To establish a task force on the implications of amending the Atomic Energy Act of 1954 to remove exemptions from environmental laws for spent nuclear fuel and high-level radioactive waste to allow for consent-based siting of geologic repositories.

IN THE SENATE OF THE UNITED STATES

Mr. Markey introduced the following bill; which was read twice and referred to the Committee on ______

A BILL

To establish a task force on the implications of amending the Atomic Energy Act of 1954 to remove exemptions from environmental laws for spent nuclear fuel and high-level radioactive waste to allow for consent-based siting of geologic repositories.

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

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Nuclear Waste Task
5 Force Act of 2021”.

6 SEC. 2. TASK FORCE.

7 (a) DEFINITIONS.—In this section:
(1) **Environmental justice community.**—The term “environmental justice community” means a community with a significant representation of communities of color, low-income communities, or Tribal and indigenous communities that experiences, or is at risk of experiencing, higher or more adverse human health or environmental effects, as compared to other communities.

(2) **EPA representative.**—The term “EPA representative” means the member of the Task Force appointed under subsection (c)(2)(B)(i).

(3) **High-level radioactive waste.**—The term “high-level radioactive waste” has the meaning given the term in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

(4) **Indian tribe.**—The term “Indian Tribe” means an Indian tribe included on the list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).

(5) **Spent nuclear fuel.**—The term “spent nuclear fuel” has the meaning given the term in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).
(6) TASK FORCE.—The term “Task Force” means the task force established under subsection (b).

(b) ESTABLISHMENT.—The Administrator of the Environmental Protection Agency shall establish a task force, to be known as “Task Force on the Implications of Amending the Atomic Energy Act of 1954 to Remove Exemptions from Environmental Laws for Spent Nuclear Fuel And High-Level Radioactive Waste to Allow for Consent-Based Siting of Geologic Repositories”—

(1) to continue the work of the 2012 Blue Ribbon Commission on America’s Nuclear Future, which found that consent was necessary to successfully arrive at permanent disposal sites for nuclear waste; and

(2) to analyze the implications of amending the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) to remove exemptions from environmental laws for spent nuclear fuel from commercial reactors and high-level radioactive waste from defense and commercial origins in order to create a consent-driven pathway to addressing the disposal challenges of commercial and defense nuclear waste.

(c) MEMBERSHIP.—
(1) **IN GENERAL.**—The Task Force shall include a balanced representation of—

(A) Federal, State, Tribal, and local government agencies;

(B) nongovernmental organizations;

(C) unions; and

(D) the private sector.

(2) **MEMBERS.**—

(A) **IN GENERAL.**—The Task Force shall be composed of not more than 30 members who represent entities that—

(i) are currently affected by the storage, treatment, or management of commercial or defense nuclear waste; or

(ii) have cognizable and well-understood interests in the objectives of the Task Force.

(B) **FEDERAL MEMBERS.**—Not more than 5 members of the Task Force shall be representatives of the Federal Government, of whom—

(i) 1 shall be appointed by the Administrator of the Environmental Protection Agency to represent the Environmental Protection Agency;
(ii) I shall be appointed by the Secretary of Energy to represent the Department of Energy;

(iii) I shall be appointed by the Nuclear Regulatory Commission to represent the Nuclear Regulatory Commission;

(iv) I shall be appointed by the Director of the White House Office of Science and Technology Policy to represent the White House Office of Science and Technology Policy; and

(v) I shall be appointed by the Secretary of Transportation to represent the Department of Transportation.

(C) NON-FEDERAL MEMBERS.—

(i) IN GENERAL.—Except as provided in clause (ii), the EPA representative shall appoint the non-Federal members of the Task Force.

(ii) STATE GOVERNMENT REPRESENTATIVES.—

(I) IN GENERAL.—The EPA representative shall select not fewer than 7 States, representing a geographical balance from across the United
States, the governments of which shall be represented on the Task Force.

(II) APPOINTMENT.—The Governor of a State selected under sub-clause (I), or an appropriate agency of the State, such as a State department of ecology or State environment department, if the Governor determines it to be appropriate, shall appoint the representative of the State government who shall serve on the Task Force.

(iii) OTHER NON-FEDERAL MEMBERS.—

(I) GEOGRAPHIC AND HISTORICAL BALANCE.—In selecting the non-Federal members of the Task Force, the EPA representative shall ensure—

(aa) a geographical balance among the non-Federal members from across the United States; and

(bb) a balance of historical concerns with respect to nuclear waste.
(II) INTERESTS.—In selecting the non-Federal members of the Task Force, the EPA representative shall ensure that not fewer than 18 members are selected from among representatives of—

(aa) Indian Tribes;

(bb) national environmental interest groups;

(cc) regional environmental justice groups;

(dd) industry;

(ee) labor organizations;

(ff) professional societies;

and

(gg) safety- and health-related organizations.

(D) SELECTION OF CHAIR.—The non-Federal members of the Task Force appointed under subparagraph (C) shall select the Chair of the Task Force from among the non-Federal members.

(3) COMPENSATION; EXPENSES.—

(A) COMPENSATION.—A member of the Task Force shall serve without compensation.
(B) EXPENSES.—A member of the Task Force shall receive reimbursement from the Administrator of the Environmental Protection Agency at the applicable Federal per diem rate for all out-of-pocket expenses incurred in carrying out the duties of the Task Force.

(d) GRANTS.—Subject to the approval of the Federal members of the Task Force appointed under subsection (c)(2)(B), the Chair of the Task Force may provide participation grants to task force members from underresourced communities, environmental justice communities, or nonprofit organizations that are located in environmental justice communities and represent and work on behalf of environmental justice communities with respect to issues relating to the storage and disposal of spent nuclear fuel and high-level radioactive waste.

(e) DUTIES.—

(1) REPORT.—Not later than 1 year after the date of enactment of this Act, the Task Force shall submit to Congress and the President a report, in unclassified form, that—

(A)(i) provides a clear explanation of what constitutes “consent-based siting”; and
(ii) includes recommendations on how consent-based siting could be practically implemented;

(B) describes and evaluates, taking into consideration the consent-based siting recommendations of the 2012 Blue Ribbon Commission for America’s Nuclear Future—

(i) the implications of amending the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) to remove exemptions from environmental laws, such as the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) (commonly known as the “Resource Conservation and Recovery Act of 1976”), for spent nuclear fuel and high-level radioactive waste, while maintaining Federal minimum standards;

(ii) the likely allocations of precise regulatory responsibilities under any amendment to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) described and evaluated under clause (i); and

(iii) the timeframe necessary for developing regulations in accordance with clause (ii) and subparagraph (C); and
(C) includes recommendations for appropriate legislative and regulatory changes based on the matters described and evaluated under subparagraph (B).

(2) NOTICE AND COMMENT.—

(A) IN GENERAL.—In preparing the report under paragraph (1), the Task Force shall provide public notice and an opportunity for comment on the matters described in paragraph (1).

(B) REQUIREMENT.—To ensure sufficient opportunity for timely public input on the matters described in paragraph (1), the Task Force shall provide not fewer than 3 opportunities for public comment under subparagraph (A), including—

(i) 1 opportunity on the East Coast;

(ii) 1 opportunity on the West Coast;

and

(iii) 1 opportunity in the middle region of the United States.