J. Fygi, Deputy General Counsel, at eric.fygi@hq.doe.gov; Mary Therese Keokuk, Executive Assistant to the Deputy General Counsel, at therese.keokuk@hq.doe.gov; Daniel Cohen, Assistant General Counsel for Legislation, Regulation, and Energy Efficiency, at daniel.cohen@hq.doe.gov; and Elizabeth Kohl, Deputy Assistant General Counsel for Legislation and Regulation, at elizabeth.kohl@hq.doe.gov.

Speaker _____ of the House of Representatives.

Adopted _____, 20____