

SENATE . . . . . No. 1949

The Commonwealth of Massachusetts

PRESENTED BY:

*Viriato M. deMacedo*

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act protecting the taxpayers of the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Viriato M. deMacedo</i>	<i>Plymouth and Barnstable</i>	
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>1/29/2019</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>1/29/2019</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>	<i>1/30/2019</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	<i>1/31/2019</i>
<i>Donald F. Humason, Jr.</i>	<i>Second Hampden and Hampshire</i>	<i>1/31/2019</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>2/1/2019</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>2/1/2019</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>2/1/2019</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>	<i>2/1/2019</i>
<i>Carlos Gonzalez</i>	<i>10th Hampden</i>	<i>2/1/2019</i>

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By Mr. deMacedo, a petition (accompanied by bill, Senate, No. 1949) of Viriato M. deMacedo, Mike Connolly, Jack Patrick Lewis, Mathew J. Muratore and other members of the General Court for legislation to protect the taxpayers of the Commonwealth. Telecommunications, Utilities and Energy.

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-First General Court  
(2019-2020)**  
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An Act protecting the taxpayers of the Commonwealth.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to protect the taxpayers of the Commonwealth from financial responsibility for nuclear power plant decommissioning, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public peace, safety and convenience.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Chapter 23A of the General Laws as appearing in the 2016 Official Edition,  
2 is hereby amended by inserting the following new section:-

3           Section 68. Liability for nuclear power plant corporations

4           (a) Definitions. For the purposes of this section the following words shall have the  
5 following meaning: “Affiliate”, shall mean any business which directly or indirectly controls or  
6 is controlled by or is under direct or indirect common control of another business, including, but  
7 without limitation, any business with whom a business is merged, consolidated, de facto merged,

8 merely continues the business of a prior business, maintains continuity of enterprise with a prior  
9 business, or which purchases all or substantially all of the assets of a business.

10 “Decommissioning”, shall mean closing and decontaminating a nuclear power station and  
11 nuclear power site, including dismantling the facility, removing all coolant and nuclear waste  
12 from the site, removing all nuclear fuel from the spent fuel pool and placing it in long term dry  
13 cask storage, releasing the site for unrestricted use, terminating the license, and receiving  
14 certification from the Department of Public Health that the site meets all state regulations  
15 regarding radiological release. Safstor is not decommissioning for the purposes of this section.

16 (b) It is hereby declared that lands exist in the municipalities of the commonwealth zoned  
17 for nuclear power generation that have not yet been completely decommissioned and released for  
18 unrestricted use; that each such area constitutes a serious problem, injurious and inimical to the  
19 safety, health, and welfare of the residents of the municipalities within which those lands lie; that  
20 each such area constitutes an economic liability, substantially impairs or arrests the sound growth  
21 of these municipalities, and inhibits the economic well-being of the commonwealth; that the  
22 continued existence of said lands decreases the value of private investments and threatens  
23 sources of public revenue; that redevelopment of each such area in accordance with an economic  
24 development plan for the benefit of these municipalities is necessary to retain existing industries,  
25 and attract new industries, and promote the sound economic growth of said municipalities; that  
26 the prompt decommissioning and release for unrestricted use of these parcels will be of tangible  
27 economic benefit; and for this reason, that the prompt decommissioning and release for  
28 unrestricted use of these parcels may be regulated by wholesome and reasonable orders, laws and  
29 directions for the good and welfare of the municipality and of this commonwealth.

30 (c) A sale, lease, exchange, or other disposition of assets of any corporation, its  
31 successor, or its affiliate, which holds lands currently or previously subject to license by the  
32 United States Nuclear Regulatory Commission, requires approval of the corporation's  
33 shareholders if the disposition would leave the corporation without a significant continuing  
34 business activity. If said corporation retains a business activity that represented at least 25  
35 percent of total assets at the end of the most recently completed fiscal year, and 25 percent of  
36 either income from continuing operations before taxes or revenues from continuing operations  
37 that fiscal year said corporation will be deemed to have retained a significant continuing business  
38 activity.

39 (d) When a disposition of assets becomes effective such that a corporation or its affiliate,  
40 which holds lands currently or previously subject to license by the United States Nuclear  
41 Regulatory Commission, is not deemed to have retained a significant continuing business  
42 activity as described in subsection (c), all liabilities of said corporation making the disposition of  
43 assets are vested in the acquiring corporation or its affiliate without reversion or impairment.

44 (e) When a disposition of assets to shareholders of a corporation or its affiliate, which  
45 holds lands currently or previously subject to license by the United States Nuclear Regulatory  
46 Commission, becomes effective such that said corporation or its affiliate is not deemed to have  
47 retained a significant continuing business activity as described in subsection (c), all liabilities of  
48 the corporation making the disposition of assets are vested in the shareholders of the corporation  
49 or its affiliate without reversion or impairment.

50 SECTION 2. Section 5K of Chapter 111 of the General Laws as so appearing is hereby  
51 amended by inserting the following subsections:-

52 (I) Upon the United States Nuclear Regulatory Commission's termination of the  
53 operating license for any nuclear generator located in the commonwealth no portion of the lands  
54 previously subject to said license shall be sold, transferred, leased, or considered fit for  
55 unrestricted lease until: (i) The level of residual radioactivity throughout the released portion of  
56 the site is as low as reasonably achievable as defined in 10 CFR 20.1003 and in any event is less  
57 than 10 millirem per year for all pathways and that the exposure for all drinking water pathways  
58 is less than 4 millirem per year; (ii) The department has certified that the party liable for lands  
59 previously so licensed has met the obligations outline in paragraph (i) of this subsection.

60 (J) Upon the United States Nuclear Regulatory Commission's termination of the  
61 operating license for any nuclear generator located in the Commonwealth, the department is  
62 hereby authorized to make an assessment against any corporation, its successor, or its affiliate as  
63 defined in MGL C.23A§60(a), which holds lands previously subject to license by the United  
64 States Nuclear Regulatory Commission in an amount equal to the costs incurred in the prior  
65 fiscal year by the department's radiation control program in the performance of its duties under  
66 subsection (I) of this section. The department is hereby further authorized to make a collection,  
67 based on that assessment, of monies from said corporations to defray the cost of such activities.  
68 The department shall send notice of its assessment to the corporation, its successor, or its affiliate  
69 as defined in MGL C.23A§60(a) against which the assessment is made, and said corporation, its  
70 successor, or its affiliate as defined in MGL C.23A§60(a) shall pay such assessment within 30  
71 days of the notice of the assessment. If a company subject to assessment under this section fails  
72 to pay the assessment within 30 days of the notice of the assessment, the department may refer  
73 such matter to the department of revenue for the collection of the assessment in accordance with

74 applicable enforcement provisions pursuant to chapter 62C. The amount so collected shall be  
75 deposited into the General Fund and credited to the department.

76 (K) Upon the United States Nuclear Regulatory Commission's termination of the  
77 operating license for any nuclear generator located in the Commonwealth, in the event the lands  
78 previously subject to that license to not meet the criteria established in subsection (I) of this  
79 section, the department is hereby authorized to make an assessment against any corporation, its  
80 successor, or its affiliate as defined in MGL C.23A§60(a), which holds lands previously subject  
81 to license by the United States Nuclear Regulatory Commission in an amount equal to the  
82 estimated cost of remediation of the subject lands to said standard. The department is hereby  
83 further authorized to make a collection, based on that assessment, of monies from said  
84 corporations to be held in trust against performance of the required site remediation. The  
85 department shall send notice of its assessment to the corporation, its successor, or its affiliate as  
86 defined in MGL C.23A§60(a) against which the assessment is made, and said corporation, its  
87 successor, or its affiliate as defined in MGL C.23A§60(a) shall pay such assessment within 30  
88 days of the notice of the assessment. If a company subject to assessment under this section fails  
89 to pay the assessment within 30 days of the notice of the assessment, the department may refer  
90 such matter to the department of revenue for the collection of the assessment in accordance with  
91 applicable enforcement provisions pursuant to chapter 62C. The amount so collected shall be  
92 held in trust against the remediation of said lands.

93 (L) Nothing in this section shall be construed to touch upon spent nuclear fuel held in  
94 long term dry cask storage and subject to continuing licensure by the United States Nuclear  
95 Regulatory Commission.