NOT VOTING—15

Cubin	Hyde	Stokes
Franks (NJ)	Kelly	Torres
Gonzalez	McIntosh	Weldon (FL)
Hinojosa	Payne	Wise
Houghton	Schiff	Yates

□ 1646

Messrs. DOGGETT, MEEHAN, SCHUMER, and MILLER of California changed their vote from ''yea'' to ''nay.''

Messrs. BROWN of Ohio and FLAKE changed their vote from ''nay'' to ''yea.''

So the House agreed to consider H.R. 1270.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table

MODIFICATION OF AMENDMENT TO H.R. 1270, NUCLEAR WASTE POLICY ACT OF 1997

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I ask unanimous consent that during consideration of H.R. 1270, pursuant to House Resolution 283, it may be in order to consider the amendment numbered 1 in House Report 105–354 in the modified form that I have placed on the desk.

The SPEAKER pro tempore (Mr. CAMP). The Clerk will report the modification.

The Clerk read as follows:

Amendment No. 1, as modified, offered by Mr. DAN SCHAEFER of Colorado:

Page 19, line 2, insert before the period the following: , using routes that minimize, to the maximum practicable extent and consistent with Federal requirements governing transportation of hazardous materials, transportation of spent nuclear fuel and high-level radioactive waste through populated areas

Page 19, beginning in line 3, strike ''In conjunction with'' and insert the following:

''(1) IN GENERAL.—In conjunction with'' and add after line 16 on page 19 the following:

''(2) RAIL ROUTES.—Not later than one year after the date of the enactment of this Act, the Secretary of Transportation shall establish procedures for the selection of preferred rail routes for the transportation of spent nuclear fuel and high-level radioactive waste to the interim storage site and the repository site. Such procedures shall be established in consultation with the designated emergency services planning management official for any State or Indian tribe affected by the rail routes selected.

Page 20, line 20, insert after ''organizations'' the following: '', voluntary emergency response organizations,''.

Page 24, line 16, strike ''regulations promulgated by the Commission'' and insert ''existing Federal regulations''.

Page 25, beginning on line 1, strike ''The'' and all that follows through ''paragraph (1)'' on line 3 and insert ''If training standards are required to be promulgated under paragraph (1), such standards''.

Page 25, line 5, strike ''include the following provisions—'' and insert ''provide for—''.

Page 25, after line 19, insert the following: ''The Secretary of Transportation may specify an appropriate combination of knowledge, skills, and prior training to fulfill the minimum number of hours requirements of subparagraphs (A) and (B).''.

Page 43, strike lines 17 and all that follows through line 13 on page 44, and insert the following:

''SEC. 207. APPLICABILITY.

''Nothing in this Act shall affect the applicatino of chapter 51 of title 49, United States Code; part A of subtitle V of title 49, United States Code; part B of subtitle VI of title 49, United States Code; and title 23, United States Code.''.

Page 81, after line 13, insert the following:

''SEC. 510. SEPARABILITY.

''If any provision of this Act, or the application of such provision to any person or circumstance, is held to be invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.''.

In the table of contents—

(1) in the item relating to section 207 amend the heading to read as follows: ''Applicability''; and

(2) add at the end of title V the following:

''Sec. 510. Separability.

Page 21, line 6, redesignate subparagraph (B) as subparagraph (C) and insert after line 5 the following:

''(B) EMERGENCY RESPONDER TRAINING STANDARDS.—The training standards for persons responsible for responding to emergency situations occurring during the removal and transportation of spent nuclear and high level radioactive waste shall, in accordance with existing regulations, ensure their ability to protect nearby persons, property, or the environment from the effects of accidents involving spent nuclear fuel and high-level radioactive waste.

Mr. DAN SCHAEFER of Colorado (during the reading). Mr. Chairman, I ask unanimous consent that the amendment, as modified, be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The SPEAKER pro tempore. Without objection, the modification is agreed to.

There was no objection.

THE NUCLEAR WASTE POLICY ACT OF 1997

The SPEAKER pro tempore. Pursuant to House Resolution 283 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1270.

□ 1648

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1270) to amend the Nuclear Waste Policy Act of 1982, with Mr. MCINNIS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Virginia [Mr. BLILEY] and the gentleman from Texas [Mr. HALL] each will control 30 minutes. The gentleman from Alaska [Mr. YOUNG] and the gentleman from Massachusetts [Mr. MARKEY] each will control 10 minutes.

The Chair understands that the gentleman from Colorado, [Mr. DAN SCHAEFER] will be recognized for the time of the gentleman from Virginia, [Mr. BLILEY], and the Chair recognizes the gentleman from Colorado, [Mr. DAN SCHAEFER].

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield myself such time as I may consume.

(Mr. DAN SCHAEFER of Colorado asked and was given permission to revise and extend his remarks.)

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, today the House of Representatives is considering H.R. 1270, legislation to repeal the Nuclear Waste Policy Act of 1982 and replace it with the Nuclear Waste Policy Act of 1997. Mr. Chairman, H.R. 1270 was approved by the Committee on Commerce by a wide margin of 43 to 3, enjoys broad bipartisan support, and was carefully crafted over a 2½-year period.

H.R. 1270 achieves the following four principal goals: number one, the acceptance of nuclear waste at an interim storage facility in the year 2002; number two, it continues progress toward permanent disposal of nuclear waste at a geological repository; number three, it improves safety by consolidating storage of nuclear waste; and, four, it enhances consumer protection by ending the diversion of consumers' fees for other Federal programs.

Mr. Chairman, last year the U.S. Court of Appeals for the District of Columbia Circuit held in the Indiana Michigan Power Company that DOE has a legal obligation to begin acceptance of nuclear waste in January of 1998. It is impossible for DOE to fulfill its legal duty to begin acceptance in 1998, and under current programs that the DOE has, it will not be able to begin acceptance until the year 2010.

H.R. 1270 enables DOE to fulfill its legal obligation to begin acceptance at an interim storage facility in 2002, an earlier date that permits time for the NRC for licensing of this particular facility.

The overriding goal of the nuclear waste program since 1983 has been providing for permanent disposal of nuclear waste in a geological repository. That goal is strengthened by H.R. 1270. Congress has always sought to avoid a competition for funding between an interim storage facility and a repository. H.R. 1270 avoids such competition by providing ample funds to pursue both programs. According to DOE, the funding provisions of H.R. 1270 provide sufficient funds to provide for interim storage while maintaining the progress towards development of a permanent repository.

H.R. 1270 has protections designed to assure the interim storage facility cannot become a de facto permanent facility. There are statutory limits to the nuclear waste that can be stored in the interim facility, 40,000 metric tons, a small portion of the nuclear waste that will be generated, which is 115,000 metric tons.

The commitment to the repository in H.R. 1270 is reflected in the funding

mechanism of the bill. H.R. 1270 provides for a fee that must average 1 mill, one-tenth of a cent, between 1999 and the year 2010, but can fluctuate to match program needs. Without this flexibility in the fee mechanism, funding for the repository may not be assured.

Maintaining the commitment to the repository is critical to the States that have significant amounts of defense nuclear waste at DOE nuclear facilities: Washington State, Idaho, South Carolina. Most of these defense wastes cannot be accommodated at an interim storage facility. They will have to be deposited in a repository of this nature. Continued progress on a repository is crucial for these particular States.

During the hearings held by the Subcommittee on Energy and Power of the Committee on Commerce on nuclear waste legislation, the Nuclear Regulatory Commission testified that on-site storage of nuclear waste is safe, but centralized storage of nuclear waste offers even higher safety margins than what we have today.

Right now, nuclear waste is spread all over the country in scores of sites in 35 States. Consolidating nuclear waste at one site will improve safety and provide for the enhanced protection and the public health and the public safety.

Since enactment of the Nuclear Waste Policy Act of 1982, consumers have contributed $13 billion, $13 billion, Mr. Chairman, towards the nuclear waste program. Only a portion of these sums, $6 billion, has been spent on the program itself. The rest has been effectively diverted to other Federal programs. This diversion has gotten so bad in recent years that only 15 cents, 15 cents of every dollar paid by consumers, has been spent on the nuclear waste program.

We need to protect the consumers and stop the diversion of nuclear waste fees to fund other Federal programs. H.R. 1270 protects the consumers in two ways: changing the fee to an annually adjusted fee that matches the appropriations level, and thereby eliminating the diversion of funds to other programs; and capping the fee at 1 mill, one-tenth of a cent per kilowatt hour. Under H.R. 1270, every penny of the fees paid by the consumers in the future will be spent on this particular program.

H.R. 1270 is consistent with the budget laws and does not violate pay-go requirements. It was not a simple matter to resolve the budgetary concerns related to the bill reported by the Committee on Commerce in 1995. The committee went through a great deal of effort to resolve budgetary concerns for one reason, a conviction that the diversion of fees paid by the consumers must be halted. The current fee is considered a mandatory receipt, and deleting this fee was deemed to reduce those receipts. The fee in H.R. 1270, since it is annually adjusted to match appropriation levels, is considered a discretionary fee.

The committee developed an offset for the loss of the mandatory receipts resulting from the switch from the flat mill fee established by the 1982 Act to the annually adjusted fee in H.R. 1270. The offset the committee adopted was requiring the payment of one-time fees owed by 13 utilities by the end of fiscal year 2002. These fees were required to be paid by the 1982 Act upon acceptance of nuclear spent fuel generated by these individual utilities. Requiring the payment of outstanding one-time fees in fiscal year 2002 was necessary to assure that H.R. 1270 does not violate budgetary pay-go limitations. That was the only reason the committee adopted this provision.

Opponents of H.R. 1270 have argued that the bill imposes tremendous burdens on taxpayers. Nothing could be further from the truth. The nuclear waste program has always been funded by consumers through fees on electric generation by nuclear power plants. Consumers will continue to fund the program through fees provided by H.R. 1270. The only cost, the only cost under H.R. 1270, is the cost of disposing of the defense waste. It is wholly appropriate that taxpayers fund this cost, since the benefits of our defense activities accrue to all taxpayers, not to just the consumers of utilities with nuclear power plants.

□ 1700

I understand the opponents of H.R. 1270 also assert that this bill preempts State and local transportation and safety requirements. That assertion also is completely false.

State and local governments are preempted from establishing inconsistent transportation safety requirements by existing Federal transportation laws, not in H.R. 1270.

Mr. Chairman, I would urge my colleagues to certainly support H.R. 1270.

Mr. Chairman, I reserve the balance of my time.

Mr. HALL of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today as cosponsor of H.R. 1270, the Nuclear Waste Act of 1997, a bipartisan bill that represents a lot of hard work on the part of members of the Committee on Commerce and the Subcommittee on Energy and Power to find what the gentleman from Colorado, Mr. DAN SCHAEFER, has deemed ''a temporary solution to a critical and immediate problem,'' and that is the storage of our nation's spent nuclear fuel.

Mr. Chairman, I think it is certainly necessary. For one reason it is outrageous that the Department of Energy has failed in its quest, failed in the direction that this Congress has given them. This legislation is necessary because of that failure to find a permanent repository by the year 1998.

So far DOE has fallen behind on its responsibility in that it predicts a disposal facility will not be operational until the fiscal year 2010, which is absolutely unacceptable. That is at the earliest, they say. In the meantime, ratepayers have paid in billions of dollars to the Nuclear Waste Fund, with only about 15 cents on the dollar actually used for radioactive waste disposal programs.

This is unacceptable and, frankly, it is unconscionable. If my colleagues would just be logical about it, for a lot of years nuclear power has been a source of electricity supply across our country and we have known for many years that we have to find a long-term solution to the storage of nuclear waste that is the by-product of that industry. If they are going to use it, it has got to be stored. That is as logical as it can be.

DOE had a commitment to construct a permanent repository by 1998, but they have not lived up to that commitment, and that is why we are here today. The lack of a storage facility is placing very unrealistic demands on our Nation's nuclear power plants. Failure to act now could lead to the premature closing of some of our nuclear power plants and force additional costs upon them for on-site storage.

It is talk about nuclear as in energy, and there are some here who are just opposed to nuclear energy, period. The gentleman from Ohio is honest about that, and that is part of his speech and time that he will be using. But we see people out by nuclear plants that have signs that say ''No Nukes.'' I go to schools and I say, ''Children, how many of you are for nuclear energy?'' And they all hold up their hands that they are opposed to it. But when they hear the hard cold facts that we sent Japan searching for energy, in World War II looking for energy, and that there is no question that President Bush sent 400,000 of our kids over to that desert looking for energy, and when we point out to schoolchildren that, yes, energy or lack of energy causes wars and explain that to them, then we tell them if we solve the energy problem, which this is a thrust in that direction, that those signs that they hold up saying ''No Nukes'' can say ''No Wars.'' Then when asked the question again, the hands do not go up because it is properly explained to them.

I think during the year, DOE has made some progress on the excavation of the main tunnel at the Yucca Mountain facility, but we have got to encourage them to accelerate construction of the permanent facility. In the meantime we cannot afford to do nothing. We cannot afford to wait another 12 years. It is important that we act now.

This Congress just voted a few moments ago overwhelmingly not to let any amendment sent up, frivolous or otherwise, or sincere amendment or whatever, block the progress of this bill.

Mr. Chairman, I thank my colleagues, the gentleman from Virginia,

Mr. BLILEY, and the gentleman from Michigan, Mr. DINGELL, ranking member, the gentleman from Colorado, Mr. DAN SCHAEFER, the gentleman from Michigan, Mr. UPTON, all of the other members for their hard work, even some of those who were opposed to the bill who have sent up good suggestions, some of them that we have taken and all of them that we considered.

But this thing started back in 1982. There was no Nuclear Policy Act. It said simply: ''Ratepayers, you give us the money and we will pick up your spent fuel.'' And we did that. They have given us $13 billion. We have only spent $6 billion. In 1987, Yucca Mountain was designated as the only place for the DOE to study for permanent repository and a vote in the House and Senate took place.

I think in the appropriations bill in 1987, it may have been on December 21, 1987, the vote was for the fiscal 1998 budget reconciliation conference report, H.R. 3545. That vote then was 237 to 181. And it is unfortunate that no one wants this area. It is not politically selected by anyone.

Mr. Chairman, I am sorry for the gentleman from Nevada [Mr. ENSIGN]. The gentleman is doing what he ought to do. The gentleman is representing his district, representing his State. But this was considered at one time to be in Deaf Smith County, Texas. Had it been selected, I would understand that we would have to have an act, but I would probably be in the same position that these two gentleman are in who represent the State of Nevada.

But the hard cold fact is that the Nevada test site has been dedicated to nuclear uses for over 50 years. We have had 975 nuclear explosions there in the desert. They have studied Deaf Smith County; they turned that back. Since then, we have studied Yucca Mountain for $6 billion dollars worth and still the repository will not be ready until 2010 or 2015. I say start it in 1998. That is what this bill says. ''Light up or light out.''

Mr. Chairman, I reserve the balance of my time

Mr. MARKEY. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, as George Gershwin might say, ''It's very clear, plutonium is here to stay. Not for a year, but forever and a day. The Rockies may crumble, Yucca may tumble, they're only made of clay. But plutonium is here to stay.''

That is the problem, Mr. Chairman. It is here to stay; 10,000 years, 20,000 years. Nobody knows how long. This bill presumes that it is very safe. ''Do not worry about it: We are picking Nevada,'' says the Congress. ''We do not have any geologic or scientific evidence that supports our decision, but we have decided that we are getting it off of all the sites that it has been generated at and we are moving it to Nevada.''

Mr. Chairman, in this legislation, we are going to suspend a lot of protections which we give to Americans. We are going to decide here today that each American could be exposed to 100 millirems of radiation. Now, in Sweden the standard is 10. In Switzerland it is 10. In Canada it is 1. Even at the New Mexico waste isolation pilot project, it is 15 millirems. But here, we are going to say that for every 286 persons exposed, that one of them will contract a cancer. We are going to decide that today. We are going to establish a level that does not allow the EPA to set these standards. We will decide them. That is what this bill says, and that is wrong.

What else does the bill do? It says that it will be transported through 40 States of the Union in trucks and railroad cars, totally indemnifying the trucking and railroad firms from any liability, even if they are engaged in willful misconduct, gross negligence. They are not liable.

Now what disincentive as a result exists for these contractors to ensure that they have not hired drivers who drink excessively in the evening, take antidepressants and then jump behind the wheel and drive 100 miles an hour through tunnels in highly populated population areas in our country? None. This bill allows that to happen. They are not liable.

And who pays if there is an accident? Believe it or not, it is the ratepayers who will pick up the tab, the very people who may have been victimized by an accident created in their neighborhoods.

And fourth, we have the Holy Roman Empire provision on NEPA. They used to say that the Holy Roman Empire was an oxymoron. It was not really holy, Roman, or an empire. Well, that is what we have got here with the Environmental Impact Statement that is built into this bill. It really does not evaluate the environment, it does not measure the impact it is going to have on a community, and it is not much of a statement. But at least we have got the words in there.

Then we have the ''interim storage'' oxymoron. We have put a cap on how much money we are going to raise from now on from nuclear utilities for permanent and interim storage. We are going to spend most of it on the interim storage. We are going to build something that is above ground and interim, and we are going to pretend that we are going to come back and still have a permanent waste repository built in this country.

A vote for this bill is a vote to kill a permanent repository in the United States permanently. This is an interim storage bill to just get it off the books from the utility executives of today, and forget about any permanent solution.

Mr. Chairman, I hope that the Members who are listening to this debate vote for the amendments to protect the American public.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 5½ minutes to the gentleman from Louisiana [Mr. COOKSEY].

Mr. COOKSEY. Mr. Chairman, I would like to engage the gentleman from Colorado, Mr. DAN SCHAEFER, in a colloquy.

Mr. Chairman, the ratepayers of Louisiana have paid more than $134 million into the Nuclear Waste Fund only to see that money used for purposes other than those specified by the law which mandated the collections. For that reason, I would like to engage in a colloquy with the distinguished floor manager to propound a few questions on the bill before us, which I have cosponsored.

As I understand the situation, one of the foremost improvements of the bill over current law are provisions which would ensure that monies collected from ratepayers will be used for the purposes for which they were intended under the Nuclear Waste Policy Act rather than being captured and used for other purposes because of discretionary spending limits imposed after the Nuclear Waste Policy Act was enacted.

Mr. Chairman, I ask the gentleman, is this a fair representation?

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, will the gentleman yield?

Mr. COOKSEY. I yield to the gentleman from Colorado.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, the gentleman is certainly correct. As is more fully explained in the committee's report, the basic inequity arises from the fact that the current 1 mill fee assessed against nuclear generated electricity is treated as a mandatory receipt to the Federal Government, and all programmatic expenses are treated as discretionary spending.

Now, as a result, spending for the waste program from the Nuclear Waste Fund is thus counted against various discretionary spending caps enacted after 1982 as a means of controlling overall Federal spending. As a result, while nearly $12 billion has been generated in fees and interest, only a little over $4.8 billion has been spent on the program.

Mr. COOKSEY. Mr. Chairman, reclaiming my time, I further understand that any effort, other than the one proposed in the bill, to create a situation where revenues and expenditures stand on the same side of the ledger, allowing annual revenues to offset annual outlays, would result in a technical violation of the scoring rules of the Congressional Budget Office and the Committee on the Budget.

The committee, therefore, had to find an accounting offset and the source of funds chosen for the offset was the one-time user fees owed by certain utilities under contracts entered into with the Department of Energy after enactment of the original 1982 statute. Is this an accurate presentation?

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, if the gentleman would

continue to yield, I would say to the gentleman, that is accurate. For example, under the solution to this problem chosen by the committee in the last Congress, the termination of the current mandatory 1 mill fee and the institution in its stead of a discretionary user fee, we were informed that we had violated the budget rules because the Treasury would no longer be receiving these revenues on the mandatory receipts side of the budget, even though the Treasury would be receiving user fee revenues on the discretionary side of the budget as an offset for appropriations to fund the waste program.

Further, as the committee report indicates, 13 utilities availed themselves on the contractual option offered by the Department of Energy to pay fees assessed against spent nuclear fuel they generated prior to the effective date of the 1982 act.

□ 1715

By requiring these fees to be paid prior to the expiration of fiscal year 2002, the committee was able to generate a $2.7 billion revenue offset which, as the committee report indicates, was necessary in order to assure that the legislation does not violate the budgetary pay-as-you-go limitations.

Our understanding was confirmed in the letter of September 25, 1997, by CBO Director O'Neill to the gentleman from Virginia [Mr. BLILEY] as well as the September 18, 1997, letter from the gentleman from Ohio [Mr. KASICH], chairman of the Committee on the Budget, to the gentleman from Virginia [Mr. BLILEY].

Mr. COOKSEY. Is it true, Mr. Chairman, that such one-time fee payments will be credited to the balance of the Nuclear Waste Fund and that the program will largely rely on annual user fees to fund both continuing progress on the repository at Yucca Mountain and the interim self-storage facility mandated by the bill?

Mr. DAN SCHAEFER of Colorado. My colleague again is correct, Mr. Chairman. As the committee report states, it appears that the annual user fee that averages one mill per kilowatt hour will be sufficient to continue development of the repository and acceptance of spent nuclear fuel and high level radioactive waste at the interim storage facility. Information supplied to the committee by DOE indicates that in order to achieve these goals, a fee of one mill per kilowatt hour will be sufficient to maintain progress on the repository and develop an interim storage facility.

Mr. COOKSEY. Mr. Chairman, is it not the case that contracts entered into between utilities and the Department of Energy prior to the effective date of this act will continue in force unless both parties agree to a modification?

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, that is correct. Section 2 of H.R. 1270 provides that such contracts shall continue in effect under this act in accordance with their terms except to the extent that the contracts may have been modified by the parties to that contract.

Mr. COOKSEY. Mr. Chairman, I thank the gentleman.

Mr. HALL of Texas. Mr. Chairman, I yield 3 minutes and 30 seconds to the gentleman from Michigan [Mr. DINGELL], former long-time chairman of the Committee on Energy and Commerce and present ranking member of the Committee on Commerce.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Chairman, there is a funny thing about nuclear waste and other kinds of waste, too. Everybody wants somebody to pick it up and they never want them to put it down anywhere.

We have a massive problem in this Nation. How are we going to resolve the problem we have with regard to high level and low level nuclear waste? The answer is, we have got to begin somewhere.

The bill before us is a good bill. Every Member of Congress who has dealt with or thought about this issue has been frustrated about the fact that we have not dealt with the problem. Money collected for the purpose of dealing with the question of storage has been dissipated by the budgeteers and by the Committee on Appropriations. This bill addresses that problem. It solves it.

The bill goes further. The bill addresses the problem of where we are going to set up an interim storage place. That is important. I will assure my colleagues that it is interim because, in the process of considering this legislation, we have seen to it that there is not enough money for them to store enough of this waste that it can become a permanent storage facility. I am aware of the concerns of my colleagues on that matter because they are important.

The bill does not impose any new protections on the carriers or the transporters of nuclear waste that have not been a part of the protection of every nuclear contractor since the beginning of the program for nuclear power in this country, same as under Price-Anderson.

I assure my colleagues that the Department of Transportation and the Department of Energy will see to it that this is moved safely. If Members look at the casks and the carriers and the rules, they will find that they afford an abundance of protections. I would think that probably the worst thing that would happen, if we have some kind of an accident involving one of these vehicles, we would find that they had cracked the pavement because that is how strongly constructed the carriage devices and how strongly constructed the containers are.

We have to resolve the problem. The bill provides reasonable environmental protections for everybody who is concerned, the best that could be crafted. But it resolves an issue which is a matter of great concern to the Nation.

I am troubled that my friends from Nevada are not pleased with this legislation. The hard fact of the matter is, the studies that have gone on so far have come up with about the best place. That is an area of which we have had not only extensive studies of geology and safety and terrain stability and water, but also an area in which there have been extensive use of nuclear explosives, I think unwisely, but nonetheless have done so. And the result will be that the best possible protection for everybody can be done and will be done under this legislation.

I want to commend my dear friend, the ranking minority member, the gentleman from Texas [Mr. HALL], the distinguished gentleman from New York [Mr. TOWNS], the chairman of the subcommittee, the gentleman from Colorado [Mr. DAN SCHAEFER], the gentleman from Idaho [Mr. CRAPO], the gentleman from Illinois [Mr. HASTERT], the gentleman from Michigan [Mr. UPTON] and, of course, the chairman of the full committee for the work which they have done to bring us to the point where we are today. This is a good bill. It is a step along a long and difficult route to resolve an important question which is troubling everybody and which is causing huge problems for the Nation.

I urge my colleagues to support the legislation.

Mr. Chairman, I have long been frustrated with the pace of DOE's efforts, and the lack of any meaningful progress, toward opening a permanent repository for nuclear waste. I have spoken previously about my keen disappointment that there appears to be no way to recover the billions—literally billions—of dollars in ratepayer contributions to the Nuclear Waste Fund which the Budget Committee has siphoned off and used for wholly unrelated purposes.

I regret to say that, despite our best efforts here today, this Congress is not in a position to remedy all of the problems afflicting DOE's waste program. Nor can we guarantee that the repository will open on a date certain.

However, the bill before us is a marked improvement over current law. It is a bipartisan bill that passed the committee by a vote of 43 to 3. At this time let me thank Chairman TOM BLILEY for his hard work on this important issue. I also want to congratulate my colleagues—Chairman SCHAEFER, Ranking Member HALL, and Congressmen TOWNS, CRAPO, HASTERT, and UPTON—for their contribution in working through some of the hard questions and introducing H.R. 1270. This bill incorporates the following important provisions:

First, and foremost, the bill reforms the funding basis for the waste program, and ensures that every dollar contributed by ratepayers will be spent on the nuclear waste program—and nothing else. By transforming utility payments for nuclear waste into a user fee, the substitute puts an end to the diversion of these funds and ensures they will be applied exclusively for their intended purpose—the Yucca Mountain project.

Second, the substitute authorizes an appropriate interim storage facility. This facility will open in 2002, and will accept waste at nearly twice the rate DOE projects under its acceptance schedule. This is the least we can do, given the tardiness of the current program.

At the same time, however, it is essential that interim storage not become a de facto substitute for the permanent repository. In recognition of this, the substitute limits the capacity of the interim storage facility to about half of what the repository will accept—so that a healthy constituency remains for completing work on a permanent disposal facility.

Third, we cannot escape the fact that building two facilities simultaneously costs more than building one. If we direct DOE to build interim storage at the same time it is building the repository, we also must ensure adequate funding for both facilities.

Therefore, the bill permits an increase in the annual 1 mill per kilowatt-hour fee during peak construction years. However, ratepayers will pay no more in the long run because any such increase must be offset by lower fees in other years—so that the average annual fee over the next 12 years is no more than 1 mill. In order to provide additional assurance to ratepayers, utilities, State regulators that annual use fees will not spike dramatically, the bill imposes a 1.5 mill annual cap.

In summary, this bipartisan bill will make a number of important changes in the nuclear waste program that will protect our consumers and our environment. I urge its passage.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 3 minutes to the gentleman from Idaho [Mr. CRAPO].

Mr. CRAPO. Mr. Chairman, I appreciate the opportunity to speak in support of this important piece of legislation, the Nuclear Waste Policy Act of 1997. This is a very important issue to Idaho because, as I think most people now understand, Idaho has been the recipient of a significant amount of the spent nuclear fuel in the country to be stored on a supposedly temporary basis, but the progress toward permanent storage needs to be resolved and the interim storage facility issue needs to be resolved.

Idaho currently has 260 metric tons of spent nuclear fuel and 10,000 cubic meters of high level nuclear waste, and we must proceed with resolving this issue to protect the geologic areas of Idaho that are now jeopardized by the permanent, apparently permanent storage of the waste in those locations.

The point I would like to make is that Idaho is not unique here. Perhaps it is Idaho that has had a significantly larger amount of the spent nuclear fuel shipped to it, even though it has not generated any. But this bill is very much proenvironment because it removes nuclear spent fuel and high level nuclear waste from over 100 sites to only one remote site.

My friend from Massachusetts said that, in his argument against this bill, that we will see spent nuclear fuel transported through 40 different States. I think a better way to point it out is that we will see spent nuclear fuel transported out of about 40 States and out of over 100 sites to only one remote site where the location has been designed to have the least amount of environmental impact.

With regard to that transportation issue, the regulatory regime for radioactive material transport has worked well in this country. As the gentleman from Michigan [Mr. DINGELL] just said, it will be transported safely.

Over the past 30 years there were 2,500 shipments of spent nuclear fuel in the United States. Since 1957, there have been 667 shipments of Navy spent fuel over 1 million miles. And in the last 22 years, the Department of Energy has transported nuclear weapons and special materials nearly 100 million miles, and all of that has been done without radioactive release.

There has been an attack saying that there will be insufficient environmental analysis. Again, the true facts are that H.R. 1270 requires an environmental impact statement before every major Federal action in the Nuclear Waste Program. It is true that it says that alternate sites are not to be evaluated, but that is because this Congress is designating the evaluating site. And those who would say that a full environmental impact analysis is not being made are simply mischaracterizing the terms and provisions of this legislation.

Mr. Chairman, this legislation is critical to this country. Last year, the U.S. Court of Appeals for the District of Columbia held, in an important case, that DOE had a legal obligation to begin accepting this material by January of 1998. That cannot be done unless this type of legislation is moved properly into place to provide for the interim storage of spent nuclear fuel. This is important, critical legislation to the country. I encourage its adoption by the House.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. KUCINICH].

Mr. HALL of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. KUCINICH].

The CHAIRMAN. The gentleman from Ohio [Mr. KUCINICH] is recognized for 4 minutes.

Mr. KUCINICH. Mr. Chairman, I would like to correct a few misconceptions that I have heard during this debate.

First of all, the American people were never asked to build nuclear powerplants. The industry made the decision to go ahead. There was never a vote on it by the American people. The industry decided to build nuclear powerplants.

When the nuclear power plants were built, there were no plans by the industry at that time to talk about how the waste would be dealt with.

There are myths about the disposal of nuclear waste. First of all, we cannot dispose of nuclear waste. It lasts for thousands and thousands of years, something the gentleman from Massachusetts [Mr. MARKEY] pointed out. I would like to add that we cannot move it either, because once it is on a site, that site is contaminated. We cannot transport it out of anywhere. Nuclear power sites essentially are scorched Earth. That land will never be used again for anything.

Right now there are nearly 109 nuclear dump sites in America. When the waste is moved to Yucca Mountain, there will be 110 contaminated sites, not 109 less. When it will be moved from Yucca Mountain, then there will be 111 contaminated sites.

Nuclear power promised power too cheap to meter. It delivered electricity too expensive to use. It promised safe electricity. Three Mile Island and Chernobyl put the lie to that.

The nuclear power industry has caused utility rates to go up across this country. In my State of Ohio in the northern part of our State, utility rates are twice as high as they are in the southern part of the State. Everyone in this country who has nuclear power as a source of energy knows why their electric bills are so high.

Now the ratepayers are being told that they will pay more under this bill. Utility rates will go up even higher, and why? To bail out an industry that has built plants that have been neither used nor useful. The nuclear power industry has been holding up utility deregulation until they can dump the responsibility for nuclear waste, re: that stranded investment, on to the residential ratepayers and the small businesses and the taxpayers. This bill is the first step.

□ 1730

The waste belongs to nuclear power plants. But by law, when this bill is passed, the Department of Energy takes title. And who is the Department of Energy? The taxpayers of the United States of America. It is then the waste belonging to the people, their responsibility. If there is an accident, the taxpayers will end up paying for it. The waste will last for thousands of years. The taxpayers will end up paying to monitor it. The taxpayers will end up having to pay to isolate it from the biosphere. The taxpayers. The taxpayers. The taxpayers will buy a nuclear pig-in-a-poke waste dump and be stuck with the bill for it forever.

There is no known technology which can safely isolate the waste from the biosphere. The transportation of waste through populated communities, 50 million Americans will live within a half mile of the nuclear transportation routes, ensures that there will be a significant hazard to major populated areas.

The safety issues have not been adequately met in this legislation. There were amendments that were never even able to get out of the Committee on Rules that would have protected major population areas. This bill will, I believe, begin the dawning of new civic activism in the United States from people who are fed up with a nuclear industry which has in some cases ruined our economy because of high electric rates, passed the bill on to the

ratepayers, and now wants to stick the American taxpayers with hundreds of billions of dollars of debt.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, may I inquire how much time we all have remaining?

The CHAIRMAN. The gentleman from Colorado, Mr. DAN SCHAEFER has 11½ minutes remaining; the gentleman from Texas, Mr. HALL has 18½ minutes remaining; the gentleman from Alaska, Mr. YOUNG has 10 minutes remaining; and the gentleman from Massachusetts, Mr. MARKEY has 4 minutes remaining.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, might I ask the gentleman from Texas [Mr. HALL] if he has some more speakers here?

Mr. HALL of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Chairman, 50 years ago in April 1947, a ship in the Texas City harbor bearing a cargo of now what stands before us all, after Oklahoma City, as an indelible memory of ammonium nitrate fertilizer was destined for war-torn Europe. That morning that ship caught fire a little after 9 a.m.

The Texas City disaster, as it has come to be known, happened as the ship exploded. Within moments, the Monsanto Chemical Plant that was nearby was in flames as entire buildings collapsed, trapping people inside. Fires quickly spread to the refineries that made up the Texas City industrial complex, with the force of a small nuclear weapon, setting off a tidal wave, causing a disaster that resulted in nearly 600 deaths in a town of about 16,000.

We have come a very long way in 50 years. Fortunately, we have learned from our mistakes. We understand the dangers of densely populated areas, and we have gotten very good at taking the right precautions and anticipating as many scenarios as possible.

But nothing is ever 100 percent foolproof, no matter how close we may come. If my colleagues believe that transporting the Nation's spent nuclear fuel to an interim storage facility makes sense, then they would have to agree, whether they agree with that principle or not, it should be done as safely as possible. If the unforeseeable or improbable does happen somehow, we all want the risks to human life or health to be as low as can possibly be.

In the committee I offered an amendment that would have added language directing the Secretary to choose routes for spent nuclear fuel and high-level radioactive waste to minimize transportation through populated areas. There may be cases where it is safer to use routes that are nearer to areas of population because of superior rail lines or highways. However, where track or road quality and other factors are otherwise equal, it is clear the Secretary should take into account proximity to human beings.

My intent is to enhance safety, not compromise it. I want to thank the chairman for working with me and my staff over the intervening weeks and for including my amendment as part of his own.

In the light of the progress in the work of the committee, I support this bill. I share the concerns of many, but I believe that the chairman and ranking members of the full committee and subcommittees have made an extraordinary good-faith effort to address the concerns of Members like me who care about safety in densely-populated urban areas, as I believe virtually all of us do. And I think that right now, with the clock running, this represents a sound path toward a more permanent solution.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. CUMMINGS].

Mr. CUMMINGS. Mr. Chairman, while I do not support this bill, I do believe that we must solve our nuclear waste problem. This bill is merely a temporary fix for a problem that has long-term implications. Our Nation is at a crossroads. We have benefited from nuclear technology. We are a Nation that has won wars and deterred others because of nuclear science. This technology is a cheap and efficient way to light our towns and cities. We have paid a price for this benefit.

Over the last 50 years, our Nation has generated tens of thousands of tons of highly radioactive nuclear materials and waste. I cannot stress the importance of finding a permanent and viable solution to the disposal of these wastes.

I have many fundamental problems with the bill before us that can be solved if the issue were given further consideration. This legislation allows for nuclear waste to be stored above ground in so-called interim storage facilities located in the State of Nevada. I am concerned that legal limitations to ensure that interim storage does not become permanent storage will be eroded.

The bill does not adequately address public health and safety protections relating to transportation, interim storage, and permanent disposal of nuclear waste. My constituents in Baltimore, as customers of the Baltimore Gas and Electric Company, pay into their nuclear waste fund, which is designed to cover costs of both interim storage and the permanent repository. I worry that places a continuous burden on utility customers around the country because this bill does not create a permanent repository.

I urge my colleagues to vote against this bill. We have much more work to do to ensure the protection of the public health, safety and environment.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. KNOLLENBERG].

Mr. KNOLLENBERG. Mr. Chairman, I thank the gentleman from Colorado [Mr. DAN SCHAEFER] for yielding me the time.

Mr. Chairman, I rise in support of H.R. 1270. I also want to salute the original drafter of this bill, the gentleman from Michigan [Mr. UPTON], for his work.

I want to talk a little bit about safety. I want to also talk about Halloween for a moment, because it seems Halloween is not until Friday but the gloom and doom stories have already begun. The myths about a ''mobile Chernobyl'' are about as credible as the legend of the headless horseman.

I know that transportation is a problem. Some Members have spoken about that. Safety is a problem, as well. I want to speak to both of those issues quickly.

Consider the record: 30 years of experience, 2,400 shipments of spent nuclear fuel, over 1.5 million miles logged in this country, does not include the 100 million miles that the gentleman from Idaho [Mr. CRAPO] talked about on the nuclear weapons side, and all of this movement with zero radioactive releases and no harm to the environment or American citizens. The casks are engineered safe. They are tested, they are demonstrated, and they are certified safe by the NRC, the Nuclear Regulatory Commission, for transportation.

I would like to focus on this chart. These are some of the tests that have taken place with respect to the casks. They include a 30-foot free-fall; a puncture test onto a steel rod, 6 inches, dropped from a height; a collision, get this, a collision with a speeding locomotive at 80 miles per hour; and fire at over 2,000 degrees Fahrenheit. I know the chart says 1475, but beyond that it has gone over 2,000. If that is not enough, these same casks were submerged underwater for 8 hours, all with no radiological releases. This technology is currently being used around the globe, so these casks are safe.

Opponents argue that H.R. 1270 infringes on State and local jurisdictions. We already heard a little bit about that. But, rather, H.R. 1270 requires advance notification to State and local governments before spent fuel crosses their jurisdiction and the defers to the States on designating the best routes. Transportation is safe.

I urge my colleagues to vote for this bill.

The CHAIRMAN. The gentleman from Colorado, [Mr. DAN SCHAEFER] has 9½ minutes remaining. The gentleman from Texas [Mr. HALL] has 14¾ minutes remaining. The gentleman from Nevada [Mr. ENSIGN], who has been the designee of the gentleman from Alaska, has 10 minutes remaining. And the gentleman from Massachusetts [Mr. MARKEY] has 20 minutes remaining.

Mr. ENSIGN. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, we have heard several things from the proponents of the bill. I just want to say first of all, on the issue of urgency, a 1989 MRS Commission review found no safety advantage to centralizing the storage of spent fuel, taking it from all of these sites to

one. In 1996, the Nuclear Waste Technical Review Board analyzed the issue of interim storage and concluded there is no urgent need, no urgent need, for centralized storage of commercial spent fuel. No need, no compelling necessity, no safety advantage to be achieved. That was 1996.

Now the Nuclear Waste Technical Review Board underwent a change in the composition of the chairmanship. So, in effect, there was an opportunity for a new board composed of new members to review whether or not they would agree with the position taken by the predecessors in 1996.

In testimony on February 5, 1997, Dr. Gerard L. Cohen, the chairman of the Nuclear Waste Technical Review Board, Dr. Cohen simply reaffirmed the position taken by his predecessors that there is no need, either for technical or safety reasons, to move spent fuel to a centralized storage facility for the next few years. He further maintains that to maintain credibility of the site selection process, any decision with respect to interim storage should be deferred until a technological site suitability decision can be made about Yucca Mountain.

Mr. Chairman, I reserve the balance of my time.

Mr. HALL of Texas. Mr. Chairman, I yield 3½ minutes to the gentleman from New York [Mr. TOWNS], an original cosponsor of this legislation.

Mr. TOWNS. Mr. Chairman, let us put the facts on the table. In 1982 Congress passed the Nuclear Waste Policy Act, which placed responsibility for the management of spent nuclear fuel, beginning in 1998 and for its ultimate disposal, with the Federal Government.

Since 1982 Congress has watched as successive Departments of Energy have attempted to move Federal nuclear waste programs forward, without any success, for a variety of reasons. Progress in this crucial problem has been painstakingly slow. How long must we wait?

Last year, this inaction resulted in a number of utilities suing the Department of Energy to fulfill their obligation to accept spent nuclear fuel beginning January 31, 1998. The U.S. Court of Appeals ruled in favor of the utilities on this issue. However, there is still no mechanism in place to establish an interim storage site that would enable the department to move forward with the acceptance of the waste.

The establishment of an integrated spent fuel management system, as established by our bill, H.R. 1270, will permit the Secretary to realize safety, efficiency and the economic benefit of a comprehensive design. In short Mr. Chairman, a centralized interim storage facility would mean high-level waste would be consolidated at one site instead of 40 different sites throughout this country.

Let me assure my colleague, the gentleman from Massachusetts [Mr. MARKEY], who painted a picture of trucks running 100 miles an hour through tunnels, let me assure him that they will be ticketed.

Now, some have argued that the utilities are merely crying wolf, that an interim facility is not needed because utilities can expand their own site storage. Well, let me stress here today that an interim facility is absolutely critical. The Nation's 107 nuclear plants face storage emergencies today. As we consider this legislation, 10 plants no longer have room in their original facilities. Next year, 27 will run out of space. And by 2010, 80 will lack any capacity to store waste at all.

Moreover, H.R. 1270 postpones construction of an interim storage facility until the year 2002.

□ 1745

This 4-year delay will give the Secretary of Energy an opportunity to submit a viability assessment of the Yucca Mountain repository to the President and this Congress. Since 1982, utilities have paid over $13 billion into a nuclear waste fund. Yet the Federal Government has not lived up to its responsibility to establish a Federal storage facility. We must stop shucking and jiving. Let us not delay any longer our responsibility to store the Nation's nuclear waste. I urge my colleagues to vote aye and stop the procrastination. The time to move is now.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. I thank the gentleman for yielding me this time. Mr. Chairman, I think it would be good for all of us to face up to the fact that today we are dealing with a solution of disposing of one of the wastes of an industrialized society.

In 1971, during the beginning of the Arab oil embargo, the Secretary of Agriculture asked me to be Director of Energy for USDA. Almost every morning at 6:30 a.m., we went over to the White House with Bill Simon and we talked about the problem. At that time we were importing about 50 percent of our energy needs. We came up with what we thought were wise ideas to deal with the problems. We started to subsidize the development of alternative fuels. We decided to start subsidizing such things as mass transportation to increase efficiency of energy in this country. And we started talking about the wisdom of expanding the production of nuclear energy. We also discussed what do we do with the waste generated by the production of energy by nuclear power. We talked about the possibility of burying it in the ocean. We actually talked about the possibility of putting it into outer space and keeping it in orbit.

But instead there seemed to be no good solution, and nothing was accomplished. Over the years nuclear waste has continued to be stored outside the generating facilities where it occurs. None of the ways that we generate energy is benign. They all have serious problems. Most of our energy is generated by coal (56 percent). If the administration has their way at the Kyoto Conference, what we are going to do is imply that we should expand the generation of nuclear energy in order to decrease coal generated power.

It is interesting to note that after our discussions in 1971 and 1972 of where to go on expanding nuclear energy production to be more self-sufficient in the United States, the following year, in 1973, a request by a utility company to build the last nuclear energy plant to be built was received. I would suggest that this country is never going to again develop another nuclear energy generating plant.

The government promised the people of this country in 1982 that government would take the responsibility to get rid of the existing generated nuclear waste. In return utilities using nuclear power, through their customers would pay additional ''taxes'' and send it to Washington. Over the years those ratepayers have paid in an additional $13 billion.

Now we are dealing with what the government promised to do. I compliment the gentleman from Michigan [Mr. UPTON] for bringing this legislation to us. We are moving ahead. Eventually we are going to find other sources of energy in this country. But until then we have got to be responsible to make sure Washington keeps their promise. We have got to be responsible to develop the best possible ways to deal with nuclear waste disposal. It is much more logical at this time to put this waste in a centralized location rather than spread it over 38 States.

Delays and cost overruns have created a national nuclear waste policy of stop-gap measures and ad hoc solutions instead of centralized, streamlined results. Today, highly radioactive waste sits scattered at over 80 different locations in 38 states.

FRED UPTON's bill will help establish an interim storage facility while work continues on the permanent solution—that way we can get nuclear waste away from vulnerable areas like the shores of Lake Michigan and the Chesapeake Bay.

Mr. HALL of Texas. Mr. Chairman, I yield 3 minutes to the gentlewoman from Colorado [Ms. DEGETTE], a valued member of the Committee on Commerce.

Ms. DEGETTE. Mr. Chairman, I would like to be clear. Many of us understand that we need a sensible policy for getting rid of nuclear waste that threatens many of our metropolitan areas. In my City of Denver, we are right downwind of some nuclear waste at Rocky Flats that will need to be disposed of. But we should not send this waste to uncertified sites and we should not send this waste along urban corridors that are going to be destructive for transportation purposes.

The National Waste Technical Review Board, a nonpartisan body created by Congress to evaluate the technical and scientific validity of the Department of Energy's program to manage

the permanent disposal of the Nation's civilian spent fuel and high-level radioactive waste issued its report to Congress in March. The Board believes that the viability assessment, which will be completed by September 30, 1998, will not provide adequate information for establishing Yucca Mountain as a repository site.

Mr. Chairman, the gallery is not in order and it is difficult for me to proceed.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair would remind the guests in the gallery, you are guests and we ask that you respect the rules of the gallery, and that is to keep silent during the proceedings.

The Chair apologizes to the gentlewoman. The gentlewoman may proceed.

Ms. DEGETTE. Thank you, Mr. Chairman.

Specifically, the board's report states that a decision to locate the Nation's primary centralized storage facility for spent fuel at or near Yucca Mountain should be deferred until the suitability of the site as a repository location has been determined.

The suitability of Yucca Mountain as a permanent site will not even be determined until the year 2001. Why then are we going to send this high-level nuclear waste from the East Coast, from around the country, across 40 States of this country, including places like the Mousetrap, which as Members can see through this map, runs right through the center of downtown Denver, and the location in which 8 years ago a torpedo fell off a truck completely shutting down the city for 8 hours? Why would we send this waste to an uncertified site only to have it be sent somewhere else? And why would we send it through corridors like downtown metropolitan areas where millions of citizens could be at risk?

It makes no sense. I do not understand where we are rushing to transport this nuclear waste until the site is certified. In addition, there is no national standard requiring emergency response training for communities along transportation routes so if there is an accident in the Mousetrap the local law enforcement officers know what to do. There is no requirement that these officials even be notified of the transport.

For all of these reasons, this is a premature bill, it is a bad response to a very real problem that we have in this country. I urge my colleagues to oppose passage of this bill until we find a permanent site for this nuclear waste and until we find a reasonable transportation solution.

Mr. ENSIGN. Mr. Chairman, I include for the RECORD this letter from the President of the United States indicating that he would veto H.R. 1270.

The text of the letter is as follows:

STATEMENT OF ADMINISTRATION POLICY

If H.R. 1270, as reported by the Commerce Committee, were presented in its current form, the President would veto the bill. H.R. 1270 would undermine the credibility of the Nation's nuclear waste disposal program by designating a specified site for an interim storage facility before the viability of that site as a permanent geological repository has been assessed.

The Administration is committed to resolving the complex and important issue of nuclear waste storage in a timely and sensible manner. The Federal government's long-standing commitment to permanent, geological disposal should remain the basic goal of high-level radioactive waste management policy. This Administration has instituted planning and management initiatives to accelerate progress on determining the suitability of Yucca Mountain, Nevada, as a permanent geologic disposal site.

H.R. 1270, however, would establish Nevada as the site of an interim nuclear waste storage facility before the viability assessment of Yucca Mountain as a permanent geologic repository is completed. Moreover, even if Yucca Mountain is determined not to be viable for a permanent repository, the bill would provide no plausible opportunity to designate a viable alternative as an interim storage site. Any potential siting decision concerning such a facility ultimately should be based on objective, science-based criteria and guided by the likelihood of the success of the Yucca Mountain site.

In addition, the Administration strongly objects to the bill's weakening of existing environmental standards by preempting all Federal, State, and local laws inconsistent with the environmental requirements of this bill and the Atomic Energy Act. This preemption would effectively replace the Environmental Protection Agency's authority to set acceptable radiation release standards with a statutory standard. In addition, the bill would undermine the purposes of the National Environmental Policy Act by, among other things, creating significant loopholes in the environmental assessment process.

Finally, the completion of a permanent geological repository is essential not only for commercial spent fuel disposal, but also for the cleanup of the Department of Energy's nuclear weapons complex and the disposal of its weapons-grade materials. In addition, these actions are necessary to further U.S. international nuclear nonproliferation objectives. H.R. 1270 would, in the near term, put interim storage activities in competition with actions needed to complete the permanent geologic repository. Consequently, the bill's enactment could delay the appropriate disposition of our surplus weapons-grade materials.

Mr. Chairman, I yield 3 minutes to the gentleman from Nevada [Mr. GIBBONS], who sits on the Committee on Resources, the major environmental committee, who voted this bill out unfavorably.

Mr. GIBBONS. Mr. Chairman, I want to thank the gentleman for yielding me this time, and I do want to address some of the myths that I have heard expressed here today about H.R. 1270. First of all, I want to address the issue of the ostrich policy, of sticking your head in the sand and hoping that nobody else sees the problem.

When I was a child, this reminds me of what my mother told me about 3 monkeys. Hear no evil, see no evil and speak no evil. It is odd that those people who are in support of this bill are exactly those ones who have nuclear waste in their backyard that want to get it out. They are the ones that have benefited from this issue. Now they want to get rid of it and they want to get rid of it by the most expedient method possible, getting it wherever it is into the State of Nevada.

Let me address the issue about the interim storage site versus the permanent storage site. They are not one and the same. They are miles apart. The interim storage site is a nuclear test site. Yes, indeed we did detonate some nuclear weapons there years ago. We regret we did that. We regret that the State of Nevada almost paid the whole price for the nuclear industry. But the permanent site is miles away. It is not even co-located. We are making two sites in Nevada, not one.

Second, we are not talking about some magic cosmic mode of transportation. We are not just picking this stuff up and then setting it down, as I heard someone say earlier. What we are doing is shipping this through communities, 43 States, hundreds of communities, numerous schools with children at play. Let me say when we look at this map here, this is where we are sending it through this country. These are the rail and highway systems through which we are bringing most of it from east of the Mississippi River, west to Nevada, right there.

Transportation is probably the biggest issue we have got here today. The likelihood of an accident is more than just a remote possibility. It is a reality. When we look at this accident, this is a train accident, a recent train accident. I hope people vote against this.

Let me talk about some of the standards that I have heard here today. We have dropped one of these casks from a standard height of 30 feet. Mr. Chairman, it is 450 feet off Hoover Dam to the bottom. That is a little more than 30 feet. This cask would not stand up to the drop of 450 feet into the bottom of the Colorado River at the base of this dam. I guarantee my colleagues that this cask would be in that water more than 8 hours. Fires with metal containing titanium or other metals burn at a temperature of in excess of 3,000 degrees. That is a little more than the fire that they have exposed these casks to. This is a kind of accident that could occur, that will occur if we allow this stuff, this nuclear waste, the most dangerous stuff known to man, to be transported across our community, through our States, next to schools. It is a danger to every American. We ought to oppose this bill. We ought to reject it outright, and we ought to change the policy from burial.

Mr. HALL of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. GORDON], a member of the committee.

Mr. GORDON. Mr. Chairman, I rise today in favor of H.R. 1270. Many Americans have a temporary nuclear storage site close to home. My own State of Tennessee has a legacy of high level nuclear waste that is stored on-site. The nuclear weapons that were

built in Oak Ridge helped this entire Nation win World War II and the Cold War. Now we have the opportunity through the Nuclear Waste Policy Act of 1997 to establish a central storage facility in an underpopulated area that would be easier, safer and more economical to monitor.

□ 1800

I understand the concerns of my colleagues who oppose this bill. I know that no one wants a nuclear storage site in their backyard, but there is no magic wand that will make this waste go away. It is here, we have no choice but to deal with it. We need a solution to this growing problem, and the repository at the Yucca Mountain offers the best opportunity.

The Southern Governor's Association took steps in this direction earlier this month by passing a resolution in favor of H.R. 1270. Additionally, we cannot ignore the fact that consumers have paid into the Nuclear Waste Fund to store this waste. TVA alone has expended over $20 million in additional funds because DOE has failed to take this waste.

We must assure the public of the safety of any repository. The nuclear industry has been storing fuel in 34 States for more than three decades. Though the industry is now safely managing used fuel, long-term on-site storage was never intended.

A central storage facility to keep much of this waste is necessary, and the Yucca Mountain fits the requirement for safe storage of spent nuclear fuel.

Mr. Chairman, H.R. 1270 meets the public's need for a safe alternative for temporary used fuel storage at one site until a permanent storage facility is completed. This is a long overdue solution to a difficult issue.

Mr. Chairman, I urge my colleagues to support this legislation.

The CHAIRMAN. The Chair would announce that the order of closing will be the gentleman from Massachusetts, Mr. MARKEY, first; the gentleman from Nevada, Mr. ENSIGN, second; the gentleman from Texas, Mr. HALL, third; and the gentleman from Colorado, Mr. DAN SCHAEFER, fourth.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Chairman, we are looking at an issue that certainly covers a lot of folks' interests, and certainly the people who oppose this piece of legislation certainly have a backyard interest of their own.

Mr. Chairman, 15 years ago, that is how long ago Congress originally passed the Nuclear Waste Policy Act. In 1992, Congress envisioned that the Department of Energy would be accepting spent fuel by 1998. That is less than two months away.

Fifteen years ago, Ronald Reagan was two years into his first term, Tip O'Neill was Chairman, typewriters, not computers were the norm, and the Soviet Union was still considered the evil empire.

But perhaps most telling was the fact that 1992 was still a full two years before the Chicago Cubs would make it to post-season play. If you are a Cubs fan, you will know how long that really was.

Mr. Chairman, unfortunately though, after billions of dollars and a decade and a half, we are only a few steps closer to opening a permanent repository than we were in 1982. This bill replaces the sluggish action that has plagued DOE's Nuclear Waste Program with specific achievable deadlines and ensures that another 15 years will not pass before the Federal Government lives up to its responsibility of accepting spent fuel.

Mr. Chairman, we have spent billions of dollars looking into this issue. We have assessed from ratepayers, not taxpayers, but ratepayers. Every time somebody pays their utility bill, we are reaching into their pocket and we have taken billions of their dollars. What has the Federal Government been able to deliver for that billions of dollars? Absolutely nothing.

The ratepayers, our constituents, Mr. Chairman, know that it is time for this Congress to take the bull by the horns and deliver the promise that it made in 1982.

Mr. Chairman, we need to pass this bill. We need to fulfill the promise to the American people that this country will have a safe and sound nuclear waste policy. We cannot allow another 15 years to go by. Regardless of what we hear on the floor today, we need to find an environmentally sound and permanent solution to the management of spent nuclear waste.

Mr. Chairman, I include the following for the RECORD.

H.R. 1270 (passed E+P subcmte. 21–3)	S. 104 (passed Senate 65–34)
TRANSPORTATION	
—No rail access directly to Yucca Mtn. But contemplates the possibility of future rail access	—No immediate rail access to Yucca Mtn. No later than one year after enactment of the bill, DOT will promulgate routing rule for nuclear waste by rail to Yucca.
—Use heavy-haul from main rail line at Caliente, NV to Yucca Mtn	—Heavy haul capability must be ready 18 mos. After NRC issues a license for an Interim Storage Facility (ISF).
—Construction and operation of railroad requires NEPA review	—Each state has preferred transportation routes.
—Advanced state notification requirement	—Gov's must be notified when fuel comes into state.
—State has preferred routes for transporting nuke waste	—Nationwide transportation educ. program.
—Follows current HazMat regulations on transport of hazardous waste	—Major training requirements for indivs. involved in transportation. (This provision was important to gain the support of Dem. Members and the labor unions.)
—Heavy-haul must be ready by 1/31/2002	
—No provision for transportation training requirements (this is major in the Senate's bill)	
—Tech. assis. to states in case of emergency	
MILL FEE AND ONE-TIME FEES	
—Beginning FY99 & opening of perm. repos. the annual mill fee must avg. to 1 mill. & can't exceed 1.5 mills. After perm. repos. is functional, mill fee capped at 1 mill.	—Capped at 1 mill. (See below for pros and cons).
—One-Time Fees paid in 2002	
DEFENSE WASTE	
—DOE must accept fuel from defense activities (Crapo)	—DOE must accept fuel from defense activities (Craig).
DEFENSE WASTE FACILITY (ISF)	
—To be located at Yucca Mountain	—To be located at Yucca Mountain
—Functional 1/31/2002	—Functional 6/30/2003.
—Construc. begins when Sec'y applies for NRC license	
INTERIM STORAGE CAPACITY	
—Phase I: 10,000 MTU and licensed for 20 years. License must be filed within 12 months of enactment	—No phases for the development of the ISE.
—Phase II: capacity increased to 40K with an initial term of 100 years	—The capacity will be determined at the time of license appl. and based on emplacement schedule and expected date of perm. repository operation
—No specific date for start of phase II to begin operation	—The capacity is expandable.
	—Licensed for 40 year term.
PERMANENT REPOSITORY	
—Sec'y must apply to NRC for construction authorization no later than 12/31/02	—Requires DOE to continue with site characterization at Yucca.
—Perm. Repos. will be functional 1/17/10	—Requires DOE Sec. to apply to NRC for construction auth. no later than 10/31/01.
—If Sec. determines Yucca is not suitable, he must contact Congress w/in 6 mos. with recommendations for a new site.	—Functional 2015.
PAYGO FIX	
—The House has a 5 year budget window which must be addressed	—The Senate has a 10 year budget window which must be addressed.
—The House addresses its PAYGO shortfall by switching to a user fee in FY99 and collecting the outstanding one-time fees in 2002.	—The Senate addressed their PAYGO shortfall by continuing the mandatory receipt of $600 million during FY98. In FY99, it switches to a user fee until FY01 where the government collects only what it will spend on Yucca. In FY02, they collect the payment of one time fees. This scenario will cover the first 5 years. In FY02, they revert back to the mandatory $600 million receipts to pay for the next 5 years. (This user fee is suspended during this period and utilities are forced to pay the full amount to cover the PAYGO problem). In 2007, the user fee is reestablished. The fee is paid to the Treasury, not the Nuclear Waste Fund.
—The fee is paid into the Treasury, not the Nuclear Waste Fund	

Mr. HALL of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas [Mr. BERRY].

Mr. BERRY. Mr. Chairman, I rise in support of H.R. 1270. Currently, a part of every electricity consumer's bill goes directly into the Nuclear Waste Fund. This fund was set up by the Congress in 1982 and requires the Department of Energy to set up a nuclear storage facility and begin accepting nuclear waste by 1998.

However, out of the over $12 billion that have already been paid into the fund, only $4.8 billion have been spent on waste storage research and funding for storage facilities.

Since the Department of Energy has not constructed a waste storage facility, the other $7 billion has been diverted into unrelated uses such as deficit reduction. This is the same type of problem we have with the Highway Trust Fund. Citizens constantly pay into this fund, but they see nothing in return.

If the Department of Energy had performed its required actions, we would not be debating this bill. An interim storage facility would already be in place and a permanent facility would be in the near future.

If the Department of Energy had performed its required actions, then this money would have been used for its intended purpose, for managing the efficient disposal of nuclear waste.

Arkansans and other electricity consumers are already paying twice for nuclear waste, one payment into the Nuclear Waste Fund and another payment to maintain on-site storage facilities across the United States. This double payment can and will be halted with the passage of this bill.

Mr. Chairman, on behalf of all electricity consumers, I urge my colleagues to vote for H.R. 1270.

Mr. MARKEY. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MILLER].

(Mr. MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. MILLER of California. Mr. Chairman, I rise in opposition to the legislation.

Mr. Chairman, when Congress enacted the Nuclear Waste Policy Act in 1982, and then amended it in 1987, we made certain agreements among ourselves, the utility companies and the American people.

One, we decided that the federal government would assume the responsibility for permanent disposal of high level nuclear waste.

Two, we would limit our consideration of possible locations for such permanent disposal to Yucca Mountain in Nevada.

Three, the nuclear utilities would pay a fee to the US government to run the program and fund the construction of the permanent facility.

And, four, the utility companies would keep their nuclear waste until we knew with certainty that the Yucca Mountain repository would be built.

The bill before us today, H.R. 1270, fundamentally changes that covenant.

On October 8, the Resources Committee without one public hearing, reported unfavorably this extensive and complicated bill, H.R. 1270.

Today, we are considering a bill that will overturn the decision we made to focus on construction of a safe, permanent facility and instead mandate the immediate construction of a temporary storage site at Yucca Mountain in Nevada.

In so doing, the bill will prejudice the ongoing viability studies, and make it more difficult for us to learn whether Yucca Mountain is the right place to permanently store high level nuclear waste.

Additionally, no one has done any scientific studies to determine whether the site specified in HR 1270 is safe for interim storage of high level nuclear waste.

The bill will preempt all federal and state laws that the Secretary of Energy deems to be inconsistent, or that present an obstacle, to implementation of this new law.

During the 1980's, Congress built a strong national policy on nuclear waste. We decided that the federal government would take responsibility for the permanent disposal of high level nuclear waste. We decided to find the appropriate location for that disposal and to build the permanent facility before moving tens of thousands of high level nuclear waste now located at nuclear reactors across the country to the permanent disposal site. High level nuclear waste can be moved safely; but, there is no reason to move it more than is necessary.

Yes, there have been problems with the Department of Energy's implementation of this plan. But, they appear to be on the right track now. The science we need to make an informed and objective decision is nearly complete. HR 1270 would prejudice the determination on whether Yucca Mountain can and should contain the permanent repository for the nation's high level nuclear waste by creating a de facto repository at the Nevada Test Site.

HR 1270 affirmatively preempts the National Environmental Policy Act. It legislates the selection and construction of an interim storage facility on public lands without any scientific or environmental analysis to support the premise.

Current law prohibits the construction of an interim storage facility in Nevada, and limits the size of any other temporary facility to 10,000 tons of waste. HR 1270 mandates that DOE build the interim facility in Nevada and allows up to 40,000 tons of high level nuclear waste to be immediately stored there—with no environmental compliance.

President Clinton will veto this bill if it reaches his desk. Senator HARRY REID and his Nevada colleagues are unanimously opposed to this bill. I urge my colleagues to oppose H.R. 1270.

Mr. MARKEY. Mr. Chairman, I yield myself the balance of my time.

Mr. HALL of Texas. Mr. Chairman, I yield one minute to the gentleman from Massachusetts [Mr. MARKEY].

The CHAIRMAN. The gentleman from Massachusetts [Mr. MARKEY] is recognized for four minutes.

Mr. MARKEY. Mr. Chairman, I will include for the record letters from Erskine Bowles, the Chief of Staff to the President; Franklin Raines, the Director of OMB; and a formal statement of administration policy expressing opposition to the bill and the recommendation of the President's advisors that the bill be vetoed.

Mr. Chairman, we are at a very bad point right now. There was at least at the beginning of the discussion of the disposal of all nuclear wastes in the United States some integrity in the process back in 1982. We set out to find the site, east of the Mississippi, west of the Mississippi, wherever it may be.

But in 1987, we came back here to Congress, and many people were very upset about what was going on. They might have been pro nuclear, but they did not want the waste in their district. So we passed another bill in 1987. What did we say?

Well, the Chairman of the House then came from Texas. He said, ''I don't want it in Texas.'' That was one of the sites. The second site was in Washington State. The majority leader came from Washington State. He said, ''I don't want it in Washington State.'' It was out. The third State was the salt domes in Louisiana. The Chairman of the Committee on Energy came from Louisiana. He said, ''I don't want it in Louisiana,'' and it was out. The fourth site was in North Carolina. The ranking Republican on the Committee on Commerce came from North Carolina. North Carolina was out. The fifth site was the solid granite of New Hampshire, and Ronald Reagan and George Bush said, ''That is out in 1988. We are not burying all the nuclear waste in America in New Hampshire.''

So we kept searching, playing this game of thermonuclear hearts, trying to stick the queen of spades with somebody. So we looked around, and what did we find? We found the State of Nevada, two Congressmen, two Senators. ''You get all the nuclear waste. We are picking you.''

Even that had some integrity. At least they were going to have to determine whether or not the site was suitable for all the nuclear waste.

But, today, we come back again. We are not happy with that. There are still five years until the year 2002, from deciding whether or not, in fact, Yucca Mountain is the right place for all the nuclear waste, but we cannot wait.

So what are we doing here today? We are going to decide to take all of the nuclear waste in America, put it on trucks, put it in railroad cars, and ship it to Nevada, and put it in an aboveground mausoleum that is going to be finished in 2002, just in time to have the site characterization process by scientists and geologists tell us that Yucca Mountain is not the right place for a permanent repository.

As a result, we will have to begin the process all over again to find the right site, and eventually we will have to pack all the nuclear waste up again, put it back in vans and trucks and railroad cars, and send it to another place in America.

Why are we doing this? We are doing this not because there is some emergency at any nuclear facility in America. In fact, we are told that it is 100

percent safe at every facility right now. We are doing this because the nuclear industry does not want a permanent repository. They do not want to have to pay for it.

They promised the American people that nuclear power was going to be too cheap to meter, and that they were going to be able to bury the waste permanently. We now know it is the most expensive way of generating electricity. Wall Street killed nuclear power it wasn't some ponytailed, granola-chomping protest force outside a nuclear power plant.

Secondly, they do not know where to bury the nuclear waste and they do not have any intention of paying for it, and they want us to pretend here today that we are going to do something about it and stick the queen of spades with the State of Nevada.

Well, Mr. Chairman, this is a completely irresponsible position to take. It is intergenerationally irresponsible for this generation to stick the next generation with the job and the cost of burying all this waste.

This is a bad bill. It is bad environmental policy. It is bad fiscal policy, and it is bad policy intergenerationally. I urge a no vote on this bill as strongly as I can of any bill that has ever come out on this House floor.

Mr. Chairman, I include the letters referred to earlier for the RECORD.

THE WHITE HOUSE,
Washington, October 28, 1997.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: It is my understanding that the House of Representatives soon will consider H.R. 1270. I am writing to reiterate the Administration's objection to this legislation. If the bill were presented to him in its current form, the President would veto it.

As I have stated previously, the Administration is committed to resolving the complex and important issue of nuclear waste storage in a timely and sensible manner, consistent with sound science and the protection of public health, safety, and the environment. The Federal government's long-standing commitment to permanent, geologic disposal—reflected in the Nuclear Waste Policy Act of 1982—should remain the basic goal of high-level radioactive waste management policy.

Any decision on the siting of an interim storage facility should be based on objective, science-based criteria, and be fully protective of public health and safety and the environment. This bill is unacceptable to the Administration because it falls far short of those goals. Additionally, H.R. 1270 does not contain provisions to offset potential deficit increases in its early years; consequently, if the bill were enacted, any deficit effects could contribute to a sequester of mandatory spending in each of FY 1999 through 2001.

Secretary Pena and the entire Administration remain committed to working cooperatively with the Congress and with all involved stakeholders on nuclear waste disposal issues within the confines of the President's policy. The Department is on an aggressive schedule to resolve the key unresolved scientific and technical questions about Yucca Mountain.

Sincerely,

ERSKINE B. BOWLES,
Chief of Staff to the President.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, September 18, 1997.

Hon. THOMAS J. BLILEY, JR.
Chairman, Committee on Commerce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to advise you of the Administration's views on H.R. 1270, the proposed Nuclear Waste Policy Act of 1997. The Administration shares your commitment to resolving the complex and important issue of nuclear waste management in a timely and sensible manner, consistent with sound science and the protection of public health, safety, and the environment. The Federal government's long-standing commitment to permanent, geologic disposal should remain the basic goal of high-level radioactive waste management policy.

Congress established a process to ensure that sound technical judgment plays the primary role in determining whether a particular site can host a permanent nuclear waste repository. Designating the Nevada Test Site as the interim waste storage site at this point undermines the ongoing evaluation of Yucca Mountain as a permanent disposal site as required by the Nuclear Waste Policy Act Amendments of 1987. In addition, the bill runs the risk of reducing resources needed for this effort. More importantly, it could undermine the credibility of the Nation's nuclear waste disposal program by prejudicing the Yucca Mountain permanent repository decision.

The Administration believes that a decision on the siting of an interim storage facility should be based on objective, science-based criteria and should be informed by the viability assessment of Yucca Mountain. Therefore, the President has stated that he would veto any legislation that would designate an interim storage facility at a specific site before the viability of a permanent geologic repository at Yucca Mountain has been determined.

In addition, the bill presents a number of environmental problems, including the removal of the Environmental Protection Agency from its responsibility for developing a radiation exposure standard and preempting the National Environmental Policy Act and other applicable Federal, State and local laws.

The Administration understands the concerns of the utility industry, public utility commissions, and others about the inability of the Department of Energy to accept spent nuclear fuel by January 31, 1998. Secretary Peña has made every effort since his confirmation to work cooperatively with the affected parties to find satisfactory ways of mitigating the impacts of this delay and will continue to do so.

Thank you for your consideration of these views.

Sincerely,

FRANKLIN D. RAINES,
Director.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, October 24, 1997.

STATEMENT OF ADMINISTRATION POLICY

H.R. 1270—NUCLEAR WASTE POLICY ACT OF 1997

If H.R. 1270, as reported by the Commerce Committee, were presented in its current form, the President would veto the bill. H.R. 1270 would undermine the credibility of the Nation's nuclear waste disposal program by designating a specified site for an interim storage facility before the viability of that site as a permanent geological repository has been assessed.

The Administration is committed to resolving the complex and important issue of nuclear waste storage in a timely and sensible manner. The Federal government's long-standing commitment to permanent, geological disposal should remain the basic goal of high-level radioactive waste management policy. This Administration has instituted planning and management initiatives to accelerate progress on determining the suitability of Yucca Mountain, Nevada, as a permanent geologic disposal site.

H.R. 1270, however, would establish Nevada as the site of an interim nuclear waste storage facility before the viability assessment of Yucca Mountain as a permanent geologic repository is completed. Moreover, even if Yucca Mountain is determined not to be viable for a permanent repository, the bill would provide no plausible opportunity to designate a viable alternative as an interim storage site. Any potential siting decision concerning such a facility ultimately should be based on objective, science-based criteria and guided by the likelihood of the success of the Yucca Mountain site.

In addition, the Administration strongly objects to the bill's weakening of existing environmental standards by preempting all Federal, State, and local laws inconsistent with the environmental requirements of this bill and the Atomic Energy Act. This preemption would effectively replace the Environmental Protection Agency's authority to set acceptable radiation release standards with a statutory standard. In addition, the bill would undermine the purposes of the National Environmental Policy Act by, among other things, creating significant loopholes in the environmental assessment process.

Finally, the completion of a permanent geological repository is essential not only for commercial spent fuel disposal, but also for the cleanup of the Department of Energy's nuclear weapons complex and the disposal of its weapons-grade materials. In addition, these actions are necessary to further U.S. international nuclear nonproliferation objectives. H.R. 1270 would, in the near-term, put interim storage activities in competition with actions needed to complete the permanent geologic repository. Consequently, the bill's enactment could delay the appropriate disposition of our surplus weapons-grade materials.

PAY-AS-YOU-GO SCORING

H.R. 1270 would affect outlays; therefore, it is subject to the pay-as-you-go requirements of the Omnibus Budget Reconciliation Act of 1990. Preliminary estimates indicate that H.R. 1270 would reduce offsetting receipts by $630 million in each of FYs 1999 through 2001, a total of $1,890 million, and increase such receipts by $2,070 million FY 2002. H.R. 1270 does not contain provisions to offset potential deficit increases in its early years; consequently, if the bill were enacted, any deficit could contribute to a sequester of mandatory spending in each of FYs 1999 through 2001.

The CHAIRMAN. The Chair would advise Members that the order of closing is the gentleman from Nevada, Mr. ENSIGN, the gentleman from Texas, Mr. HALL, and the gentleman from Colorado, Mr. DAN SCHAEFER.

The gentleman from Nevada, Mr. ENSIGN, has 5½ minutes remaining, the gentleman from Texas, Mr. HALL, has 3½ minutes remaining, and the gentleman from Colorado, Mr. DAN SCHAEFER, has 4 minutes remaining.

Mr. ENSIGN. Mr. Chairman, before yielding to the gentleman from Nevada, I would like to just ask jokingly

for unanimous consent to build a statue for the gentleman from Massachusetts [Mr. MARKEY] in the State of Nevada, as he has fought so hard for our State.

Mr. Chairman, I yield 2 minutes to the gentleman from Nevada [Mr. GIBBONS].

Mr. GIBBONS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I do appreciate having the gentleman from Massachusetts [Mr. MARKEY] being a straight man for this whole event today.

Let me say that with regard to those people who believe that the ratepayers have paid into the fund enough money, let me say that this stuff is going to be around for thousands and thousands of years. I hope they are ready to keep paying, and paying, and paying, because they are going to have to pick up the responsibility if the taxpayers do not for the continued storage of this material at Yucca Mountain.

Let me talk about the suitability of Yucca Mountain, if I may, real briefly. First of all, I am a geologist and I truly understand some of the problems we have got with suitability. If we keep lowering the standards, sure, we can make it suitable for storage. The problem is that we are taking away the safety standards of this site.

Earthquakes, 33 known earthquake faults lie directly through this site in the Yucca Mountain area, and over the last several years, there have been over 600 earthquakes in the surrounding 5½ miles that have impacted this.

Earthquakes that raise the water table, that would surround and, in fact, could flood the repository, putting the canisters in harm of polluting the water table.

This groundwater contamination has been proven already. We have already got a study by the National Science Foundation that shows that plutonium has migrated almost 1 mile, 1 mile, into the ground through the rocks and is now approaching the water table, dangerously close to the supply of water for Southern California, Southern Nevada, et cetera.

□ 1815

There is volcanic activity simply 20 kilometers away from the site. There are dormant volcanoes that could erupt at any time. From a geologic standpoint, they are active, not dormant. They are merely sitting there waiting for their opportunity to explode and damage the Yucca Mountain site. Let me say also, there is concern there by scientists about the spontaneous atomic explosion that might occur. Some scientists have expressed that.

Let me say that this bill is the wrong approach and Yucca Mountain is the wrong site.

Mr. ENSIGN. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Nevada [Mr. ENSIGN] is recognized for 3½ minutes.

Mr. ENSIGN. Mr. Chairman, nearly 14 years ago a Senator from Louisiana, who was the chief proponent in the Senate, said, ''Mr. President, this bill deals comprehensively with the problem of civilian nuclear waste. It is an urgent problem,'' does this sound familiar, ''urgent problem. Mr. President, for this Nation it is urgent, first because we are running out of reactor space and reactors for the storage of fuel, and if we do not build what we call away-from-reactor storage space and begin that soon, we could begin shutting down civilian nuclear reactors in this country as soon as 1983.''

That was 14 years ago. Not a single nuclear reactor in America has been closed or been forced to close because of the issue of running out of space. Some have closed because of overriding safety concerns about operation and maintenance, but none because they have run out of space to store nuclear waste.

Mr. Chairman, Congress has decided this issue, not the scientists. This would be similar, what Congress is doing in this bill, is saying with Yucca Mountain and with the temporary storage site at the Nevada test site, ''I do not care what any of the scientists say, it is going to be the site, and it is going to be suitable, and we are going to lower the standards until it is suitable.''

This would be like Congress saying to the medical community, ''There is a disease out there that we want you to find a cure for. By the way, here is what the cure is going to be. Regardless of what the science shows, here is what the cure is going to be. I do not care what any of the rest of the science says, if there are other alternatives to treat this disease.''

I know we are all experts here, we are all scientists, and that is why we are making these decisions. We are taking away that decision on nuclear waste, just as we would be taking it away from the medical community, say on breast cancer, by telling them it is going to be the answer out there, and not letting the scientists and the experts in the medical community make this decision.

The other myth is that we are taking this from all these other States and going to put it in one site. The fact is that nuclear waste is going to remain in these other States, in these 41 States. Because even as we are shipping nuclear waste, and there will be nuclear waste going to Nevada, Members will still end up with nuclear waste at all of these other reactors around the country.

It has even been said to me that this is a national security interest, that nuclear waste at these facilities is dangerous to a terrorist. If that is the case, we should never have built the nuclear power plants in the first place. The other thing is that Yucca Mountain and the temporary storage facility is not going to solve a national security interest problem, because there is still going to be nuclear waste at these facilities.

The other thing is that the Nuclear Regulatory Commission has said that dry cask storage is good for 100 years. When they were designing the casks to transport this waste they designed a perfect solution. It is the cheapest solution. It only costs about $300 million to actually store this waste on-site in dry casks for up to 100 years. To transport this waste it costs about $2.3 billion. For all of us budget hawks around here, we should be thinking about how much does it cost to transport versus store.

I would urge a strong ''no'' vote. Do not vote with the nuclear power interests.

Mr. HALL of Texas. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I just want to compliment the gentlemen from Nevada, Mr. ENSIGN and Mr. GIBBONS. And of course there is not a better guy in the world than HARRY REID, who has worked hard on this; the gentleman from Nevada, Mr. ENSIGN, only in his third year, and the other gentleman from Nevada, Mr. GIBBONS, in the first year. The die was cast long before they got here. They have done an heroic and admirable job with what they had. I respect them for that.

The Committee on Commerce, the committee of jurisdiction, voted 43 to 3 to carry out the intent of Congress.

Mr. Chairman, I yield the balance of my time to the gentlewoman from Florida [Mrs. THURMAN].

The CHAIRMAN. The gentlewoman from Florida [Mrs. THURMAN] is recognized for 3¼ minutes.

Mrs. THURMAN. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, despite some of the statements to the contrary, the bill before us today is about protecting our environment. It is about safeguarding our natural resources, for now and for years to come.

Moreover, it is about dealing with the realities of our society. We depend on nuclear energy and we must address the potential dangers associated with it. This bill would do just that.

There is no question about the importance nuclear power plays in our lives. Nuclear power is a source of energy in our country, producing 20 percent of the Nation's electricity. Although nuclear energy produces a small amount of used fuel, it produces no air pollution. Unfortunately, most of the spent fuel is stored in aboveground pools at the plant sites, where it still remains dangerously radioactive for thousands of years. The reality of the situation is that 75 nuclear power plants currently store used fuel. By next year, 27 of them will exhaust existing space to store this waste. I believe it is in our best interests to ensure that one safe storage facility is developed to meet these very real and pending needs.

Let us safely and efficiently manage this spent fuel. Let us pass H.R. 1270,

and require the Nuclear Regulatory Commission and the Department of Energy to prepare environmental impact statements. Let us ensure radiation standards for the public, and let us make certain that the NRC maintains its strict enforcement of container design essential to the safe transportation of spent nuclear waste across State lines.

The bill is also about our commitment to nuclear waste disposal. Fifteen years ago Federal officials pledged to protect all of us from nuclear waste. Instead, Congress tapped the nuclear waste fund for other projects. We have already invested over $13 billion to the nuclear waste fund. My constituents alone have paid over $650 million. It is time that fees dedicated to this fund were spent for their intended purposes.

Almost all of us already have a de facto nuclear storage site closer to home than we care to think. We have the opportunity today to establish a storage facility that would be easier to monitor, more economical, and located at a remote location, far away from our homes and schools.

Members should do what they know is right. Support passage of the Nuclear Waste Policy Act of 1997.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I want to reflect on what the gentleman from Texas [Mr. HALL] had to say about the two Members from Nevada. They have been great on this issue. We know it is not an easy one to try and go forth on, and I just want to say that they have been very much gentlemen in this, and have been ferocious fighters. I have to say that we respect them tremendously.

Mr. Chairman, I yield the balance of my time to close to the gentleman from Michigan [Mr. UPTON], the author of the bill.

The CHAIRMAN. The gentleman from Michigan [Mr. UPTON] is recognized for 3½ minutes.

(Mr. UPTON asked and was given permission to revise and extend his remarks.)

Mr. UPTON. Mr. Chairman, I rise to thank a number of people here tonight. I thank the chairman of our committee, the gentleman from Virginia, [Mr. BLILEY], and the gentleman from Colorado [Mr. DAN SCHAEFER]. Without their leadership, we would not see this bill to the floor this evening.

I also want to thank, on the other side of the aisle, the gentleman from Michigan [Mr. DINGELL], the ranking member, and the gentleman from Texas [Mr. HALL], who have been terrific. I, too, share in thanking the two gentlemen from Nevada, who have been very good debaters, they have been very persistent, they have made us do our homework for sure, and they have been very tough. I appreciate that, as well.

I also thank the gentleman from New York [Mr. TOWNS], my coauthor, the gentleman from Illinois [Mr. HASTERT], the gentleman from Idaho [Mr. CRAPO], and the 165 Members of the House that have cosponsored the bill. We have heard tonight that it passed our committee 43 to 3. We passed it by about the same margin in the last Congress, as well.

Nuclear power, the decision for nuclear power, was made many decades ago. Part of that strategy was always that the Federal Government would be responsible for the permanent storage of the high-level nuclear waste. That was part of the equation. That is what this bill does. It in essence moves it to one safe place.

Today we have about 100 different nuclear reactor sites around the country. Every single one of them is in a sensitive environmental area, whether it be on the Great Lakes, whether it be on the Chesapeake Bay. Whether it be rivers, streams, or oceans, they are all very sensitive. Our ratepayers have put in some $12 billion into the Nuclear Waste Trust Fund, of which about $6 billion has been spent in Yucca Mountain.

Yes, we have detractors, certainly our two colleagues from Nevada, and the opponents of nuclear power as well. But that nuclear decision was made before I was in high school. About 20 percent of our power today comes from nuclear energy, and if we turned off that power tonight, we would still have to deal with the issue of what to do with the high-level nuclear waste. That is what this bill does.

Today in this country we have 10 sites that have run out of room. They have reracked their rods, they have built these lead-lined cement cannisters that are literally stacked in the dunes of Lake Michigan and other places around the country, because they have run out of room. They did not have anyplace to put it. Next year we are going to have 27 more reactors run out of room. It is time for this Congress to act, to send it to one safe place.

Yucca Mountain, Mr. Chairman, I have been there. It is adjacent to where we have conducted underground, uncontained nuclear testing for almost 50 years. When this bill gets enacted, and it will, nuclear waste will be in a contained spot. It will be monitored. It is going to be in a place that will be deemed safe by the scientists.

The record shows we have had some 2,400 shipments across the country to the existing nuclear facilities today, and 1,300 tons of nuclear material in fact was shipped without a single release, not a single release of nuclear material in all of those shipments. They did not mine that nuclear stuff in the dunes of Lake Michigan, they had to ship it there. When they shipped it there, the record was perfect.

This is a bipartisan bill. It has been that from the beginning. I thank the Republicans and Democrats, and ask them to vote in favor of this bill.

Mr. Chairman, I rise today in support of H.R. 1270, the Nuclear Waste Policy Act of 1997. I introduced H.R. 1270 earlier this year with Representatives TOWNS, HASTERT, CRAPO and 55 other original cosponsors. It is designed to address our national problem with high-level nuclear waste by providing workable solutions for managing spent nuclear fuel. The total number of cosponsors has already reached 165 Members of the House. Similar legislation passed the Senate in April by a vote of 65–34.

As a by-product of nuclear power, high-level nuclear waste currently rests in spent fuel pools and canisters at locations across the country. They are not, however, at a secure, central location like our Government agreed to build.

Behind chainlink fences along the Chesapeake, on cement pads a stone's throw from the Great Lakes, near our neighborhoods and our schools, nuclear waste is now a problem forced upon States, counties, and townships due to the Federal Government's blatant shirking of their responsibility—a failure that has cost taxpayers over $12 billion.

In my district in southwest Michigan, nuclear waste currently sits in a dry cask on a cement pad 100 yards from Lake Michigan. The site is less than 5 miles from an elementary school with 800 students. Now, I will say right away that the site is safe and secure—But it was not meant for long-term storage. I would rather have nuclear waste permanently stored at an isolated and remote location than at over 80 sites around the country.

I have a message to those Members who are concerned about the transportation of spent nuclear fuel; it's been transported for 30 years and according the Nuclear Regulatory Commission,

> The safety record for spent nuclear fuel shipments in the U.S. and in other industrialized nations is enviable. Of the thousands of shipments completed over the last 30 years, none has resulted in an identifiable injury through release of radioactive materials.

NRC statistics show that over 1,300 tons of spent fuel was shipped in the United States from 1979 through 1995. This was accomplished through a mix of shipments on highways and rail.

For a little background, in 1982 Congress passed and the President signed the Nuclear Waste Policy Act. It was later amended in 1987 but its goal remained simple and steamlined—the Federal Government agreed to accept responsibility for the proper management and disposal of defense and civilian nuclear waste. From funds collected through a tax on our electricity bills, the Government was going to build a high level repository and begin accepting waste from utility companies by January 31, 1998.

A lot has happened since the 1980's. But by the same token a lot hasn't happened—namely progress toward completing this project. The Department of Energy has spent time in court, time at the research lab, and time boring a massive hole in the side of Yucca Mountain in Nevada—the site selected to potentially house a permanent repository. Our most recent estimates, however, show this facility won't be ready to receive waste until well into the next century.

Today and tomorrow, Congress will debate a bill that provides a short term solution to this long term problem. The legislation directs the Department of Energy to continue working on

the permanent site while also temporarily stacking the waste outside what is expected to be the final resting place. Our Government should pursue a policy that puts nuclear waste behind one fence, in one location, where we can concentrate all of our resources on making sure it is safe.

Nuclear waste transcends political ideologies. As a nation, we must work together to develop a single national strategy. As a Congress, we must work together to get this solution in place.

With each passing year and each passing month, the price of nuclear waste continues to mount. Ratepayers keep paying taxes on their electricity bills to support the bottomless Nuclear Waste Fund. Without a solution in place, the burden of disposal falls back on the local utility companies, and, in turn, back squarely on the shoulders of the American consumer as they are double taxed.

Earlier this year, the Department of Energy was again assailed in the courts. 46 State agencies and 33 power companies from 36 States filed suit to force the administration to stick to the original deadline which is less than 3 months away. Obviously, we won't meet the deadline but H.R. 1270 offers some solutions because rightly so, everyone is growing tired of these costly delays. In light of these developments, I would urge the Department and the administration to work with us as this legislation moves through the congressional process, rather than throw up roadblocks.

Critics claim that Yucca Mountain is not an appropriate location for nuclear waste. Yucca is located within the Nevada Test Site, an area the size of Connecticut that since the Truman administration has been home to atmospheric nuclear test blasts and countless active and abandoned nuclear labs. Its remote, arid location is, in fact, ideally suited to store nuclear waste.

The real danger exists only in allowing our Government to break its word and expect us to look the other way. But it is difficult to look the other way on this issue when at seemingly every other turn, another community is being forced to deal with nuclear waste close to home. My colleagues and I were sent to Congress to fix the Nation's problems. Through lessons we've learned from events like the savings and loan debacle, we know that inaction only makes the situation worse.

Simply put, nuclear waste is one of the single greatest environmental issues that exist today. In turn, one would assume that it should be the single greatest concern of an administration which has campaigned on its support and defense of the environment.

We can deal effectively with this by placing nuclear waste in a suitable location in the interim. That threat can be greatly reduced still by putting in place a permanent facility. The Department of Energy must be held accountable to the U.S. Congress, and more importantly, to the U.S. taxpayers.

Key groups have come out in support of H.R. 1270 such as the National Association of Counties, Citizens Against Government Waste. Many Governors have written as well to express the need for action on this issue.

I would hope that in the same spirit and bipartisanship that we showed in reaching a balanced budget agreement, we can also move forward in passing nuclear waste legislation this year.

Mr. PACKARD. Mr. Chairman, over 15 years ago, Congress recognized the need to build a permanent repository to handle our nation's spent nuclear fuel and passed laws directing the Department of Energy to take the lead in this effort. Despite collecting billions of dollars from ratepayers across the nation, the Department of Energy has yet to open even a temporary site where spent nuclear fuel can be safely stored until a permanent facility is built.

Mr. Chairman, it is time for Congress to protect America from harmful nuclear waste by storing it safely. I urge my colleagues to support the Nuclear Waste Policy Act. Passing this important legislation will move us one step closer to eliminating the threat of nuclear contamination in communities across the nation.

Mr. Chairman, some would have us believe that the nuclear waste should remain where it is. But right now, there are over 30,000 tons of radioactive waste stored outside nuclear reactors at over 80 facilities in 41 states. Some sites are dangerously close to fault lines, volcanoes and other areas prone to natural disaster. And almost every one of these sites is within a few miles, sometimes a few yards of somebody's backyard.

Our government has a responsibility to protect its citizens. Until now, the Department of Energy has not fulfilled its obligation. Mr. Chairman, the Nuclear Waste Policy Act will protect America from harmful nuclear waste by moving it to a safe site. I urge my colleagues on both sides of the aisle to support it.

Mr. SHUSTER. Mr. Chairman, I want to clarify the intent of certain provisions of H.R. 1270, the Nuclear Waste Policy Act of 1997, that are within the jurisdiction of the Committee on Transportation and Infrastructure.

A savings clause, section 207, has been included in the manager's amendment which clarifies that H.R. 1270 does not affect the application of existing laws governing transportation of hazardous materials, rail and motor carrier safety and federal-aid highway construction. Under the savings clause, the provisions in Chapter 51 of Title 49, U.S. Code (governing transportation of hazardous materials), Part A of Subtitle V of Title 49, U.S. Code (governing rail safety), Part B of Subtitle VI of Title 49, U.S. Code (governing motor carrier safety) and Title 23, U.S. Code (governing the Federal-Aid Highway program) remain in effect. This savings clause is necessary for a number of reasons. First, the bill funds technical assistance and training on the transportation of nuclear waste to the site and requires the Secretary of Transportation to promulgate new regulations governing transportation of nuclear waste, if he finds that existing regulations are not adequate. Because the existing law and regulations governing transportation of hazardous materials apply to the transportation of nuclear waste, section 207 clarifies that H.R. 1270 does not supplant existing law or regulations. Rather, H.R. 1270 will allow the Secretary of Transportation to exercise his discretion to promulgate regulations only to the extent existing regulations are not adequate.

Second, while the bill makes the employee protection provisions in the rail and motor carrier safety laws applicable to individuals engaged in the interstate transportation of nuclear waste, it does not specify the applicability of other rail or motor carrier safety provisions. Section 207 is, therefore, necessary to clarify that all of the rail and motor carrier safety provisions and not simply the employee protection provisions are applicable. Third, the bill authorizes the Secretary of Energy to fund road improvements leading to the Yucca Mountain nuclear waste site. Because Title 23 governs construction of Federal-aid highways, section 207 clarifies that Title 23 requirements are applicable to federal-aid roads constructed with funds provided under H.R. 1270.

A provision also was added to the manager's amendment which provides that the Secretary is not required to promulgate new training standards for the transportation of hazardous materials if there already are existing federal regulations that establish adequate training standards. This provision clarifies an ambiguity in section 203(g) of the bill as reported regarding whether the Secretary of Transportation could decide not to promulgate additional regulations in response to this legislation based on a finding that existing Department of Transportation regulations are adequate.

A provision also was added to the manager's amendment which provides that the Secretary of Transportation may specify an appropriate level of knowledge, skills, and prior training for individuals required to be trained in the transportation of hazardous materials instead of a required minimum number of hours of training. The bill as reported required Department of Transportation regulations to specify a minimum number of hours of training for employees and management personnel.

Finally, a provision was added on the selection of rail routes for the transportation of nuclear waste. I am concerned that this provision is less clear than it should be as to the need to consult with the affected rail carriers. I believe that such consultation is a practical necessity anyway, and so I am not objecting to the amendment. It is my hope that this point will be clarified during the conference on the bill.

Mr. FRELINGHUYSEN. Mr. Chairman, I rise in support of H.R. 1270, the Nuclear Waste Policy Act of 1997. This legislation is needed for one simple reason, Congress must ensure that the Federal government follows through with its commitment to store nuclear fuel at a central location in the United States.

Without a functioning, centrally located site, this spent nuclear fuel is piling up at sites all around the nation. While spent fuel can be stored permanently in this fashion, utilities are simply running out of room and will soon need more space. And furthermore, having multiple sites raises the safety question.

American ratepayers thought they had a firm contract with the Federal government under the Nuclear Waste Policy Act Amendments of 1987 to start accepting waste in 1998. However, the Department of Energy is nowhere close to keeping its end of the agreement and is at best a decade behind schedule. Forty-six state agencies and thirty-three power companies from thirty-six states have shown their frustration with DOE by filing suit to force DOE to adher to the original deadline.

This bill moves the stalled process along. It provides for an interim storage facility which will be used until the permanent site at Yucca Mountain is properly tested and ready to accept waste. The sense of Congress is that our government should pursue a policy that puts nuclear waste safely behind one fence, in one location, in one state.

As a member of the Energy and Water Appropriations Subcommittee on Appropriations

which has oversight over the Nuclear Waste Fund, I visited the Yucca Mountain site in March 1997. As I looked out across the vast Nevada desert where the military once exploded atomic bombs, I felt that one central location for storage was the best solution for addressing our high level waste storage problem.

With each passing year and each passing month, the price of storing nuclear waste continues to mount. Ratepayers keep paying taxes on their electricity bills to support the bottomless Nuclear Waste Fund. Without a solution in place, the burden of disposal falls back on the shoulders of the American consumer. Moreover, inaction may create perhaps the largest environmental threat that exists today with more than one hundred sites around the nation instead of one central facility.

We can minimize that threat by placing nuclear waste in a suitable location in the interim, and then moving it to an underground permanent repository in Nevada. This bill provides the leadership we need to accomplish these goals.

Mr. Chairman, I urge my colleagues to support this bill.

Mr. BEREUTER. Mr. Chairman, this Member rises in support of H.R. 1270, the Nuclear Waste Policy Act. Quite simply, the issue of nuclear waste disposal has been delayed far too long. It must be addressed in a responsible manner.

As one of only six Members representing a district with multiple nuclear power plants, this Member certainly recognizes the importance of developing a safe, comprehensive, and long-term approach to the storage of spent nuclear fuel. Maintaining the status quo, with its reliance on on-site storage, is clearly not an acceptable long-term solution. In general, this Member believes that H.R. 1270, as approved by the Commerce Committee, represents a responsible approach.

The bill being considered directs the Department of Energy to begin storing high-level nuclear waste at the Yucca Mountain site in Nevada until a permanent disposal site is developed. H.R. 1270 also makes improvements in safety and transportation issues related to the disposal of nuclear waste/

This legislation is necessary because the Department of Energy has not made acceptable progress on developing a permanent repository for spent nuclear fuel. It is estimated that by 2010, 80 nuclear reactors—including both in Nebraska—will have reached on-site storage capacity.

As a result, if no changes are made, it is likely that consumers would be required to continue contributing to the Nuclear Waste Fund while also paying to develop additional on-site storage space. This would clearly not be reasonable or equitable. This issue is critically important to Nebraska and its nuclear energy consumers, who have already paid more than $150 million into the Nuclear Waste Fund.

This Member urges his colleagues to support H.R. 1270.

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to express my profound disapproval at the proposed agreement reached by Representative LAMAR SMITH and Representative LINCOLN DIAZ-BALART. This agreement unfairly distinguishes between Central Americans who entered the United States before December 1995 and Guantanamo Haitians who entered the United States during 1991 and 1992.

My disagreement with this proposed legislation is based on the exclusion of the Guantanamo Haitians from the proposed amnesty. It is very shocking to find that this proposed law grants relief to Central Americans, without regard to the plight of those 11,000 Haitians who were admitted to the United States after being processed in Guantanamo in 1991.

One of the arguments used to favor the Central Americans is that they are in the United States for political reasons. I believe this is a similar situation with Guantanamo Haitians who fled Haiti by boat to escape a violent military dictatorship, headed by General Cedras and Michel Francois. Many of them were reportedly killed by this military regime. Those who escaped were intercepted at sea, and were brought to Guantanamo for screening. They were determined to have credible claims for political asylum. Thus, they were permitted to enter the United States based on their credible claims.

Besides the Guantanamo Haitians, many other Haitians escaped to the United States in search of peace and freedom. However, they were sent back to Haiti because they were considered ''economic refugees''. Today, even the Guantanamo Haitians, those who were determined to be political refugees, may be deported.

Mr. Speaker, there is no legitimate reason to discriminate between the Haitian asylum seekers from the Central American asylum seekers. In my district, which includes a large Haitian constituency, great concern has been expressed that Congress will enact legislation to grandfather Central Americans under the old suspension of deportation provisions to the exclusion of Haitians who are similarly situated.

This proposed legislation is flawed and has a double standard favoring Latinos. I believe that equity require that the law treat similarly situated persons alike. Thus, I would be opposed to any legislation which denies any group equal protection under the law.

Extending to Haitians the same benefits that we extend to Central Americans is the only just thing to do. Therefore, I cannot support this proposed agreement.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Commerce printed in the bill shall be considered as an original bill for the purposes of amendment under the 5-minute rule, and shall be considered as read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 1270

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT OF NUCLEAR WASTE POLICY ACT OF 1982.

The Nuclear Waste Policy Act of 1982 is amended to read as follows:

''SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'Nuclear Waste Policy Act of 1997'.

''(b) TABLE OF CONTENTS.—

''Sec. 1. Short title and table of contents.
''Sec. 2. Definitions.
''Sec. 3. Findings and purposes.

''TITLE I—OBLIGATIONS

''Sec. 101. Obligations of the Secretary of Energy.

''TITLE II—INTEGRATED MANAGEMENT SYSTEM

''Sec. 201. Intermodal transfer.
''Sec. 202. Transportation planning.
''Sec. 203. Transportation requirements.
''Sec. 204. Interim storage.
''Sec. 205. Permanent disposal.
''Sec. 206. Land withdrawal.
''Sec. 207. Private storage facilities.

''TITLE III—LOCAL RELATIONS

''Sec. 301. On-site representative.
''Sec. 302. Benefits agreements.
''Sec. 303. Content of agreements.
''Sec. 304. Acceptance of benefits.
''Sec. 305. Restriction on use of funds.
''Sec. 306. Initial land conveyances.
''Sec. 307. Payments equal to taxes.

''TITLE IV—FUNDING AND ORGANIZATION

''Sec. 401. Program funding.
''Sec. 402. Office of Civilian Radioactive Waste Management.
''Sec. 403. Defense contribution.

''TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

''Sec. 501. Compliance with other laws.
''Sec. 502. Water rights.
''Sec. 503. Judicial review of agency actions.
''Sec. 504. Licensing of facility expansions and transshipments.
''Sec. 505. Siting a second repository.
''Sec. 506. Financial arrangements for low-level radioactive waste site closure.
''Sec. 507. Nuclear Regulatory Commission training authorization.
''Sec. 508. Acceptance schedule.
''Sec. 509. Subseabed or ocean water disposal.

''TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

''Sec. 601. Definitions.
''Sec. 602. Nuclear Waste Technical Review Board.
''Sec. 603. Functions.
''Sec. 604. Investigatory powers.
''Sec. 605. Compensation of members.
''Sec. 606. Staff.
''Sec. 607. Support services.
''Sec. 608. Report.
''Sec. 609. Authorization of appropriations.
''Sec. 610. Termination of the board.

''TITLE VII—MANAGEMENT REFORM

''Sec. 701. Management reform initiatives.
''Sec. 702. Reporting.

''SEC. 2. DEFINITIONS.

''For purposes of this Act:

''(1) ACCEPT, ACCEPTANCE.—The terms 'accept' and 'acceptance' mean the Secretary's act of taking possession of spent nuclear fuel or high-level radioactive waste.

''(2) ACCEPTANCE SCHEDULE.—The term 'acceptance schedule' means the schedule established in section 508 for acceptance of spent nuclear fuel and high-level radioactive waste.

''(3) AFFECTED INDIAN TRIBE.—The term 'affected Indian tribe' means any Indian tribe—

''(A) within whose reservation boundaries the interim storage facility or a repository for spent nuclear fuel or high-level radioactive waste, or both, is proposed to be located; or

''(B) whose federally defined possessory or usage rights to other lands outside of the reservation's boundaries arising out of congressionally ratified treaties may be substantially and adversely affected by the locating of such a facility if the Secretary of the Interior finds, upon the petition of the appropriate governmental officials of the tribe, that such effects are both substantial and adverse to the tribe.

''(4) AFFECTED UNIT OF LOCAL GOVERNMENT.—The term 'affected unit of local government' means the unit of local government with jurisdiction over the site of a repository or interim

storage facility. Such term may, at the discretion of the Secretary, include other units of local government that are contiguous with such unit.

''(5) ATOMIC ENERGY DEFENSE ACTIVITY.—The term 'atomic energy defense activity' means any activity of the Secretary performed in whole or in part in carrying out any of the following functions:

''(A) Naval reactors development.

''(B) Weapons activities including defense inertial confinement fusion.

''(C) Verification and control technology.

''(D) Defense nuclear materials production.

''(E) Defense nuclear waste and materials byproducts management.

''(F) Defense nuclear materials security and safeguards and security investigations.

''(G) Defense research and development.

''(6) CIVILIAN NUCLEAR POWER REACTOR.—The term 'civilian nuclear power reactor' means a civilian nuclear power plant required to be licensed under section 103 or 104 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)).

''(7) COMMISSION.—The term 'Commission' means the Nuclear Regulatory Commission.

''(8) DEPARTMENT.—The term 'Department' means the Department of Energy.

''(9) DISPOSAL.—The term 'disposal' means the emplacement in a repository of spent nuclear fuel, high-level radioactive waste, or other highly radioactive material with no foreseeable intent of recovery, whether or not such emplacement permits recovery of such material for any future purpose.

''(10) DISPOSAL SYSTEM.—The term 'disposal system' means all natural barriers and engineered barriers, and engineered systems and components, that prevent the release of radionuclides from the repository.

''(11) ENGINEERED BARRIERS.—The terms 'engineered barriers' and 'engineered systems and components,' mean man made components of a disposal system. Such terms include the spent nuclear fuel or high-level radioactive waste form, spent nuclear fuel package or high-level radioactive waste package, and other materials placed over and around such packages.

''(12) HIGH-LEVEL RADIOACTIVE WASTE.—The term 'high-level radioactive waste' means—

''(A) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations;

''(B) the highly radioactive material resulting from atomic energy defense activities; and

''(C) any other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation.

''(13) FEDERAL AGENCY.—The term 'Federal agency' means any Executive agency, as defined in section 105 of title 5, United States Code.

''(14) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians including any Alaska Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)).

''(15) INTEGRATED MANAGEMENT SYSTEM.—The term 'integrated management system' means the system developed by the Secretary for the acceptance, transportation, storage, and disposal of spent nuclear fuel and high-level radioactive waste.

''(16) INTERIM STORAGE FACILITY.—The term 'interim storage facility' means a facility designed and constructed for the receipt, handling, possession, safeguarding, and storage of spent nuclear fuel and high-level radioactive waste in accordance with title II of this Act.

''(17) INTERIM STORAGE FACILITY SITE.—The term 'interim storage facility site' means the specific site within Area 25 of the Nevada Test Site that is designated by the Secretary and withdrawn and reserved in accordance with this Act for the location of the interim storage facility.

''(18) LOW-LEVEL RADIOACTIVE WASTE.—The term 'low-level radioactive waste' means radioactive material that—

''(A) is not spent nuclear fuel, high-level radioactive waste, transuranic waste, or byproduct material as defined in section 11 e.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)); and

''(B) the Commission, consistent with existing law, classifies as low-level radioactive waste.

''(19) METRIC TONS URANIUM.—The terms 'metric tons uranium' and 'MTU' mean the amount of uranium in the original unirradiated fuel element whether or not the spent nuclear fuel has been reprocessed.

''(20) NUCLEAR WASTE FUND.—The term 'Nuclear Waste Fund' means the nuclear waste fund established in the United States Treasury prior to the date of enactment of this Act under section 302(c) of the Nuclear Waste Policy Act of 1982.

''(21) OFFICE.—The term 'Office' means the Office of Civilian Radioactive Waste Management established within the Department prior to the date of enactment of this Act under the provisions of the Nuclear Waste Policy Act of 1982.

''(22) PACKAGE.—The term 'package' means the primary container that holds, and is in direct contact with, solidified high-level radioactive waste, spent nuclear fuel, or other radioactive materials and any overpack that are emplaced at a repository.

''(23) PROGRAM APPROACH.—The term 'program approach' means the Civilian Radioactive Waste Management Program Plan, dated May 1996, as modified by this Act, and as amended from time to time by the Secretary in accordance with this Act.

''(24) REPOSITORY.—The term 'repository' means a system designed and constructed under title II of this Act for the permanent geologic disposal of spent nuclear fuel and high-level radioactive waste, including both surface and subsurface areas at which spent nuclear fuel and high-level radioactive waste receipt, handling, possession, safeguarding, and storage are conducted.

''(25) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

''(26) SITE CHARACTERIZATION.—The term 'site characterization' means activities, whether in a laboratory or in the field, undertaken to establish the geologic condition and the ranges of the parameters of a candidate site relevant to the location of a repository, including borings, surface excavations, excavations of exploratory facilities, limited subsurface lateral excavations and borings, and in situ testing needed to evaluate the licensability of a candidate site for the location of a repository, but not including preliminary borings and geophysical testing needed to assess whether site characterization should be undertaken.

''(27) SPENT NUCLEAR FUEL.—The term 'spent nuclear fuel' means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

''(28) STORAGE.—The term 'storage' means retention of spent nuclear fuel or high-level radioactive waste with the intent to recover such waste or fuel for subsequent use, processing, or disposal.

''(29) WITHDRAWAL.—The term 'withdrawal' has the same definition as that set forth in the Federal Land Policy and Management Act (43 U.S.C. 1702 et seq.).

''(30) YUCCA MOUNTAIN SITE.—The term 'Yucca Mountain site' means the area in the State of Nevada that is withdrawn and reserved in accordance with this Act for the location of a repository.

''SEC. 3. FINDINGS AND PURPOSES.

''(a) FINDINGS.—The Congress finds that—

''(1) while spent nuclear fuel can be safely stored at reactor sites, the expeditious movement to and storage of such spent nuclear fuel at a centralized Federal facility will enhance the nation's environmental protection;

''(2) while the Federal Government has the responsibility to provide for the centralized interim storage and permanent disposal of spent nuclear fuel and high-level radioactive waste to protect the public health and safety and the environment, the costs of such storage and disposal should be the responsibility of the generators and owners of such waste and fuel, including the Federal Government;

''(3) in the interests of protecting the public health and safety, enhancing the nation's environmental protection, promoting the nation's energy security, and ensuring the Secretary's ability to commence acceptance of spent nuclear fuel and high-level radioactive waste no later than January 31, 2002, it is necessary for Congress to authorize the interim storage facility;

''(4) deficit-control measures designed to limit appropriation of general revenues have limited the availability of the Nuclear Waste Fund for its intended purposes; and

''(5) the Federal Government has the responsibility to provide for the permanent disposal of waste generated from United States atomic energy defense activities.

''(b) PURPOSES.—The purposes of this Act are—

''(1) to direct the Secretary to develop an integrated management system in accordance with this Act so that the Department can accept spent nuclear fuel or high-level radioactive waste for interim storage commencing no later than January 31, 2002, and for permanent disposal at a repository commencing no later than January 17, 2010;

''(2) to provide for the siting, construction, and operation of a repository for permanent geologic disposal of spent nuclear fuel and high-level radioactive waste in order to adequately protect the public and the environment;

''(3) to take those actions necessary to ensure that the consumers of nuclear energy, who are funding the Secretary's activities under this Act, receive the services to which they are entitled and realize the benefits of enhanced protection of public health and safety, and the environment, that will ensue from the Secretary's compliance with the obligations imposed by this Act; and

''(4) to provide a schedule and process for the expeditious and safe development and commencement of operation of an integrated management system and any necessary modifications to the transportation infrastructure to ensure that the Secretary can commence acceptance of spent nuclear fuel and high-level radioactive waste no later than January 31, 2002.

''TITLE I—OBLIGATIONS

''SEC. 101. OBLIGATIONS OF THE SECRETARY OF ENERGY.

''(a) DISPOSAL.—The Secretary shall develop and operate a repository for the permanent geologic disposal of spent nuclear fuel and high-level radioactive waste.

''(b) ACCEPTANCE.—The Secretary shall accept spent nuclear fuel and high-level radioactive waste for storage at the interim storage facility pursuant to section 204 in accordance with the acceptance schedule, beginning not later than January 31, 2002.

''(c) TRANSPORTATION.—The Secretary shall provide for the transportation of spent nuclear fuel and high-level radioactive waste accepted by the Secretary.

''(d) INTEGRATED MANAGEMENT SYSTEM.—The Secretary shall expeditiously pursue the development of each component of the integrated management system, and in so doing shall seek to utilize effective private sector management and contracting practices.

"TITLE II—INTEGRATED MANAGEMENT SYSTEM

"SEC. 201. INTERMODAL TRANSFER.

''(a) TRANSPORTATION.—The Secretary shall utilize heavy-haul truck transport to move spent nuclear fuel and high-level radioactive waste from the mainline rail line at Caliente, Nevada, to the interim storage facility site. If direct rail access becomes available to the interim storage facility site, the Secretary may use rail transportation to meet the requirements of this title.

''(b) CAPABILITY DATE.—The Secretary shall develop the capability to commence rail to truck intermodal transfer at Caliente, Nevada, no later than January 31, 2002.

''(c) ACQUISITIONS.—The Secretary shall acquire lands and rights-of-way necessary to commence intermodal transfer at Caliente, Nevada.

''(d) REPLACEMENTS.—The Secretary shall acquire and develop on behalf of, and dedicate to, the City of Caliente, Nevada, parcels of land and rights-of-way as required to facilitate replacement of land and city wastewater disposal activities necessary to commence intermodal transfer pursuant to this Act. Replacement of land and city wastewater disposal activities shall occur no later than January 31, 2002.

''(e) NOTICE AND MAP.—Within 6 months of the date of enactment of this Act, the Secretary shall—

''(1) publish in the Federal Register a notice containing a legal description of the sites and rights-of-way to be acquired under this section; and

''(2) file copies of a map of such sites and rights-of-way with the Congress, the Secretary of the Interior, the State of Nevada, the Archivist of the United States, the Board of Lincoln County Commissioners, the Board of Nye County Commissioners, and the Caliente City Council.

Such map and legal description shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in legal descriptions and make minor adjustments in the boundaries.

''(f) IMPROVEMENTS.—The Secretary shall make improvements to existing roadways selected for heavy-haul truck transport between Caliente, Nevada, and the interim storage facility site as necessary to facilitate year-round safe transport of spent nuclear fuel and high-level radioactive waste.

''(g) HEAVY-HAUL TRANSPORTATION ROUTE.—

''(1) DESIGNATION OF ROUTE.—The route for the heavy-haul truck transport of spent nuclear fuel and high-level radioactive waste shall be as designated in the map dated July 21, 1997 (referred to as 'Heavy-Haul Route') and on file with the Secretary.

''(2) TRUCK TRANSPORTATION.—The Secretary, in consultation with the State of Nevada and appropriate counties and local jurisdictions, shall establish reasonable terms and conditions pursuant to which the Secretary may utilize heavy-haul truck transport to move spent nuclear fuel and high-level radioactive waste from Caliente, Nevada, to the interim storage facility site.

''(3) IMPROVEMENTS AND MAINTENANCE.—Notwithstanding any other law—

''(A) the Secretary shall be responsible for any incremental costs related to improving or upgrading Federal, State, and local roads within the heavy-haul transportation route utilized, and performing any maintenance activities on such roads, as necessary, to facilitate year-round safe transport of spent nuclear fuel and high-level radioactive waste; and

''(B) any such improvement, upgrading, or maintenance activity shall be funded solely by appropriations made pursuant to sections 401 and 403 of this Act.

''(h) LOCAL GOVERNMENT INVOLVEMENT.—The Commission shall enter into a Memorandum of Understanding with the City of Caliente and Lincoln County, Nevada, to provide advice to the Commission regarding intermodal transfer and to facilitate on-site representation. Reasonable expenses of such representation shall be paid by the Secretary.

"SEC. 202. TRANSPORTATION PLANNING.

''(a) TRANSPORTATION READINESS.—The Secretary shall take those actions that are necessary and appropriate to ensure that the Secretary is able to accept and transport spent nuclear fuel and high-level radioactive waste beginning not later than January 31, 2002. As soon as is practicable following the enactment of this Act, the Secretary shall analyze each specific reactor facility in the order of priority established in the acceptance schedule, and develop a logistical plan to assure the Secretary's ability to transport spent nuclear fuel and high-level radioactive waste.

''(b) TRANSPORTATION PLANNING.—In conjunction with the development of the logistical plan in accordance with subsection (a), the Secretary shall update and modify, as necessary, the Secretary's transportation institutional plans to ensure that institutional issues are addressed and resolved on a schedule to support the commencement of transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility no later than January 31, 2002. Among other things, such planning shall provide a schedule and process for addressing and implementing, as necessary, transportation routing plans, transportation contracting plans, transportation training in accordance with section 203, and transportation tracking programs.

"SEC. 203. TRANSPORTATION REQUIREMENTS.

''(a) PACKAGE CERTIFICATION.—No spent nuclear fuel or high-level radioactive waste may be transported by or for the Secretary under this Act except in packages that have been certified for such purposes by the Commission.

''(b) STATE NOTIFICATION.—The Secretary shall abide by regulations of the Commission regarding advance notification of State and local governments prior to transportation of spent nuclear fuel or high-level radioactive waste under this Act.

''(c) TECHNICAL ASSISTANCE.—

''(1) IN GENERAL.—The Secretary shall provide technical assistance and funds to States, affected units of local government, and Indian tribes through whose jurisdiction the Secretary plans to transport substantial amounts of spent nuclear fuel or high-level radioactive waste for training for public safety officials of appropriate units of local government. Training shall cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations. The Secretary's duty to provide technical and financial assistance under this subsection shall be limited to amounts specified in annual appropriations.

''(2) EMPLOYEE ORGANIZATIONS.—

''(A) IN GENERAL.—The Secretary shall provide technical assistance and funds for training directly to nonprofit employee organizations and joint labor-management organizations that demonstrate experience in implementing and operating worker health and safety training and education programs and demonstrate the ability to reach and involve in training programs target populations of workers who are or will be directly engaged in the transportation of spent nuclear fuel and high-level radioactive waste or emergency response or post-emergency response with respect to such transportation.

''(B) TRAINING.—Training under this paragraph—

''(i) shall cover procedures required for safe routine transportation of materials and procedures for dealing with emergency response situations;

''(ii) shall be consistent with any training standards established by the Secretary of Transportation; and

''(iii) shall include—

''(I) a training program applicable to persons responsible for responding to emergency situations occurring during the removal and transportation of spent nuclear fuel and high-level radioactive waste;

''(II) instruction of public safety officers in procedures for the command and control of the response to any incident involving the waste; and

''(III) instruction of radiological protection and emergency medical personnel in procedures for responding to an incident involving spent nuclear fuel or high-level radioactive waste being transported.

''(3) GRANTS.—To implement this subsection, grants shall be made under section 401(c).

''(4) MINIMIZING DUPLICATION OF EFFORT AND EXPENSES.—The Secretaries of Transportation, Labor, and Energy, Directors of the Federal Emergency Management Agency and National Institute of Environmental Health Sciences, the Nuclear Regulatory Commission, and Administrator of the Environmental Protection Agency shall review periodically, with the head of each department, agency, or instrumentality of the Government, all emergency response and preparedness training programs of that department, agency, or instrumentality to minimize duplication of effort and expense of the department, agency, or instrumentality in carrying out the programs and shall take necessary action to minimize duplication.

''(d) USE OF PRIVATE CARRIERS.—The Secretary, in providing for the transportation of spent nuclear fuel and high-level radioactive waste under this Act, shall by contract use private industry to the fullest extent possible in each aspect of such transportation. The Secretary shall use direct Federal services for such transportation only upon a determination by the Secretary of Transportation, in consultation with the Secretary, that private industry is unable or unwilling to provide such transportation services at a reasonable cost.

''(e) TRANSFER OF TITLE.—Acceptance by the Secretary of any spent nuclear fuel or high-level radioactive waste shall constitute a transfer of title to the Secretary.

''(f) EMPLOYEE PROTECTION.—Any person engaged in the interstate commerce of spent nuclear fuel or high-level radioactive waste under contract to the Secretary pursuant to this Act shall be subject to and comply fully with the employee protection provisions of section 20109 of title 49, United States Code (in the case of employees of railroad carriers), and section 31105 of title 49, United States Code (in the case of employees operating commercial motor vehicles), or the Commission (in the case of all other employees).

''(g) TRAINING STANDARD.—

''(1) REGULATION.—No later than 12 months after the date of enactment of this Act, the Secretary of Transportation, pursuant to authority under other provisions of law, in consultation with the Secretary of Labor and the Commission, shall promulgate a regulation establishing training standards applicable to workers directly involved in the removal and transportation of spent nuclear fuel and high-level radioactive waste. The regulation shall specify minimum training standards applicable to workers, including managerial personnel. The regulation shall require that the employer possess evidence of satisfaction of the applicable training standard before any individual may be employed in the removal and transportation of spent nuclear fuel and high-level radioactive waste.

''(2) SECRETARY OF TRANSPORTATION.—If the Secretary of Transportation determines, in promulgating the regulation required by paragraph (1), that regulations promulgated by the Commission establish adequate training standards for workers, then the Secretary of Transportation can refrain from promulgating additional regulations with respect to worker training in such activities. The Secretary of Transportation and the Commission shall use their Memorandum of Understanding to ensure coordination of

worker training standards and to avoid duplicative regulation.

''(3) TRAINING STANDARDS CONTENT.—The training standards required to be promulgated under paragraph (1) shall, among other things deemed necessary and appropriate by the Secretary of Transportation, include the following provisions—

''(A) a specified minimum number of hours of initial off site instruction and actual field experience under the direct supervision of a trained, experienced supervisor;

''(B) a requirement that onsite managerial personnel receive the same training as workers, and a minimum number of additional hours of specialized training pertinent to their managerial responsibilities; and

''(C) a training program applicable to persons responsible for responding to and cleaning up emergency situations occurring during the removal and transportation of spent nuclear fuel and high-level radioactive waste.

''(4) AUTHORIZATION.—There is authorized to be appropriated to the Secretary of Transportation, from general revenues, such sums as may be necessary to perform his duties under this subsection.

''SEC. 204. INTERIM STORAGE.

''(a) AUTHORIZATION.—The Secretary shall design, construct, and operate a facility for the interim storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility site. The interim storage facility shall be subject to licensing pursuant to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) in accordance with the Commission's regulations governing the licensing of independent spent fuel storage installations and shall commence operation in phases by January 31, 2002. The interim storage facility shall store spent nuclear fuel and high-level radioactive waste until the Secretary is able to transfer such fuel and waste to the repository.

''(b) DESIGN.—The design of the interim storage facility shall provide for the use of storage technologies licensed or certified by the Commission for use at the interim storage facility as necessary to ensure compatibility between the interim storage facility and contract holders' spent nuclear fuel and facilities, and to facilitate the Secretary's ability to meet the Secretary's obligations under this Act.

''(c) LICENSING.—

''(1) PHASES.—The interim storage facility shall be licensed by the Commission in two phases in order to commence operations no later than January 31, 2002.

''(2) FIRST PHASE.—No later than 12 months after the date of enactment of this Act, the Secretary shall submit to the Commission an application for a license for the first phase of the interim storage facility. The license issued for the first phase of the interim storage facility shall have a term of 20 years. The interim storage facility licensed in the first phase shall have a capacity of not more than 10,000 MTU. The Commission shall issue a final decision granting or denying the application for the first phase license no later than 36 months from the date of the submittal of the application for such license.

''(3) SECOND PHASE.—The Secretary shall submit to the Commission an application for a license for the second phase interim storage facility. The license for the second phase facility shall authorize a storage capacity of 40,000 MTU. The license for the second phase shall have an initial term of up to 100 years, and shall be renewable for additional terms upon application of the Secretary.

''(d) ADDITIONAL AUTHORITY.—

''(1) CONSTRUCTION.—For the purpose of complying with subsection (a), the Secretary may commence site preparation for the interim storage facility as soon as practicable after the date of enactment of this Act and shall commence construction of the first phase of the interim storage facility subsequent to submittal of the license application except that the Commission shall issue an order suspending such construction at any time if the Commission determines that such construction poses an unreasonable risk to public health and safety or the environment. The Commission shall terminate all or part of such order upon a determination that the Secretary has taken appropriate action to eliminate such risk.

''(2) FACILITY USE.—Notwithstanding any otherwise applicable licensing requirement, the Secretary may utilize any facility owned by the Federal Government on the date of enactment of this Act and within the boundaries of the interim storage facility site, in connection with an imminent and substantial endangerment to public health and safety at the interim storage facility prior to commencement of operations during the second phase.

''(e) NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—

''(1) PRELIMINARY DECISIONMAKING ACTIVITIES.—The Secretary's activities under this section, including the selection of a site for the interim storage facility, the preparation and submittal of any license application, and the construction and operation of any facility shall be considered preliminary decisionmaking activities for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). No such activity shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or require any environmental review under subparagraph (E) or (F) of such Act.

''(2) ENVIRONMENTAL IMPACT STATEMENT.—

''(A) FINAL DECISION.—A final decision of the Commission to grant or deny a license application for the first or second phase of the interim storage facility shall be accompanied by an Environmental Impact Statement prepared under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). In preparing such Environmental Impact Statement, the Commission—

''(i) shall assume that 40,000 MTU will be stored at the facility; and

''(ii) shall analyze the impacts of the transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility in a generic manner.

''(B) CONSIDERATIONS.—Such Environmental Impact Statement shall not consider—

''(i) the need for the interim storage facility, including any individual component thereof;

''(ii) the time of the initial availability of the interim storage facility;

''(iii) any alternatives to the storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility;

''(iv) any alternatives to the site of the facility as designated by the Secretary in accordance with subsection (a);

''(v) any alternatives to the design criteria for such facility or any individual component thereof, as specified by the Secretary in the license application; or

''(vi) the environmental impacts of the storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility beyond the initial term of the license or the term of the renewal period for which a license renewal application is made.

''(f) JUDICIAL REVIEW.—Judicial review of the Commission's environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall be consolidated with judicial review of the Commission's licensing decision. No court shall have jurisdiction to enjoin the construction or operation of the interim storage facility prior to its final decision on review of the Commission's licensing action.

''(g) WASTE CONFIDENCE.—The Secretary's obligation to construct and operate the interim storage facility in accordance with this section and the Secretary's obligation to develop an integrated management system in accordance with the provisions of this Act, shall provide sufficient and independent grounds for any further findings by the Commission of reasonable assurance that spent nuclear fuel and high-level radioactive waste will be disposed of safely and on a timely basis for purposes of the Commission's decision to grant or amend any license to operate any civilian nuclear power reactor under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

''(h) SAVINGS CLAUSE.—Nothing in this Act shall affect the Commission's procedures for the licensing of any technology for the dry storage of spent nuclear fuel at the site of any civilian nuclear power reactor as adopted by the Commission under section 218 of the Nuclear Waste Policy Act of 1982, as in effect prior to the date of the enactment of this Act. The establishment of such procedures shall not preclude the licensing, under any applicable procedures or rules of the Commission in effect prior to such establishment, of any technology for the storage of civilian spent nuclear fuel at the site of any civilian nuclear power reactor.

''SEC. 205. PERMANENT DISPOSAL.

''(a) SITE CHARACTERIZATION.—

''(1) GUIDELINES.—The guidelines promulgated by the Secretary and published at 10 CFR part 960 are annulled and revoked and the Secretary shall make no assumptions or conclusions about the licensability of the Yucca Mountain site as a repository by reference to such guidelines.

''(2) SITE CHARACTERIZATION ACTIVITIES.—The Secretary shall carry out appropriate site characterization activities at the Yucca Mountain site in accordance with the Secretary's program approach to site characterization if the Secretary modifies or eliminates those site characterization activities designed to demonstrate the suitability of the site under the guidelines referenced in paragraph (1).

''(3) DATE.—No later than December 31, 2002, the Secretary shall apply to the Commission for authorization to construct a repository that will commence operations no later than January 17, 2010. If, at any time prior to the filing of such application, the Secretary determines that the Yucca Mountain site cannot satisfy the Commission's regulations applicable to the licensing of a geologic repository, the Secretary shall terminate site characterization activities at the site, notify Congress and the State of Nevada of the Secretary's determination and the reasons therefor, and recommend to Congress not later than 6 months after such determination further actions, including the enactment of legislation, that may be needed to manage the Nation's spent nuclear fuel and high-level radioactive waste.

''(4) MAXIMIZING CAPACITY.—In developing an application for authorization to construct the repository, the Secretary shall seek to maximize the capacity of the repository.

''(b) LICENSING.—Within one year of the date of enactment of this Act, the Commission shall amend its regulations governing the disposal of spent nuclear fuel and high-level radioactive waste in geologic repositories to the extent necessary to comply with this Act. Subject to subsection (c), such regulations shall provide for the licensing of the repository according to the following procedures:

''(1) CONSTRUCTION AUTHORIZATION.—The Commission shall grant the Secretary a construction authorization for the repository upon determining that there is reasonable assurance that spent nuclear fuel and high-level radioactive waste can be disposed of in the repository—

''(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

''(B) with adequate protection of the health and safety of the public; and

''(C) consistent with the common defense and security.

''(2) LICENSE.—Following substantial completion of construction and the filing of any additional information needed to complete the license application, the Commission shall issue a license to dispose of spent nuclear fuel and high-level radioactive waste in the repository if the Commission determines that the repository has been constructed and will operate—

''(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

''(B) with adequate protection of the health and safety of the public; and

''(C) consistent with the common defense and security.

''(3) CLOSURE.—After emplacing spent nuclear fuel and high-level radioactive waste in the repository and collecting sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with the Commission's regulations applicable to the licensing of a repository, as modified in accordance with this Act, the Secretary shall apply to the Commission to amend the license to permit permanent closure of the repository. The Commission shall grant such license amendment upon finding that there is reasonable assurance that the repository can be permanently closed—

''(A) in conformity with the Secretary's application to amend the license, the provisions of this Act, and the regulations of the Commission;

''(B) with adequate protection of the health and safety of the public; and

''(C) consistent with the common defense and security.

''(4) POST-CLOSURE.—The Secretary shall take those actions necessary and appropriate at the Yucca Mountain site to prevent any activity at the site subsequent to repository closure that poses an unreasonable risk of—

''(A) breaching the repository's engineered or geologic barriers: or

''(B) increasing the exposure of individual members of the public to radiation beyond the release standard established in subsection (d)(1).

''(c) MODIFICATION OF REPOSITORY LICENSING PROCEDURE.—The Commission's regulations shall provide for the modification of the repository licensing procedure, as appropriate, in the event that the Secretary seeks a license to permit the emplacement in the repository, on a retrievable basis, of only that quantity of spent nuclear fuel or high-level radioactive waste that is necessary to provide the Secretary with sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with applicable regulations.

''(d) LICENSING STANDARDS.—Notwithstanding any other provision of law, the Administrator of the Environmental Protection Agency shall not promulgate, by rule or otherwise, standards for protection of the public from releases of radioactive materials or radioactivity from the repository and any such standards existing on the date of enactment of this Act shall not be incorporated in the Commission's licensing regulations. The Commission's repository licensing determinations for the protection of the public shall be based solely on a finding whether the repository can be operated in conformance with the overall system performance standard established in paragraph (1)(A) and applied in accordance with the provisions of paragraph (1)(B). The Commission shall amend its regulations in accordance with subsection (b) to incorporate each of the following licensing standards:

''(1) RELEASE STANDARD.—

''(A) ESTABLISHMENT OF OVERALL SYSTEM PERFORMANCE STANDARD.—The standard for protection of the public from release of radioactive material or radioactivity from the repository shall prohibit releases that would expose an average member of the general population in the vicinity of the Yucca Mountain site to an annual dose in excess of 100 millirems unless the Commission, in consultation with the Administrator of the Environmental Protection Agency, determines by rule that such standard would not provide for adequate protection of the health and safety of the public and establishes by rule another standard which will provide for adequate protection of the health and safety of the public. Such standard shall constitute an overall system performance standard.

''(B) APPLICATION OF OVERALL SYSTEM PERFORMANCE STANDARD.—The Commission shall issue the license if it finds reasonable assurance that—

''(i) for the first 1,000 years following the commencement of repository operations, the overall system performance standard will be met based on a deterministic or probabilistic evaluation of the overall performance of the disposal system; and

''(ii) for the period commencing after the first 1,000 years of operation of the repository and terminating at 10,000 years after the commencement of operation of the repository, there is likely to be compliance with the overall system performance standard based on regulatory insight gained through the use of a probabilistic integrated performance model that uses best estimate assumptions, data, and methods.

''(2) HUMAN INTRUSION.—The Commission shall assume that, following repository closure, the inclusion of engineered barriers and the Secretary's post-closure actions at the Yucca Mountain site, in accordance with subsection (b)(3), shall be sufficient to—

''(A) prevent any human activity at the site that poses an unreasonable risk of breaching the repository's engineered or geologic barriers; and

''(B) prevent any increase in the exposure of individual members of the public to radiation beyond allowable limits as specified in paragraph (1).

''(e) NATIONAL ENVIRONMENTAL POLICY ACT.—

''(1) SUBMISSION OF STATEMENT.—Construction and operation of the repository shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary shall submit an environmental impact statement on the construction and operation of the repository to the Commission with the application for construction authorization.

''(2) CONSIDERATIONS.—For purposes of complying with the requirements of the National Environmental Policy Act of 1969 and this section, the Secretary shall not consider in the environmental impact statement the need for the repository, alternative sites for the repository, the time of the initial availability of the repository, or any alternatives to the isolation of spent nuclear fuel and high-level radioactive waste in a repository.

''(3) ADOPTION BY COMMISSION.—The Secretary's environmental impact statement and any supplements thereto shall, to the extent practicable, be adopted by the Commission in connection with the issuance by the Commission of a construction authorization under subsection (b)(1), a license under subsection (b)(2), or a license amendment under subsection (b)(3). To the extent such statement or supplement is adopted by the Commission, such adoption shall be deemed to also satisfy the responsibilities of the Commission under the National Environmental Policy Act of 1969, and no further consideration shall be required, except that nothing in this subsection shall affect any independent responsibilities of the Commission to protect the public health and safety under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.). In any such statement prepared with respect to the repository, the Commission shall not consider the need for a repository, the time of initial availability of the repository, alternate sites to the Yucca Mountain site, or nongeologic alternatives to such site.

''(f) JUDICIAL REVIEW.—No court shall have jurisdiction to enjoin issuance of the Commission repository licensing regulations prior to its final decision on review of such regulations.

''SEC. 206. LAND WITHDRAWAL.

''(a) WITHDRAWAL AND RESERVATION.—

''(1) WITHDRAWAL.—Subject to valid existing rights, the interim storage facility site and the Yucca Mountain site, as described in subsection (b), are withdrawn from all forms of entry, appropriation, and disposal under the public land laws, including the mineral leasing laws, the geothermal leasing laws, the material sale laws, and the mining laws.

''(2) JURISDICTION.—Jurisdiction of any land within the interim storage facility site and the Yucca Mountain site managed by the Secretary of the Interior or any other Federal officer is transferred to the Secretary.

''(3) RESERVATION.—The interim storage facility site and the Yucca Mountain site are reserved for the use of the Secretary for the construction and operation, respectively, of the interim storage facility and the repository and activities associated with the purposes of this title.

''(b) LAND DESCRIPTION.—

''(1) BOUNDARIES.—The boundaries depicted on the map entitled 'Interim Storage Facility Site Withdrawal Map,' dated July 28, 1995, and on file with the Secretary, are established as the boundaries of the interim storage facility site.

''(2) BOUNDARIES.—The boundaries depicted on the map entitled 'Yucca Mountain Site Withdrawal Map,' dated July 28, 1995, and on file with the Secretary, are established as the boundaries of the Yucca Mountain site.

''(3) NOTICE AND MAPS.—Within 6 months of the date of enactment of this Act, the Secretary shall—

''(A) publish in the Federal Register a notice containing a legal description of the interim storage facility site; and

''(B) file copies of the maps described in paragraph (1), and the legal description of the interim storage facility site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

''(4) NOTICE AND MAPS.—Concurrent with the Secretary's application to the Commission for authority to construct the repository, the Secretary shall—

''(A) publish in the Federal Register a notice containing a legal description of the Yucca Mountain site; and

''(B) file copies of the maps described in paragraph (2), and the legal description of the Yucca Mountain site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

''(5) CONSTRUCTION.—The maps and legal descriptions of the interim storage facility site and the Yucca Mountain site referred to in this subsection shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

''SEC. 207. PRIVATE STORAGE FACILITIES.

''(a) COMMISSION ACTION.—Upon application by one or more private entities for a license for an independent spent fuel storage installation not located at the site of a civilian nuclear power reactor, the Commission shall review such license application and issue a license for one or more such facilities at the earliest practicable date, to the extent permitted by the applicable provisions of law and regulation.

''(b) SECRETARY'S ACTIONS.—The Secretary shall encourage efforts to develop private facilities for the storage of spent nuclear fuel by providing any requested information and assistance, as appropriate, to the developers of such facilities and to State and local governments and Indian tribes within whose jurisdictions such facilities may be located, and shall cooperate with the developers of such facilities to facilitate compatibility between such facilities and the integrated management system.

''(c) OBLIGATION.—The Secretary shall satisfy the Secretary's obligations under this Act notwithstanding the development of private facilities for the storage of spent nuclear fuel or high-level radioactive waste.

''TITLE III—LOCAL RELATIONS

''SEC. 301. ON-SITE REPRESENTATIVE.

''The Secretary shall offer to Nye County, Nevada, an opportunity to designate a representative to conduct on-site oversight activities at the Yucca Mountain site. Reasonable expenses of such representatives shall be paid by the Secretary.

''SEC. 302. BENEFITS AGREEMENTS.

''(a) IN GENERAL.—

''(1) SEPARATE AGREEMENTS.—The Secretary shall offer to enter into separate agreements with Nye County, Nevada, and Lincoln County, Nevada, concerning the integrated management system.

''(2) AGREEMENT CONTENT.—Any agreement shall contain such terms and conditions, including such financial and institutional arrangements, as the Secretary and agreement entity determine to be reasonable and appropriate and shall contain such provisions as are necessary to preserve any right to participation or compensation of Nye County, Nevada, and Lincoln County, Nevada.

''(b) AMENDMENT.—An agreement entered into under subsection (a) may be amended only with the mutual consent of the parties to the amendment and terminated only in accordance with subsection (c).

''(c) TERMINATION.—The Secretary shall terminate an agreement under subsection (a) if any element of the integrated management system may not be completed.

''(d) LIMITATION.—Only 1 agreement each for Nye County, Nevada, and Lincoln County, Nevada, may be in effect at any one time.

''(e) JUDICIAL REVIEW.—Decisions of the Secretary under this section are not subject to judicial review.

''SEC. 303. CONTENT OF AGREEMENTS.

''(a) IN GENERAL.—

''(1) SCHEDULE.—The Secretary, subject to appropriations, shall make payments to the party of a benefits agreement under section 302(a) in accordance with the following schedule:

''BENEFITS SCHEDULE

[Amounts in millions]

Event	County
(A) Annual payments prior to first receipt of fuel	$2.5
(B) Upon first spent fuel receipt	$5
(C) Annual payments after first spent fuel receipt until closure of facility	$5

''(2) DEFINITIONS.—For purposes of this section, the term—

''(A) 'spent fuel' means high-level radioactive waste or spent nuclear fuel; and

''(B) 'first spent fuel receipt' does not include receipt of spent fuel or high-level radioactive waste for purposes of testing or operational demonstration.

''(3) ANNUAL PAYMENTS.—Annual payments prior to first spent fuel receipt under line (A) of the benefit schedule shall be made on the date of execution of the benefits agreement and thereafter on the anniversary date of such execution. Annual payments after the first spent fuel receipt until closure of the facility under line (C) of the benefit schedule shall be made on the anniversary date of such first spent fuel receipt.

''(4) REDUCTION.—If the first spent fuel payment under line (B) is made within 6 months after the last annual payment prior to the receipt of spent fuel under line (A) of the benefit schedule, such first spent fuel payment under line (B) of the benefit schedule shall be reduced by an amount equal to 1/12 of such annual payment under line (A) of the benefit schedule for each full month less than 6 that has not elapsed since the last annual payment under line (A) of the benefit schedule.

''(b) CONTENTS.—A benefits agreement under section 302 shall provide that—

''(1) the parties to the agreement shall share with one another information relevant to the licensing process for the interim storage facility or repository, as it becomes available; and

''(2) the affected unit of local government that is party to such agreement may comment on the development of the integrated management system and on documents required under law or regulations governing the effects of the system on the public health and safety.

''(c) CONSTRUCTION.—The signature of the Secretary on a valid benefits agreement under section 302 shall constitute a commitment by the United States to make payments in accordance with such agreement.

''SEC. 304. ACCEPTANCE OF BENEFITS.

''(a) CONSENT.—The acceptance or use of any of the benefits provided under this title by any affected unit of local government shall not be deemed to be an expression of consent, express, or denied, either under the Constitution of the State of Nevada or any law thereof, to the siting of the interim storage facility or repository in the State of Nevada, any provision of such Constitution or laws to the contrary notwithstanding.

''(b) ARGUMENTS.—Neither the United States nor any other entity may assert any argument based on legal or equitable estoppel, or acquiescence, or waiver, or consensual involvement, in response to any decision by the State of Nevada, to oppose the siting in Nevada of the interim storage facility or repository premised upon or related to the acceptance or use of benefits under this title.

''(c) LIABILITY.—No liability of any nature shall accrue to be asserted against the State of Nevada, its Governor, any official thereof, or any official of any governmental unit thereof, premised solely upon the acceptance or use of benefits under this title.

''SEC. 305. RESTRICTION ON USE OF FUNDS.

''None of the funding provided under section 303 may be used—

''(1) directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in section 1913 of title 18, United States Code;

''(2) for litigation purposes; and

''(3) to support multistate efforts or other coalition-building activities inconsistent with the purposes of this Act.

''SEC. 306. INITIAL LAND CONVEYANCES.

''(a) CONVEYANCE OF PUBLIC LANDS.—Within 120 days after October 1, 1998, the Secretary of the Interior, or other agency with jurisdiction over the public lands described in subsection (b), shall convey the public lands described in subsection (b) to the appropriate county, unless the county notifies the Secretary of the Interior or the head of such other appropriate agency in writing within 60 days of such date of enactment that it elects not to take title to all or any part of the property, except that any lands conveyed to the County of Nye, County of Lincoln, or the City of Caliente under this subsection that are subject to a Federal grazing permit or a similar federally granted privilege shall be conveyed between 60 and 120 days of the earliest time the Federal agency administering or granting the privilege would be able to legally terminate such privilege under the statutes and regulations existing on October 1, 1998, unless the Federal agency, county or city, and the affected holder of the privilege negotiate an agreement that allows for an earlier conveyance, but in no case to occur earlier than October 1, 1998.

''(b) SPECIAL CONVEYANCES.—Subject to valid existing rights and notwithstanding any other law, the Secretary of the Interior or the head of the other appropriate agency shall convey:

''(1) To the County of Nye, Nevada, the following public lands depicted on the maps dated October 11, 1995, and on file with the Secretary:

''Map 1: Proposed Pahrump Industrial Park Site

''Map 2: Proposed Lathrop Wells (Gate 510) Industrial Park Site

''Map 3: Pahrump Landfill Sites

''Map 4: Amargosa Valley Regional Landfill Site

''Map 5: Amargosa Valley Municipal Landfill Site

''Map 6: Beatty Landfill/Transfer station Site

''Map 7: Round Mountain Landfill Site

''Map 8: Tonopah Landfill Site

''Map 9: Gabbs Landfill Site.

''(2) To the County of Lincoln, Nevada, the following public lands depicted on the maps dated October 11, 1995, and on file with the Secretary:

''Map 2: Lincoln County, Parcel M, Industrial Park Site, Jointly with the City of Caliente

''Map 3: Lincoln County, Parcels F and G, Mixed Use, Industrial Sites

''Map 4: Lincoln County, Parcels H and I, Mixed Use and Airport Expansion Sites

''Map 5: Lincoln County, Parcels J and K, Mixed Use, Airport and Landfill Expansion Sites

''Map 6: Lincoln County, Parcels E and L, Mixed Use, Airport and Industrial Expansion Sites.

''(3) To the City of Caliente, Nevada, the following public lands depicted on the maps dated October 11, 1995, and on file with the Secretary:

''Map 1: City of Caliente, Parcels A, B, C and D, Community Growth, Landfill Expansion and Community Recreation Sites

''Map 2: City of Caliente, Parcel M, Industrial Park Site, jointly with Lincoln County.

''(c) NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—The activities of the Secretary and the head of any other Federal agency in connection with subsections (a) and (b) shall be considered preliminary decision making activities. No such activity shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

''SEC. 307. PAYMENTS EQUAL TO TAXES.

''(a) TAXABLE AMOUNTS.—In addition to financial assistance provided under this title, the Secretary is authorized to grant to any affected Indian tribe or affected unit of local government an amount each fiscal year equal to the amount such affected Indian tribe or affected unit of local government, respectively, would receive if authorized to tax integrated management system activities, as such affected Indian tribe or affected unit of local government taxes the non-Federal real property and industrial activities occurring within such affected unit of local government.

''(b) TERMINATION.—Such grants shall continue until such time as all such activities, development, and operations are terminated at such site.

''(c) ASSISTANCE TO INDIAN TRIBES AND UNITS OF LOCAL GOVERNMENT.—

''(1) PERIOD.—Any affected Indian tribe or affected unit of local government may not receive any grant under subsection (a) after the expiration of the 1-year period following the date on which the Secretary notifies the affected Indian tribe or affected unit of local government of the termination of the operation of the integrated management system.

''(2) ACTIVITIES.—Any affected Indian tribe or affected unit of local government may not

receive any further assistance under this section if the integrated management system activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

"TITLE IV—FUNDING AND ORGANIZATION

"SEC. 401. PROGRAM FUNDING.

''(a) CONTRACTS.—

''(1) AUTHORITY OF SECRETARY.—In the performance of the Secretary's functions under this Act, the Secretary is authorized to enter into contracts with any person who generates or holds title to spent nuclear fuel or high-level radioactive waste of domestic origin for the acceptance of title and possession, transportation, interim storage, and disposal of such spent fuel or waste upon the payment of fees in accordance with paragraphs (2) and (3). Except as provided in paragraph (3), fees assessed pursuant to this paragraph shall be paid to the Treasury of the United States and shall be available for use by the Secretary pursuant to this section until expended.

''(2) ANNUAL FEES.—

''(A) ELECTRICITY.—

''(i) IN GENERAL.—Under a contract entered into under paragraph (1) there shall be a fee for electricity generated by civilian nuclear power reactors and sold on or after the date of enactment of this Act. The aggregate amount of such fees collected during each fiscal year shall be no greater than the annual level of appropriations for expenditures on the integrated management system for that fiscal year, minus—

''(I) any unobligated balance of fees collected during the previous fiscal year; and

''(II) such appropriations required to be funded by the Federal Government pursuant to section 403.

''(ii) FEE LEVEL.—The Secretary shall determine the level of the annual fee for each civilian nuclear power reactor based on the amount of electricity generated and sold, except that for the period commencing with fiscal year 1999 and continuing through the fiscal year in which disposal at the repository commences—

''(I) the average annual fee collected under this subparagraph shall not exceed 1.0 mill per-kilowatt hour generated and sold; and

''(II) the fee in any fiscal year in such period shall not exceed 1.5 mill per kilowatt hour generated and sold.

Thereafter, the annual fee collected under this subparagraph shall not exceed 1.0 mill per-kilowatt hour generated and sold. Fees assessed pursuant to this subparagraph shall be paid to the Treasury of the United States and shall be available for use by the Secretary pursuant to this section until expended.

''(B) EXPENDITURES IF SHORTFALL.—If, during any fiscal year, the aggregate amount of fees assessed pursuant to subparagraph (A) is less than the annual level of appropriations for expenditures on those activities specified in subsection (d) for that fiscal year, minus—

''(i) any unobligated balance collected pursuant to this section during the previous fiscal year, and

''(ii) such appropriations required to be funded by the Federal Government pursuant to section 403,

the Secretary may make expenditures from the Nuclear Waste Fund up to the level of appropriations.

''(C) RULES.—The Secretary shall, by rule, establish procedures necessary to implement this paragraph.

''(3) ONE-TIME FEES.—The one-time fees collected under contracts executed under section 302(a) of the Nuclear Waste Policy Act of 1982 before the date of enactment of this Act on spent nuclear fuel, or high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor before April 7, 1983, shall be paid to the Nuclear Waste Fund. The Secretary shall collect all such fees before the expiration of fiscal year 2002. The Commission shall suspend the license of any licensee who fails or refuses to pay the full amount of the fee referred to in this paragraph and the license shall remain suspended until the full amount of the fee referred to in this paragraph is paid. In paying such a fee, the person delivering such spent nuclear fuel or high-level radioactive wastes, to the Secretary shall have no further financial obligation under this paragraph to the Federal Government for the long-term storage and permanent disposal of such spent nuclear fuel or high-level radioactive waste.

''(b) ADVANCE CONTRACTING REQUIREMENT.—

''(1) IN GENERAL.—

''(A) LICENSE ISSUANCE AND RENEWAL.—The Commission shall not issue or renew a license to any person to use a utilization or production facility under the authority of section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) unless—

''(i) such person has entered into a contract under subsection (a) with the Secretary; or

''(ii) the Secretary affirms in writing that such person is actively and in good faith negotiating with the Secretary for a contract under subsection (a).

''(B) PRECONDITION.—The Commission, as it deems necessary or appropriate, may require as a precondition to the issuance or renewal of a license under section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) that the applicant for such license shall have entered into an agreement with the Secretary for the disposal of spent nuclear fuel and high-level radioactive waste that may result from the use of such license.

''(2) DISPOSAL IN REPOSITORY.—Except as provided in paragraph (1), no spent nuclear fuel or high-level radioactive waste generated or owned by any person (other than a department of the United States referred to in section 101 or 102 of title 5, United States Code) may be disposed of by the Secretary in the repository unless the generator or owner of such spent fuel or waste has entered into a contract under subsection (a) with the Secretary by not later than the date on which such generator or owner commences generation of, or takes title to, such spent fuel or waste.

''(3) ASSIGNMENT.—The rights and duties of a party to a contract entered into under this section may be assignable with transfer of title to the spent nuclear fuel or high-level radioactive waste involved.

''(4) DISPOSAL CONDITION.—No spent nuclear fuel or high-level radioactive waste generated or owned by any department of the United States referred to in section 101 or 102 of title 5, United States Code, may be stored or disposed of by the Secretary at the interim storage facility or repository in the integrated management system developed under this Act unless, in each fiscal year, such department funds its appropriate portion of the costs of such storage and disposal as specified in section 403.

''(c) NUCLEAR WASTE FUND.—

''(1) IN GENERAL.—The Nuclear Waste Fund established in the Treasury of the United States under section 302(c) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act and shall consist of—

''(A) all receipts, proceeds, and recoveries realized by the Secretary before the date of enactment of this Act;

''(B) any appropriations made by the Congress before the date of enactment of this Act to the Nuclear Waste Fund;

''(C) all interest paid on amounts invested by the Secretary of the Treasury under paragraph (3)(B); and

''(D) the one-time fees collected pursuant to subsection (a)(3).

''(2) USE.—The Nuclear Waste Fund shall be used only for purposes of the integrated management system.

''(3) ADMINISTRATION OF NUCLEAR WASTE FUND.—

''(A) IN GENERAL.—The Secretary of the Treasury shall hold the Nuclear Waste Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Nuclear Waste Fund during the preceding fiscal year.

''(B) AMOUNTS IN EXCESS OF CURRENT NEEDS.—If the Secretary determines that the Nuclear Waste Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

''(i) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Nuclear Waste Fund; and

''(ii) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

''(C) EXEMPTION.—Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Nuclear Waste Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

''(d) USE OF APPROPRIATED FUNDS.—During each fiscal year, the Secretary may make expenditures of funds collected after the date of enactment of this Act under this section and section 403, up to the level of appropriations for that fiscal year pursuant to subsection (f) only for purposes of the integrated management system.

''(e) PROHIBITION ON USE OF APPROPRIATIONS AND NUCLEAR WASTE FUND.—The Secretary shall not make expenditures of funds collected pursuant to this section or section 403 to design or construct packages for the transportation, storage, or disposal of spent nuclear fuel from civilian nuclear power reactors.

''(f) APPROPRIATIONS.—

''(1) BUDGET.—The Secretary shall submit the budget for implementation of the Secretary's responsibilities under this Act to the Office of Management and Budget triennially along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget shall consist of the estimates made by the Secretary of expenditures under this Act and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the budget of the United States Government.

''(2) APPROPRIATIONS.—Appropriations shall be subject to triennial authorization. During each fiscal year, the Secretary may make expenditures, up to the level of appropriations, out of the funds collected pursuant to this section and section 403, if the Secretary transmits the amounts appropriated for implementation of this Act to the Commission and the Nuclear Waste Technical Review Board in appropriate proportion to the collection of such funds.

''(g) EFFECTIVE DATE.—This section shall take effect October 1, 1998, and section 302 of

the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222) shall continue in effect until October 1, 1998.

"SEC. 402. OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT.

''(a) CONTINUATION OF OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT.—The Office of Civilian Radioactive Waste Management established under section 304(a) of the Nuclear Waste Policy Act of 1982 as constituted prior to the date of enactment of this Act, shall continue in effect subsequent to the date of enactment of this Act.

''(b) FUNCTIONS OF DIRECTOR.—The Director of the Office shall be responsible for carrying out the functions of the Secretary under this Act, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Secretary.

''(c) AUDITS.—

''(1) STANDARD.—The Office of Civilian Radioactive Waste Management, its contractors, and subcontractors at all tiers, shall conduct, or have conducted, audits and examinations of their operations in accordance with the usual and customary practices of private corporations engaged in large nuclear construction projects consistent with its role in the program.

''(2) TIME.—The management practices and performances of the Office of Civilian Radioactive Waste Management shall be audited every 5 years by an independent management consulting firm with significant experience in similar audits of private corporations engaged in large nuclear construction projects. The first such audit shall be conducted 5 years after the date of enactment of this Act.

''(3) COMPTROLLER GENERAL.—The Comptroller General of the United States shall annually make an audit of the Office, in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Office as the Comptroller General determines to be necessary for the preparation of such audit. The Comptroller General shall submit to the Congress a report on the results of each audit conducted under this section.

''(4) TIME.—No audit contemplated by this subsection shall take longer than 30 days to conduct. An audit report shall be issued in final form no longer than 60 days after the audit is commenced.

''(5) PUBLIC DOCUMENTS.—All audit reports shall be public documents and available to any individual upon request.

"SEC. 403. DEFENSE CONTRIBUTION.

''(a) ALLOCATION.—No later than one year from the date of enactment of this Act, acting pursuant to section 553 of title 5, United States Code, the Secretary shall issue a final rule establishing the appropriate portion of the costs of managing spent nuclear fuel and high-level radioactive waste under this Act allocable to the interim storage or permanent disposal of spent nuclear fuel, high-level radioactive waste from atomic energy defense activities, and spent nuclear fuel from foreign research reactors. The share of costs allocable to the management of spent nuclear fuel, high-level radioactive waste from atomic energy defense activities, and spent nuclear fuel from foreign research reactors shall include—

''(1) an appropriate portion of the costs associated with research and development activities with respect to development of the interim storage facility and repository; and

''(2) interest on the principal amounts due calculated by reference to the appropriate Treasury bill rate as if the payments were made at a point in time consistent with the payment dates for spent nuclear fuel and high-level radioactive waste under the contracts.

''(b) APPROPRIATION REQUEST.—In addition to any request for an appropriation from the Nuclear Waste Fund, the Secretary shall request annual appropriations from general revenues in amounts sufficient to pay the costs of the management of materials described in subsection (a).

''(c) REPORT.—In conjunction with the annual report submitted to Congress under section 702, the Secretary shall advise the Congress annually of the amount of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities, and spent nuclear fuel from foreign research reactors requiring management in the integrated management system.

''(d) AUTHORIZATION.—There is authorized to be appropriated to the Secretary, from general revenues, for carrying out the purposes of this Act, such sums as may be necessary to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities as established under subsection (a).

"TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

"SEC. 501. COMPLIANCE WITH OTHER LAWS.

''If the requirements of any law are inconsistent with or duplicative of the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) and this Act, the Secretary shall comply only with the requirements of the Atomic Energy Act of 1954 and this Act in implementing the integrated management system. Any requirement of a State or political subdivision of a State is preempted if—

''(1) complying with such requirement and a requirement of this Act is impossible; or

''(2) such requirement, as applied or enforced, is an obstacle to accomplishing or carrying out this Act or a regulation under this Act.

"SEC. 502. WATER RIGHTS.

''(a) NO FEDERAL RESERVATION.—Nothing in this Act or any other Act of Congress shall constitute or be construed to constitute either an express or implied Federal reservation of water or water rights for any purpose arising under this Act.

''(b) ACQUISITION AND EXERCISE OF WATER RIGHTS UNDER NEVADA LAW.—The United States may acquire and exercise such water rights as it deems necessary to carry out its responsibilities under this Act pursuant to the substantive and procedural requirements of the State of Nevada. Nothing in this Act shall be construed to authorize the use of eminent domain by the United States to acquire water rights.

''(c) EXERCISE OF WATER RIGHTS GENERALLY UNDER NEVADA LAWS.—Nothing in this Act shall be construed to limit the exercise of water rights as provided under Nevada State laws.

"SEC. 503. JUDICIAL REVIEW OF AGENCY ACTIONS.

''(a) JURISDICTION OF UNITED STATES COURTS OF APPEALS.—

''(1) ORIGINAL AND EXCLUSIVE JURISDICTION.—Except for review in the Supreme Court of the United States, and except as otherwise provided in this Act, the United States courts of appeals shall have original and exclusive jurisdiction over any civil action—

''(A) for review of any final decision or action of the Secretary, the President, or the Commission under this Act;

''(B) alleging the failure of the Secretary, the President, or the Commission to make any decision, or take any action, required under this Act;

''(C) challenging the constitutionality of any decision made, or action taken, under any provision of this Act; or

''(D) for review of any environmental impact statement prepared or environmental assessment made pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under this Act or alleging a failure to prepare such statement with respect to any such action.

''(2) VENUE.—The venue of any proceeding under this section shall be in the judicial circuit in which the petitioner involved resides or has its principal office, or in the United States Court of Appeals for the District of Columbia.

''(b) DEADLINE FOR COMMENCING ACTION.—A civil action for judicial review described under subsection (a)(1) may be brought no later than 180 days after the date of the decision or action or failure to act involved, as the case may be, except that if a party shows that the party did not know of the decision or action complained of or of the failure to act, and that a reasonable person acting under the circumstances would not have known of such decision, action, or failure to act, such party may bring a civil action no later than 180 days after the date such party acquired actual or constructive knowledge of such decision, action, or failure to act.

''(c) APPLICATION OF OTHER LAW.—The provisions of this section relating to any matter shall apply in lieu of the provisions of any other Act relating to the same matter.

"SEC. 504. LICENSING OF FACILITY EXPANSIONS AND TRANSSHIPMENTS.

''(a) ORAL ARGUMENT.—In any Commission hearing under section 189 of the Atomic Energy Act of 1954 (42 U.S.C. 2239) on an application for a license, or for an amendment to an existing license, filed after January 7, 1983, to expand the spent nuclear fuel storage capacity at the site of a civilian nuclear power reactor, through the use of high-density fuel storage racks, fuel rod compaction, the transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, the construction of additional spent nuclear fuel pool capacity or dry storage capacity, or by other means, the Commission shall, at the request of any party, provide an opportunity for oral argument with respect to any matter which the Commission determines to be in controversy among the parties. The oral argument shall be preceded by such discovery procedures as the rules of the Commission shall provide. The Commission shall require each party, including the Commission staff, to submit in written form, at the time of the oral argument, a summary of the facts, data, and arguments upon which such party proposes to rely that are known at such time to such party. Only facts and data in the form of sworn testimony or written submission may be relied upon by the parties during oral argument. Of the materials that may be submitted by the parties during oral argument, the Commission shall only consider those facts and data that are submitted in the form of sworn testimony or written submission.

''(b) ADJUDICATORY HEARING.—

''(1) DESIGNATION.—At the conclusion of any oral argument under subsection (a), the Commission shall designate any disputed question of fact, together with any remaining questions of law, for resolution in an adjudicatory hearing only if it determines that—

''(A) there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in an adjudicatory hearing; and

''(B) the decision of the Commission is likely to depend in whole or in part on the resolution of such dispute.

''(2) DETERMINATION.—In making a determination under this subsection, the Commission—

''(A) shall designate in writing the specific facts that are in genuine and substantial dispute, the reason why the decision of the agency is likely to depend on the resolution of such facts, and the reason why an adjudicatory hearing is likely to resolve the dispute; and

''(B) shall not consider—

''(i) any issue relating to the design, construction, or operation of any civilian nuclear power reactor already licensed to operate at such site, or any civilian nuclear power reactor to which a construction permit has been granted at such site, unless the Commission determines that any such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered; or

''(ii) any siting or design issue fully considered and decided by the Commission in connection with the issuance of a construction permit or operating license for a civilian nuclear power reactor at such site, unless—

''(I) such issue results from any revision of siting or design criteria by the Commission following such decision; and

''(II) the Commission determines that such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered.

''(3) APPLICATION.—The provisions of paragraph (2)(B) shall apply only with respect to licenses, authorizations, or amendments to licenses or authorizations, applied for under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) before December 31, 2005.

''(4) CONSTRUCTION.—The provisions of this section shall not apply to the first application for a license or license amendment received by the Commission to expand onsite spent fuel storage capacity by the use of a new technology not previously approved for use at any nuclear power plant by the Commission.

''(c) JUDICIAL REVIEW.—No court shall hold unlawful or set aside a decision of the Commission in any proceeding described in subsection (a) because of a failure by the Commission to use a particular procedure pursuant to this section unless—

''(1) an objection to the procedure used was presented to the Commission in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection; and

''(2) the court finds that such failure has precluded a fair consideration and informed resolution of a significant issue of the proceeding taken as a whole.

''SEC. 505. SITING A SECOND REPOSITORY.

''(a) CONGRESSIONAL ACTION REQUIRED.—The Secretary may not conduct site-specific activities with respect to a second repository unless Congress has specifically authorized and appropriated funds for such activities.

''(b) REPORT.—The Secretary shall report to the President and to Congress on or after January 1, 2007, but not later than January 1, 2010, on the need for a second repository.

''SEC. 506. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL RADIOACTIVE WASTE SITE CLOSURE.

''(a) FINANCIAL ARRANGEMENTS.—

''(1) STANDARDS AND INSTRUCTIONS.—The Commission shall establish by rule, regulation, or order, after public notice, and in accordance with section 181 of the Atomic Energy Act of 1954 (42 U.S.C. 2231), such standards and instructions as the Commission may deem necessary or desirable to ensure in the case of each license for the disposal of low-level radioactive waste that an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided by a licensee to permit completion of all requirements established by the Commission for the decontamination, decommissioning, site closure, and reclamation of sites, structures, and equipment used in conjunction with such low-level radioactive waste. Such financial arrangements shall be provided and approved by the Commission, or, in the case of sites within the boundaries of any agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021), by the appropriate State or State entity, prior to issuance of licenses for low-level radioactive waste disposal or, in the case of licenses in effect on January 7, 1983, prior to termination of such licenses.

''(2) BONDING, SURETY, OR OTHER FINANCIAL ARRANGEMENTS.—If the Commission determines that any long-term maintenance or monitoring, or both, will be necessary at a site described in paragraph (1), the Commission shall ensure before termination of the license involved that the licensee has made available such bonding, surety, or other financial arrangements as may be necessary to ensure that any necessary long-term maintenance or monitoring needed for such site will be carried out by the person having title and custody for such site following license termination.

''(b) TITLE AND CUSTODY.—

''(1) AUTHORITY OF SECRETARY.—The Secretary shall have authority to assume title and custody of low-level radioactive waste and the land on which such waste is disposed of, upon request of the owner of such waste and land and following termination of the license issued by the Commission for such disposal, if the Commission determines that—

''(A) the requirements of the Commission for site closure, decommissioning, and decontamination have been met by the licensee involved and that such licensee is in compliance with the provisions of subsection (a);

''(B) such title and custody will be transferred to the Secretary without cost to the Federal Government; and

''(C) Federal ownership and management of such site is necessary or desirable in order to protect the public health and safety, and the environment.

''(2) PROTECTION.—If the Secretary assumes title and custody of any such waste and land under this subsection, the Secretary shall maintain such waste and land in a manner that will protect the public health and safety, and the environment.

''(c) SPECIAL SITES.—If the low-level radioactive waste involved is the result of a licensed activity to recover zirconium, hafnium, and rare earths from source material, the Secretary, upon request of the owner of the site involved, shall assume title and custody of such waste and the land on which it is disposed when such site has been decontaminated and stabilized in accordance with the requirements established by the Commission and when such owner has made adequate financial arrangements approved by the Commission for the long-term maintenance and monitoring of such site.

''SEC. 507. NUCLEAR REGULATORY COMMISSION TRAINING AUTHORIZATION.

''The Commission is authorized and directed to promulgate regulations, or other appropriate regulatory guidance, for the training and qualifications of civilian nuclear powerplant operators, supervisors, technicians, and other appropriate operating personnel. Such regulations or guidance shall establish simulator training requirements for applicants for civilian nuclear powerplant operator licenses and for operator requalification programs; requirements governing Commission administration of requalification examinations; requirements for operating tests at civilian nuclear powerplant simulators, and instructional requirements for civilian nuclear powerplant licensee personnel training programs.

''SEC. 508. ACCEPTANCE SCHEDULE.

''The acceptance schedule shall be implemented in accordance with the following:

''(1) PRIORITY RANKING.—Acceptance priority ranking shall be determined by the Department's 'Acceptance Priority Ranking' report.

''(2) ACCEPTANCE RATE.—Except as provided in paragraph (5), the Secretary's acceptance rate for spent nuclear fuel shall be no less than the following: 1,200 MTU in 2002 and 1,200 MTU in 2003, 2,000 MTU in 2004 and 2,000 MTU in 2005, 2,700 MTU in 2006, and 3,000 MTU thereafter.

''(3) OTHER ACCEPTANCES.—In each year, once the Secretary has achieved the annual acceptance rate for spent nuclear fuel from civilian nuclear power reactors established pursuant to the contracts executed under the Nuclear Waste Policy Act of 1982 (as set forth in the Secretary's annual capacity report dated March 1995 (DOE/RW–0457)), the Secretary—

''(A) shall accept from spent nuclear fuel from foreign research reactors and spent nuclear fuel from naval reactors and high-level radioactive waste from atomic energy defense activities,an amount of spent nuclear fuel and high-level radioactive waste which is—

''(i) at least 25 percent of the difference between such annual acceptance rate and the annual rate specified in paragraph (2), or

''(ii) 5 percent of the total amount of spent nuclear fuel and high-level radioactive waste actually accepted,

whichever is higher. If such amount is less than the rate prescribed in the preceding sentence, the Secretary shall accept spent nuclear fuel or high-level radioactive waste of domestic origin from civilian nuclear power reactors which have permanently ceased operation; and

''(B) may, additionally, accept any other spent nuclear fuel or high-level radioactive waste.

''(4) EXCEPTION.—If the annual rate under the acceptance schedule is not achieved, the acceptance rate of the Secretary of the materials described in paragraph (3)(A) shall be the greater of the acceptance rate prescribed by paragraph (3) and calculated on the basis of the amount of spent nuclear fuel and high-level radioactive waste actually received or 5 percent of the total amount of spent nuclear fuel and high-level radioactive waste actually accepted.

''(5) ADJUSTMENT.—If the Secretary is unable to begin acceptance by January 31, 2002 at the rate specified in paragraph (2) or if the cumulative amount accepted in any year thereafter is less than that which would have been accepted under the rate specified in paragraph (2), the acceptance schedule shall, to the extent practicable, be adjusted upward such that within 5 years of the start of acceptance by the Secretary—

''(A) the total quantity accepted by the Secretary is consistent with the total quantity that the Secretary would have accepted if the Secretary had begun acceptance in 2002; and

''(B) thereafter the acceptance rate is equivalent to the rate that would be in place pursuant to paragraph (2) if the Secretary had commenced acceptance in 2002.

''(6) EFFECT ON SCHEDULE.—The acceptance schedule shall not be affected or modified in any way as a result of the Secretary's acceptance of any material other than contract holders' spent nuclear fuel and high-level radioactive waste.

"SEC. 509. SUBSEABED OR OCEAN WATER DISPOSAL.

''Notwithstanding any other provision of law—

''(1) the subseabed or ocean water disposal of spent nuclear fuel or high-level radioactive waste is prohibited; and

''(2) no funds shall be obligated for any activity relating to the subseabed or ocean water disposal of spent nuclear fuel or high-level radioactive waste.

"TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

"SEC. 601. DEFINITIONS.

''For purposes of this title—

''(1) CHAIRMAN.—The term 'Chairman' means the Chairman of the Nuclear Waste Technical Review Board.

''(2) BOARD.—The term 'Board' means the Nuclear Waste Technical Review Board continued under section 602.

"SEC. 602. NUCLEAR WASTE TECHNICAL REVIEW BOARD.

''(a) CONTINUATION OF NUCLEAR WASTE TECHNICAL REVIEW BOARD.—The Nuclear Waste Technical Review Board, established under section 502(a) of the Nuclear Waste Policy Act of 1982 as constituted prior to the date of enactment of this Act, shall continue in effect subsequent to the date of enactment of this Act.

''(b) MEMBERS.—

''(1) NUMBER.—The Board shall consist of 11 members who shall be appointed by the President not later than 90 days after December 22, 1987, from among persons nominated by the National Academy of Sciences in accordance with paragraph (3).

''(2) CHAIR.—The President shall designate a member of the Board to serve as Chairman.

''(3) NATIONAL ACADEMY OF SCIENCES.—

''(A) NOMINATIONS.—The National Academy of Sciences shall, not later than 90 days after December 22, 1987, nominate not less than 22 persons for appointment to the Board from among persons who meet the qualifications described in subparagraph (C).

''(B) VACANCIES.—The National Academy of Sciences shall nominate not less than 2 persons to fill any vacancy on the Board from among persons who meet the qualifications described in subparagraph (C).

''(C) NOMINEES.—

''(i) Each person nominated for appointment to the Board shall be—

''(I) eminent in a field of science or engineering, including environmental sciences; and

''(II) selected solely on the basis of established records of distinguished service.

''(ii) The membership of the Board shall be representatives of the broad range of scientific and engineering disciplines related to activities under this title.

''(iii) No person shall be nominated for appointment to the Board who is an employee of—

''(I) the Department of Energy;

''(II) a national laboratory under contract with the Department of Energy; or

''(III) an entity performing spent nuclear fuel or high-level radioactive waste activities under contract with the Department of Energy.

''(4) VACANCIES.—Any vacancy on the Board shall be filled by the nomination and appointment process described in paragraphs (1) and (3).

''(5) TERMS.—Members of the Board shall be appointed for terms of 4 years, each such term to commence 120 days after December 22, 1987, except that of the 11 members first appointed to the Board, 5 shall serve for 2 years and 6 shall serve for 4 years, to be designated by the President at the time of appointment, except that a member of the Board whose term has expired may continue to serve as a member of the Board until such member's successor has taken office.

"SEC. 603. FUNCTIONS.

''The Board shall evaluate the technical and scientific validity of activities undertaken by the Secretary after December 22, 1987, including—

''(1) site characterization activities; and

''(2) activities relating to the packaging or transportation of spent nuclear fuel or high-level radioactive waste.

"SEC. 604. INVESTIGATORY POWERS.

''(a) HEARINGS.—Upon request of the Chairman or a majority of the members of the Board, the Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Board considers appropriate. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

''(b) PRODUCTION OF DOCUMENTS.—

''(1) RESPONSE TO INQUIRIES.—Upon the request of the Chairman or a majority of the members of the Board, and subject to existing law, the Secretary (or any contractor of the Secretary) shall provide the Board with such records, files, papers, data, or information as may be necessary to respond to any inquiry of the Board under this title.

''(2) EXTENT.—Subject to existing law, information obtainable under paragraph (1) shall not be limited to final work products of the Secretary, but shall include drafts of such products and documentation of work in progress.

"SEC. 605. COMPENSATION OF MEMBERS.

''(a) IN GENERAL.—Each member of the Board shall, subject to appropriations, be paid at the rate of pay payable for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the Board.

''(b) TRAVEL EXPENSES.—Each member of the Board may receive travel expenses, including per diem in lieu of subsistence, in the same manner as is permitted under sections 5702 and 5703 of title 5, United States Code.

"SEC. 606. STAFF.

''(a) CLERICAL STAFF.—

''(1) AUTHORITY OF CHAIRMAN.—Subject to paragraph (2), the Chairman may, subject to appropriations, appoint and fix the compensation of such clerical staff as may be necessary to discharge the responsibilities of the Board.

''(2) PROVISIONS OF TITLE 5.—Clerical staff shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 3 of such title relating to classification and General Schedule pay rates.

''(b) PROFESSIONAL STAFF.—

''(1) AUTHORITY OF CHAIRMAN.—Subject to paragraphs (2) and (3), the Chairman may, subject to appropriations, appoint and fix the compensation of such professional staff as may be necessary to discharge the responsibilities of the Board.

''(2) NUMBER.—Not more than 10 professional staff members may be appointed under this subsection.

''(3) TITLE 5.—Professional staff members may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

"SEC. 607. SUPPORT SERVICES.

''(a) GENERAL SERVICES.—To the extent permitted by law and requested by the Chairman, the Administrator of General Services shall provide the Board with necessary administrative services, facilities, and support on a reimbursable basis.

''(b) ACCOUNTING, RESEARCH, AND TECHNOLOGY ASSESSMENT SERVICES.—The Comptroller General, the Librarian of Congress, and the Director of the Office of Technology Assessment shall, to the extent permitted by law and subject to the availability of funds, provide the Board with such facilities, support, funds and services, including staff, as may be necessary for the effective performance of the functions of the Board.

''(c) ADDITIONAL SUPPORT.—Upon the request of the Chairman, the Board may secure directly from the head of any department or agency of the United States information necessary to enable it to carry out this title.

''(d) MAILS.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

''(e) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Board, the Chairman may, subject to appropriations, procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–18 of the General Schedule.

"SEC. 608. REPORT.

''The Board shall report not less than 2 times per year to Congress and the Secretary its findings, conclusions, and recommendations.

"SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated for expenditures such sums as may be necessary to carry out the provisions of this title.

"SEC. 610. TERMINATION OF THE BOARD.

''The Board shall cease to exist not later than one year after the date on which the Secretary begins disposal of spent nuclear fuel or high-level radioactive waste in the repository.

"TITLE VII—MANAGEMENT REFORM

"SEC. 701. MANAGEMENT REFORM INITIATIVES.

''(a) IN GENERAL.—The Secretary is directed to take actions as necessary to improve the management of the civilian radioactive waste management program to ensure that the program is operated, to the maximum extent practicable, in like manner as a private business.

''(b) SITE CHARACTERIZATION.—The Secretary shall employ, on an on-going basis, integrated performance modeling to identify appropriate parameters for the remaining site characterization effort and to eliminate studies of parameters that are shown not to affect long-term repository performance.

"SEC. 702. REPORTING.

''(a) INITIAL REPORT.—Within 180 days of the date of enactment of this Act, the Secretary shall report to Congress on its planned actions for implementing the provisions of this Act, including the development of the Integrated Waste Management System. Such report shall include—

''(1) an analysis of the Secretary's progress in meeting its statutory and contractual obligation to accept title to, possession of, and delivery of spent nuclear fuel and high-level radioactive waste beginning no later than January 31, 2002, and in accordance with the acceptance schedule;

''(2) a detailed schedule and timeline showing each action that the Secretary intends to take to meet the Secretary's obligations under this Act and the contracts;

''(3) a detailed description of the Secretary's contingency plans in the event that the Secretary is unable to meet the planned schedule and timeline; and

''(4) an analysis by the Secretary of its funding needs for fiscal years 1996 through 2001.

''(b) ANNUAL REPORTS.—On each anniversary of the submittal of the report required by subsection (a), the Secretary shall make annual reports to the Congress for the purpose of updating the information contained in such report. The annual reports shall be brief and shall notify the Congress of—

''(1) any modifications to the Secretary's schedule and timeline for meeting its obligations under this Act;

''(2) the reasons for such modifications, and the status of the implementation of any of the Secretary's contingency plans; and

''(3) the Secretary's analysis of its funding needs for the ensuing 5 fiscal years.''.

SEC. 2. CONTINUATION OF CONTRACTS.

Subsequent to the date of enactment of this Act, the contracts executed under section 302(a) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act in accordance with their terms except to the extent that the contracts have been modified by the parties to the contract.

SECTION 1. AMENDMENT OF NUCLEAR WASTE POLICY ACT OF 1982.

The Nuclear Waste Policy Act of 1982 is amended to read as follows:

''SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'Nuclear Waste Policy Act of 1997'.

''(b) TABLE OF CONTENTS.—

''Sec. 1. Short title and table of contents.
''Sec. 2. Definitions.
''Sec. 3. Findings and purposes.

''TITLE I—OBLIGATIONS

''Sec. 101. Obligations of the Secretary of Energy.

''TITLE II—INTEGRATED MANAGEMENT SYSTEM

''Sec. 201. Intermodal transfer.
''Sec. 202. Transportation planning.
''Sec. 203. Transportation requirements.
''Sec. 204. Interim storage.
''Sec. 205. Permanent disposal.
''Sec. 206. Land withdrawal.

''TITLE III—LOCAL RELATIONS

''Sec. 301. On-site representative.
''Sec. 302. Benefits agreements.
''Sec. 303. Content of agreements.
''Sec. 304. Acceptance of benefits.
''Sec. 305. Restriction on use of funds.
''Sec. 306. Initial land conveyances.

''TITLE IV—FUNDING AND ORGANIZATION

''Sec. 401. Program funding.
''Sec. 402. Office of Civilian Radioactive Waste Management.
''Sec. 403. Defense contribution.

''TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

''Sec. 501. Compliance with other laws.
''Sec. 502. Water rights.
''Sec. 503. Judicial review of agency actions.
''Sec. 504. Licensing of facility expansions and transshipments.
''Sec. 505. Siting a second repository.
''Sec. 506. Financial arrangements for low-level radioactive waste site closure.
''Sec. 507. Nuclear Regulatory Commission training authorization.
''Sec. 508. Acceptance schedule.
''Sec. 509. Subseabed or ocean water disposal.
''Sec. 510. Compensation.

''TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

''Sec. 601. Definitions.
''Sec. 602. Nuclear Waste Technical Review Board.
''Sec. 603. Functions.
''Sec. 604. Investigatory powers.
''Sec. 605. Compensation of members.
''Sec. 606. Staff.
''Sec. 607. Support services.
''Sec. 608. Report.
''Sec. 609. Authorization of appropriations.
''Sec. 610. Termination of the board.

''TITLE VII—MANAGEMENT REFORM

''Sec. 701. Management reform initiatives.
''Sec. 702. Reporting.

''SEC. 2. DEFINITIONS.

''For purposes of this Act:

''(1) ACCEPT, ACCEPTANCE.—The terms 'accept' and 'acceptance' mean the Secretary's act of taking possession of spent nuclear fuel or high-level radioactive waste.

''(2) ACCEPTANCE SCHEDULE.—The term 'acceptance schedule' means the schedule established by the Secretary under section 508 for acceptance of spent nuclear fuel and high-level radioactive waste.

''(3) AFFECTED INDIAN TRIBE.—The term 'affected Indian tribe' means an Indian tribe—

''(A) whose reservation is surrounded by or borders on an affected unit of local government, or

''(B) whose federally-defined possessory or usage rights to other lands outside of the border of the Indian tribe's reservation arising out of Congressionally-ratified treaties,

may be affected by the locating of an interim storage facility or repository, if the Secretary finds, upon petition of the appropriate government officials of the Indian tribe, that such affects are both substantial and adverse to the Indian tribe.

''(4) AFFECTED UNIT OF LOCAL GOVERNMENT.—The term 'affected unit of local government' means the unit of local government with jurisdiction over the site of a repository or interim storage facility. Such term may, at the discretion of the Secretary, include other units of local government that are contiguous with such unit.

''(5) ATOMIC ENERGY DEFENSE ACTIVITY.—The term 'atomic energy defense activity' means any activity of the Secretary performed in whole or in part in carrying out any of the following functions:

''(A) Naval reactors development.

''(B) Weapons activities including defense inertial confinement fusion.

''(C) Verification and control technology.

''(D) Defense nuclear materials production.

''(E) Defense nuclear waste and materials byproducts management.

''(F) Defense nuclear materials security and safeguards and security investigations.

''(G) Defense research and development.

''(6) CIVILIAN NUCLEAR POWER REACTOR.—The term 'civilian nuclear power reactor' means a civilian nuclear power plant required to be licensed under section 103 or 104 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)).

''(7) COMMISSION.—The term 'Commission' means the Nuclear Regulatory Commission.

''(8) DEPARTMENT.—The term 'Department' means the Department of Energy.

''(9) DISPOSAL.—The term 'disposal' means the emplacement in a repository of spent nuclear fuel, high-level radioactive waste, or other highly radioactive material with no foreseeable intent of recovery, whether or not such emplacement permits recovery of such material for any future purpose.

''(10) DISPOSAL SYSTEM.—The term 'disposal system' means all natural barriers and engineered barriers, and engineered systems and components, that prevent the release of radionuclides from the repository.

''(11) ENGINEERED BARRIERS.—The term 'engineered barriers' and 'engineered systems and components,' means man made components of a disposal system. Such term includes the spent nuclear fuel or high-level radioactive waste form, spent nuclear fuel package or high-level radioactive waste, and other materials placed over and around such packages.

''(12) HIGH-LEVEL RADIOACTIVE WASTE.—The term 'high-level radioactive waste' means—

''(A) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations;

''(B) the highly radioactive material resulting from atomic energy defense activities; and

''(C) other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation.

''(13) FEDERAL AGENCY.—The term 'Federal agency' means any Executive agency, as defined in section 105 of title 5, United States Code.

''(14) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians including any Alaska Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)).

''(15) INTEGRATED MANAGEMENT SYSTEM.—The term 'integrated management system' means the system developed by the Secretary for the acceptance, transportation, storage, and disposal of spent nuclear fuel and high-level radioactive waste.

''(16) INTERIM STORAGE FACILITY.—The term 'interim storage facility' means a facility designed and constructed for the receipt, handling, possession, safeguarding, and storage of spent nuclear fuel and high-level radioactive waste in accordance with title II of this Act.

''(17) INTERIM STORAGE FACILITY SITE.—The term 'interim storage facility site' means the specific site within Area 25 of the Nevada Test Site that is designated by the Secretary and withdrawn and reserved in accordance with this Act for the location of the interim storage facility.

''(18) LOW-LEVEL RADIOACTIVE WASTE.—The term 'low-level radioactive waste' means radioactive material that—

''(A) is not spent nuclear fuel, high-level radioactive waste, transuranic waste, or byproduct material as defined in section 11 e.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)); and

''(B) the Commission, consistent with existing law, classifies as low-level radioactive waste.

''(19) METRIC TONS URANIUM.—The terms 'metric tons uranium' and 'MTU' means the amount of uranium in the original unirradiated fuel element whether or not the spent nuclear fuel has been reprocessed.

''(20) NUCLEAR WASTE FUND.—The terms 'Nuclear Waste Fund' and 'waste fund' mean the nuclear waste fund established in the United States Treasury prior to the date of enactment of this Act under section 302(c) of the Nuclear Waste Policy Act of 1982.

''(21) OFFICE.—The term 'Office' means the Office of Civilian Radioactive Waste Management established within the Department prior to the date of enactment of this Act under the provisions of the Nuclear Waste Policy Act of 1982.

''(22) PROGRAM APPROACH.—The term 'program approach' means the Civilian Radioactive Waste Management Program Plan, dated May 1996, as modified by this Act, and

as amended from time to time by the Secretary in accordance with this Act.

''(23) REPOSITORY.—The term 'repository' means a system designed and constructed under title II of this Act for the permanent geologic disposal of spent nuclear fuel and high-level radioactive waste, including both surface and subsurface areas at which spent nuclear fuel and high-level radioactive waste receipt, handling, possession, safeguarding, and storage are conducted.

''(24) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

''(25) SITE CHARACTERIZATION.—The term 'site characterization' means activities, whether in a laboratory or in the field, undertaken to establish the geologic condition and the ranges of the parameters of a candidate site relevant to the location of a repository, including borings, surface excavations, excavations of exploratory facilities, limited subsurface lateral excavations and borings, and in situ testing needed to evaluate the licensability of a candidate site for the location of a repository, but not including preliminary borings and geophysical testing needed to assess whether site characterization should be undertaken.

''(26) SPENT NUCLEAR FUEL.—The term 'spent nuclear fuel' means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

''(27) STORAGE.—The term 'storage' means retention of spent nuclear fuel or high-level radioactive waste with the intent to recover such waste or fuel for subsequent use, processing, or disposal.

''(28) WITHDRAWAL.—The term 'withdrawal' has the same definition as that set forth in the Federal Land Policy and Management Act (43 U.S.C. 1702 and following).

''(29) YUCCA MOUNTAIN SITE.—The term 'Yucca Mountain site' means the area in the State of Nevada that is withdrawn and reserved in accordance with this Act for the location of a repository.

''SEC. 3. FINDINGS AND PURPOSES.

''(a) FINDINGS.—The Congress finds that—

''(1) while spent nuclear fuel can be safely stored at reactor sites, the expeditious movement to and storage of such spent nuclear fuel at a centralized Federal facility will enhance the nation's environmental protection;

''(2) while the Federal Government has the responsibility to provide for the centralized interim storage and permanent disposal of spent nuclear fuel and high-level radioactive waste to protect the public health and safety and the environment, the costs of such storage and disposal should be the responsibility of the generators and owners of such waste and fuel, including the Federal Government;

''(3) in the interests of protecting the public health and safety, enhancing the nation's environmental protection, promoting the nation's energy security, and ensuring the Secretary's ability to commence acceptance of spent nuclear fuel and high-level radioactive waste no later than January 31, 2000, it is necessary for Congress to authorize the interim storage facility;

''(4) deficit-control measures designed to limit appropriation of general revenues have limited the availability of the Nuclear Waste Fund for its intended purposes; and

''(5) the Federal Government has the responsibility to provide for the permanent disposal of waste generated from United States atomic energy defense activities.

''(b) PURPOSES.—The purposes of this Act are—

''(1) to direct the Secretary to develop an integrated management system in accordance with this Act so that the Department can accept spent nuclear fuel or high-level radioactive waste for interim storage commencing no later than January 31, 2000, and for permanent disposal at a repository commencing no later than January 17, 2010;

''(2) to provide for the siting, construction, and operation of a repository for permanent geologic disposal of spent nuclear fuel and high-level radioactive waste in order to adequately protect the public and the environment;

''(3) to take those actions necessary to ensure that the consumers of nuclear energy, who are funding the Secretary's activities under this Act, receive the services to which they are entitled and realize the benefits of enhanced protection of public health and safety, and the environment, that will ensue from the Secretary's compliance with the obligations imposed by this Act; and

''(4) to provide a schedule and process for the expeditious and safe development and commencement of operation of an integrated management system and any necessary modifications to the transportation infrastructure to ensure that the Secretary can commence acceptance of spent nuclear fuel and high-level radioactive waste no later than January 31, 2000.

''TITLE I—OBLIGATIONS

''SEC. 101. OBLIGATIONS OF THE SECRETARY OF ENERGY.

''(a) DISPOSAL.—The Secretary shall develop and operate a repository for the permanent geologic disposal of spent nuclear fuel and high-level radioactive waste.

''(b) ACCEPTANCE.—The Secretary shall accept spent nuclear fuel and high-level radioactive waste for storage at the interim storage facility pursuant to section 204 in accordance with the acceptance schedule established under section 508, beginning not later than January 31, 2000.

''(c) TRANSPORTATION.—The Secretary shall provide for the transportation of spent nuclear fuel and high-level radioactive waste accepted by the Secretary.

''(d) INTEGRATED MANAGEMENT SYSTEM.—The Secretary shall expeditiously pursue the development of each component of the integrated management system, and in so doing shall seek to utilize effective private sector management and contracting practices in accordance with title VII of this Act.

''TITLE II—INTEGRATED MANAGEMENT SYSTEM

''SEC. 201. INTERMODAL TRANSFER.

''(a) BEFORE RAIL ACCESS.—Until such time as direct rail access is available to the interim storage facility site, the Secretary shall utilize heavy-haul truck transport to move spent nuclear fuel and high-level radioactive waste from the mainline rail line at Caliente, Nevada, to the interim storage facility site.

''(b) CAPABILITY DATE.—The Secretary shall develop the capability to commence rail to truck intermodal transfer at Caliente, Nevada, no later than January 31, 2000.

''(c) ACQUISITIONS.—The Secretary shall acquire lands and rights-of-way necessary to commence intermodal transfer at Caliente, Nevada.

''(d) REPLACEMENTS.—The Secretary shall acquire and develop on behalf of, and dedicate to, the City of Caliente, Nevada, parcels of land and rights-of-way as required to facilitate replacement of land and city wastewater disposal activities necessary to commence intermodal transfer pursuant to this Act. Replacement of land and city wastewater disposal activities shall occur no later than January 31, 2000.

''(e) NOTICE AND MAP.—Within 6 months of the date of enactment of this Act, the Secretary shall—

''(1) publish in the Federal Register a notice containing a legal description of the sites and rights-of-way to be acquired under this section; and

''(2) file copies of a map of such sites and rights-of-way with the Congress, the Secretary of the Interior, the State of Nevada, the Archivist of the United States, the Board of Lincoln County Commissioners, the Board of Nye County Commissioners, and the Caliente City Council.

Such map and legal description shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors and legal descriptions and make minor adjustments in the boundaries.

''(f) IMPROVEMENTS.—The Secretary shall make improvements to existing roadways selected for heavy-haul truck transport between Caliente, Nevada, and the interim storage facility site as necessary to facilitate year-round safe transport of spent nuclear fuel and high-level radioactive waste.

''(g) HEAVY-HAUL TRANSPORTATION ROUTE.—

''(1) DESIGNATION OF ROUTE.—The route for the heavy-haul truck transport of spent nuclear fuel and high-level radioactive waste shall be as designated in the map (entitled 'Heavy-Haul Route' and on file with the Secretary).

''(2) TRUCK TRANSPORTATION.—The Secretary, in consultation with the State of Nevada and appropriate counties and local jurisdictions, shall establish reasonable terms and conditions pursuant to which the Secretary may utilize heavy-haul truck transport to move spent nuclear fuel and high-level radioactive waste from Caliente, Nevada, to the interim storage facility site.

''(3) IMPROVEMENTS AND MAINTENANCE.—Notwithstanding any other law—

''(A) the Secretary shall be responsible for any incremental costs related to improving or upgrading Federal, State, and local roads within the heavy-haul transportation route utilized, and performing any maintenance activities on such roads, as necessary, to facilitate year-round safe transport of spent nuclear fuel and high-level radioactive waste; and

''(B) any such improvement, upgrading, or maintenance activity shall be funded solely by appropriations made pursuant to sections 401 and 403 of this Act.

''(h) LOCAL GOVERNMENT INVOLVEMENT.—The Commission shall enter into a Memorandum of Understanding with the City of Caliente and Lincoln County, Nevada, to provide advice to the Commission regarding intermodal transfer and to facilitate on-site representation.

''(i) NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—The Secretary's activities in connection with the development of intermodal transfer capability, and upgrading and improvements to, and maintenance of, the roads within the heavy-haul transportation route shall be considered preliminary decisionmaking activities. Such activities shall not require the preparation of an environmental impact statement under section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

''(j) REGULATION.—Notwithstanding any other law, the Secretary's movement of spent nuclear fuel and high-level radioactive waste by heavy-haul transport route pursuant to this subsection shall be subject to exclusive regulation by the Secretary of Transportation and the Commission in accordance with regulatory authority under the provisions of this Act, chapter 51 of title 49, United States Code (relating to the transportation of hazardous materials), and the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

"SEC. 202. TRANSPORTATION PLANNING.

''(a) TRANSPORTATION READINESS.—The Secretary shall take those actions that are necessary and appropriate to ensure that the Secretary is able to accept spent nuclear fuel and high-level radioactive waste beginning not later than January 31, 2000, and transport such fuel or waste to mainline transportation facilities. As soon as is practicable following the enactment of this Act, the Secretary shall analyze each specific reactor facility in the order of priority established in the acceptance schedule under section 508, and develop a logistical plan to assure the Secretary's ability to transport spent nuclear fuel and high-level radioactive waste.

''(b) TRANSPORTATION PLANNING.—In conjunction with the development of the logistical plan in accordance with subsection (a), the Secretary shall update and modify, as necessary, the Secretary's transportation institutional plans to ensure that institutional issues are addressed and resolved on a schedule to support the commencement of transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility no later than January 31, 2000. Among other things, such planning shall provide a schedule and process for addressing and implementing, as necessary, transportation routing plans, transportation contracting plans, transportation training in accordance with section 203, and transportation tracking programs.

"SEC. 203. TRANSPORTATION REQUIREMENTS.

''(a) PACKAGE CERTIFICATION.—No spent nuclear fuel or high-level radioactive waste may be transported by or for the Secretary under this Act except in packages that have been certified for such purposes by the Commission.

''(b) STATE NOTIFICATION.—The Secretary shall abide by regulations of the Commission regarding advance notification of State and local governments prior to transportation of spent nuclear fuel or high-level radioactive waste under this Act.

''(c) TECHNICAL ASSISTANCE.—

''(1) IN GENERAL.—The Secretary shall provide technical assistance and funds to States, affected units of local government, and Indian tribes through whose jurisdiction the Secretary plans to transport substantial amounts of spent nuclear fuel or high-level radioactive waste for training for public safety officials of appropriate units of local government. Training shall cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations. The Secretary's duty to provide technical and financial assistance under this subsection shall be limited to amounts specified in annual appropriations.

''(2) MINIMIZING DUPLICATION OF EFFORT AND EXPENSES.—The Secretaries of Transportation, Labor, and Energy, Directors of the Federal Emergency Management Agency and National Institute of Environmental Health Sciences, Chairman of the Nuclear Regulatory Commission, and Administrator of the Environmental Protection Agency shall review periodically, with the head of each department, agency, or instrumentality of the Government, all emergency response and preparedness training programs of that department, agency, or instrumentality to minimize duplication of effort and expense of the department, agency, or instrumentality in carrying out the programs and shall take necessary action to minimize duplication.

''(d) USE OF PRIVATE CARRIERS.—The Secretary, in providing for the transportation of spent nuclear fuel and high level radioactive waste under this Act, shall by contract use private industry to the fullest extent possible in each aspect of such transportation. The Secretary shall use direct Federal services for such transportation only upon a determination by the Secretary of Transportation, in consultation with the Secretary, that private industry is unable or unwilling to provide such transportation services at a reasonable cost.

''(e) TRANSFER OF TITLE.—Acceptance by the Secretary of any spent nuclear fuel or high-level radioactive waste shall constitute a transfer of title to the Secretary.

"SEC. 204. INTERIM STORAGE.

''(a) AUTHORIZATION.—The Secretary shall design, construct, and operate a facility for the interim storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility site. The interim storage facility shall be subject to licensing pursuant to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) in accordance with the Commission's regulations governing the licensing of independent spent fuel storage installations and shall commence operation in phases by January 31, 2000.

''(b) DESIGN.—The design of the interim storage facility shall provide for the use of storage technologies licensed or certified by the Commission for use at the interim storage facility as necessary to ensure compatibility between the interim storage facility and contract holders' spent nuclear fuel and facilities, and to facilitate the Secretary's ability to meet the Secretary's obligations under this Act.

''(c) LICENSING.—

''(1) PHASES.—The interim storage facility shall be licensed by the Commission in two phases in order to commence operations no later than January 31, 2000.

''(2) FIRST PHASE.—No later than 12 months after the date of enactment of this Act, the Secretary shall submit to the Commission an application for a license for the first phase of the interim storage facility. The license issued for the first phase of the interim storage facility shall have a term of 20 years. The interim storage facility licensed in the first phase shall have a capacity of not more than 10,000 MTU. The Commission shall issue a final decision granting or denying the application for the first phase license no later than 16 months from the date of the submittal of the application for such license.

''(3) SECOND PHASE.—Upon the issuance of the license for the first phase of the interim storage facility under paragraph (2), the Secretary shall submit to the Commission an application for a license for the second phase interim storage facility. The license for the second phase facility shall authorize a storage capacity of 40,000 MTU. The license for the second phase shall have an initial term of up to 100 years, and shall be renewable for additional terms upon application of the Secretary.

''(d) ADDITIONAL AUTHORITY.—

''(1) CONSTRUCTION.—For the purpose of complying with subsection (a), the Secretary may commence site preparation for the interim storage facility as soon as practicable after the date of enactment of this Act and shall commence construction of the first phase of the interim storage facility subsequent to submittal of the license application except that the Commission shall issue an order suspending such construction at any time if the Commission determines that such construction poses an unreasonable risk to public health and safety or the environment. The Commission shall terminate all or part of such order upon a determination that the Secretary has taken appropriate action to eliminate such risk.

''(2) FACILITY USE.—Notwithstanding any otherwise applicable licensing requirement, the Secretary may utilize any facility owned by the Federal Government on the date of enactment of this Act and within the boundaries of the interim storage facility site, in connection with an imminent and substantial endangerment to public health and safety at the interim storage facility prior to commencement of operations during the second phase.

''(3) ACCEPTANCE OF FUEL AND WASTE.—

''(A) GENERAL RULE.—In each year, once the Secretary has achieved the annual acceptance rate for spent nuclear fuel from civilian nuclear power reactors established pursuant to the contracts executed under the Nuclear Waste Policy Act of 1982 (as set forth in the Secretary's annual capacity report dated March 1995 (DOE/RW–0457)), the Secretary—

''(i) may, additionally, accept spent nuclear fuel or high-level radioactive waste of domestic origin from civilian nuclear power reactors which have permanently ceased operation; and

''(ii) except as provided in subparagraph (B), shall accept at least 25 percent of the difference between such annual acceptance rate and the annual rate under the acceptance schedule established under section 508 for spent nuclear fuel from civilian power reactors of—

''(I) spent nuclear fuel from foreign research reactors; and

''(II) spent nuclear fuel from naval reactors and high-level radioactive waste from atomic energy defense activities.

''(B) EXCEPTION.—If the annual rate under the acceptance schedule established under section 508 is not achieved, the acceptance rate of the Secretary of the materials described in subclauses (I) and (II) of subparagraph (A)(ii) shall be the greater of the acceptance rate prescribed by subparagraph (A) and calculated on the basis of the amount of spent nuclear fuel and high-level radioactive waste actually received or 5 percent of the total amount of spent nuclear fuel and high-level radioactive waste actually accepted.

''(e) NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—

''(1) PRELIMINARY DECISIONMAKING ACTIVITIES.—The Secretary's activities under this section, including the selection of a site for the interim storage facility, the preparation and submittal of any license application, and the construction and operation of any facility shall be considered preliminary decisionmaking activities for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). No such activity shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or require any environmental review under subparagraph (E) or (F) of such Act.

''(2) ENVIRONMENTAL IMPACT STATEMENT.—

''(A) FINAL DECISION.—A final decision of the Commission to grant or deny a license application for the first or second phase of the interim storage facility shall be accompanied by an Environmental Impact Statement prepared under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). In preparing such Environmental Impact Statement, the Commission—

''(i) shall assume that 40,000 MTU will be stored at the facility;

''(ii) shall analyze the impacts of the transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility in a generic manner; and

''(iii) shall consider the results of the study by the National Academy of Sciences on the migration of plutonium at the Nevada test site.

''(B) CONSIDERATIONS.—Such Environmental Impact Statement shall not consider—

''(i) the need for the interim storage facility, including any individual component thereof;

''(ii) the time of the initial availability of the interim storage facility;

''(iii) any alternatives to the storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility;

''(iv) any alternatives to the site of the facility as designated by the Secretary in accordance with subsection (a);

''(v) any alternatives to the design criteria for such facility or any individual component thereof, as specified by the Secretary in the license application; or

''(vi) the environmental impacts of the storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility beyond the initial term of the license or the term of the renewal period for which a license renewal application is made.

''(f) JUDICIAL REVIEW.—Judicial review of the Commission's environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall be consolidated with judicial review of the Commission's licensing decision. No court shall have jurisdiction to enjoin the construction or operation of the interim storage facility prior to its final decision on review of the Commission's licensing action.

''(g) WASTE CONFIDENCE.—The Secretary's obligation to construct and operate the interim storage facility in accordance with this section and the Secretary's obligation to develop an integrated management system in accordance with the provisions of this Act, shall provide sufficient and independent grounds for any further findings by the Commission of reasonable assurance that spent nuclear fuel and high-level radioactive waste will be disposed of safely and on a timely basis for purposes of the Commission's decision to grant or amend any license to operate any civilian nuclear power reactor under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

''(h) SAVINGS CLAUSE.—Nothing in this Act shall affect the Commission's procedures for the licensing of any technology for the dry storage of spent nuclear fuel at the site of any civilian nuclear power reactor as adopted by the Commission under section 218 of the Nuclear Waste Policy Act of 1982, as in effect prior to the enactment of the Nuclear Waste Policy Act of 1997. The establishment of such procedures shall not preclude the licensing, under any applicable procedures or rules of the Commission in effect prior to such establishment, of any technology for the storage of civilian spent nuclear fuel at the site of any civilian nuclear power reactor.

''SEC. 205. PERMANENT DISPOSAL.

''(a) SITE CHARACTERIZATION.—

''(1) GUIDELINES.—The guidelines promulgated by the Secretary and published at 10 CFR part 960 are annulled and revoked and the Secretary shall make no assumptions or conclusions about the licensability of the Yucca Mountain site as a repository by reference to such guidelines.

''(2) SITE CHARACTERIZATION ACTIVITIES.—The Secretary shall carry out appropriate site characterization activities at the Yucca Mountain site in accordance with the Secretary's program approach to site characterization if the Secretary modifies or eliminates those site characterization activities designed to demonstrate the suitability of the site under the guidelines referenced in paragraph (1).

''(3) DATE.—No later than December 31, 2002, the Secretary shall apply to the Commission for authorization to construct a repository that will commence operations no later than January 17, 2010. If, at any time prior to the filing of such application, the Secretary determines that the Yucca Mountain site cannot satisfy the Commission's regulations applicable to the licensing of a geologic repository, the Secretary shall terminate site characterization activities at the site, notify Congress and the State of Nevada of the Secretary's determination and the reasons therefor, and recommend to Congress not later than 6 months after such determination further actions, including the enactment of legislation, that may be needed to manage the Nation's spent nuclear fuel and high-level radioactive waste.

''(4) MAXIMIZING CAPACITY.—In developing an application for authorization to construct the repository, the Secretary shall seek to maximize the capacity of the repository.

''(b) LICENSING.—Within one year of the date of enactment of this Act, the Commission shall amend its regulations governing the disposal of spent nuclear fuel and high-level radioactive waste in geologic repositories to the extent necessary to comply with this Act. Subject to subsection (c), such regulations shall provide for the licensing of the repository according to the following procedures:

''(1) CONSTRUCTION AUTHORIZATION.—The Commission shall grant the Secretary a construction authorization for the repository upon determining that there is reasonable assurance that spent nuclear fuel and high-level radioactive waste can be disposed of in the repository—

''(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

''(B) without unreasonable risk to the health and safety of the public; and

''(C) consistent with the common defense and security.

''(2) LICENSE.—Following substantial completion of construction and the filing of any additional information needed to complete the license application, the Commission shall issue a license to dispose of spent nuclear fuel and high-level radioactive waste in the repository if the Commission determines that the repository has been constructed and will operate—

''(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

''(B) without unreasonable risk to the health and safety of the public; and

''(C) consistent with the common defense and security.

''(3) CLOSURE.—After emplacing spent nuclear fuel and high-level radioactive waste in the repository and collecting sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with the Commission's regulations applicable to the licensing of a repository, as modified in accordance with this Act, the Secretary shall apply to the Commission to amend the license to permit permanent closure of the repository. The Commission shall grant such license amendment upon finding that there is reasonable assurance that the repository can be permanently closed—

''(A) in conformity with the Secretary's application to amend the license, the provisions of this Act, and the regulations of the Commission;

''(B) without unreasonable risk to the health and safety of the public; and

''(C) consistent with the common defense and security.

''(4) POST-CLOSURE.—The Secretary shall take those actions necessary and appropriate at the Yucca Mountain site to prevent any activity at the site subsequent to repository closure that poses an unreasonable risk of—

''(A) breaching the repository's engineered or geologic barriers: or

''(B) increasing the exposure of individual members of the public to radiation beyond the release standard established in subsection (d)(1).

''(c) MODIFICATION OF REPOSITORY LICENSING PROCEDURE.—The Commission's regulations shall provide for the modification of the repository licensing procedure, as appropriate, in the event that the Secretary seeks a license to permit the emplacement in the repository, on a retrievable basis, of only that quantity of spent nuclear fuel or high-level radioactive waste that is necessary to provide the Secretary with sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with applicable regulations.

''(d) LICENSING STANDARDS.—Notwithstanding any other provision of law, the Administrator of the Environmental Protection Agency shall not promulgate, by rule or otherwise, standards for protection of the public from releases of radioactive materials or radioactivity from the repository and any such standards existing on the date of enactment of this Act shall not be incorporated in the Commission's licensing regulations. The Commission's repository licensing determinations for the protection of the public shall be based solely on a finding whether the repository can be operated in conformance with the overall system performance standard established in paragraph (1)(A) and applied in accordance with the provisions of paragraph (1)(B). The Commission shall amend its regulations in accordance with subsection (b) to incorporate each of the following licensing standards:

''(1) RELEASE STANDARD.—

''(A) ESTABLISHMENT OF OVERALL SYSTEM PERFORMANCE STANDARD.—The standard for protection of the public from release of radioactive material or radioactivity from the repository shall prohibit releases that would expose an average member of the general population in the vicinity of the Yucca Mountain site to an annual dose in excess of 100 millirems unless the Commission determines by rule that such standard would constitute an unreasonable risk to health and safety and establishes by rule another standard which will protect health and safety. Such standard shall constitute an overall system performance standard.

''(B) APPLICATION OF OVERALL SYSTEM PERFORMANCE STANDARD.—The Commission shall issue the license if it finds reasonable assurance that—

''(i) for the first 1,000 years following the commencement of repository operations, the overall system performance standard will be met based on a deterministic or probabilistic evaluation of the overall performance of the disposal system; and

''(ii) for the period commencing after the first 1,000 years of operation of the repository and terminating at 10,000 years after the commencement of operation of the repository, there is likely to be compliance with the overall system performance standard based on regulatory insight gained through the use of a probabilistic integrated performance model that uses best estimate assumptions, data, and methods.

''(2) HUMAN INTRUSION.—The Commission shall assume that, following repository closure, the inclusion of engineered barriers and the Secretary's post-closure actions at the Yucca Mountain site, in accordance with subsection (b)(3), shall be sufficient to—

''(A) prevent any human activity at the site that poses an unreasonable risk of breaching the repository's engineered or geologic barriers; and

''(B) prevent any increase in the exposure of individual members of the public to radiation beyond allowable limits as specified in paragraph (1).

''(e) NATIONAL ENVIRONMENTAL POLICY ACT.—

''(1) SUBMISSION OF STATEMENT.—Construction and operation of the repository shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary shall submit an environmental impact statement on the construction and operation of the repository to the Commission with the application for construction authorization.

''(2) CONSIDERATIONS.—For purposes of complying with the requirements of the National Environmental Policy Act of 1969 and this section, the Secretary shall not consider in the environmental impact statement the need for the repository, alternative sites or designs for the repository, the time of the initial availability of the repository, or any alternatives to the isolation of spent nuclear fuel and high-level radioactive waste in a repository.

''(3) ADOPTION BY COMMISSION.—The Secretary's environmental impact statement and any supplements thereto shall, to the extent practicable, be adopted by the Commission in connection with the issuance by the Commission of a construction authorization under subsection (b)(1), a license under subsection (b)(2), or a license amendment under subsection (b)(3). To the extent such statement or supplement is adopted by the Commission, such adoption shall be deemed to also satisfy the responsibilities of the Commission under the National Environmental Policy Act of 1969, and no further consideration shall be required, except that nothing in this subsection shall affect any independent responsibilities of the Commission to protect the public health and safety under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.). In any such statement prepared with respect to the repository, the Commission shall not consider the need for a repository, the time of initial availability of the repository, alternate sites to the Yucca Mountain site, or nongeologic alternatives to such site.

''(f) JUDICIAL REVIEW.—No court shall have jurisdiction to enjoin issuance of the Commission repository licensing regulations prior to its final decision on review of such regulations.

''SEC. 206. LAND WITHDRAWAL.

''(a) WITHDRAWAL AND RESERVATION.—

''(1) WITHDRAWAL.—Subject to valid existing rights, the interim storage facility site and the Yucca Mountain site, as described in subsection (b), are withdrawn from all forms of entry, appropriation, and disposal under the public land laws, including the mineral leasing laws, the geothermal leasing laws, the material sale laws, and the mining laws. Withdrawal under this paragraph shall expire at the beginning of the year 2012 if the interim storage facility site is not used in accordance with section 204(c)(2) and other provisions of this Act. After the expiration of the withdrawal, the sites will return to the Federal agency which had jurisdiction over them before the withdrawal and for the purposes previously used.

''(2) JURISDICTION.—Jurisdiction of any land within the interim storage facility site and the Yucca Mountain site managed by the Secretary of the Interior or any other Federal officer is transferred to the Secretary.

''(3) RESERVATION.—The interim storage facility site and the Yucca Mountain site are reserved for the use of the Secretary for the construction and operation, respectively, of the interim storage facility and the repository and activities associated with the purposes of this title.

''(b) LAND DESCRIPTION.—

''(1) BOUNDARIES.—The boundaries depicted on the map entitled 'Interim Storage Facility Site Withdrawal Map,' dated July 28, 1995, and on file with the Secretary, are established as the boundaries of the Interim Storage Facility site.

''(2) BOUNDARIES.—The boundaries depicted on the map entitled 'Yucca Mountain Site Withdrawal Map,' dated July 28, 1995, and on file with the Secretary, are established as the boundaries of the Yucca Mountain site.

''(3) NOTICE AND MAPS.—Within 6 months of the date of enactment of this Act, the Secretary shall—

''(A) publish in the Federal Register a notice containing a legal description of the interim storage facility site; and

''(B) file copies of the maps described in paragraph (1), and the legal description of the interim storage facility site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

''(4) NOTICE AND MAPS.—Concurrent with the Secretary's application to the Commission for authority to construct the repository, the Secretary shall—

''(A) publish in the Federal Register a notice containing a legal description of the Yucca Mountain site; and

''(B) file copies of the maps described in paragraph (2), and the legal description of the Yucca Mountain site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

''(5) CONSTRUCTION.—The maps and legal descriptions of the interim storage facility site and the Yucca Mountain site referred to in this subsection shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

''TITLE III—LOCAL RELATIONS

''SEC. 301. ON-SITE REPRESENTATIVE.

The Secretary shall offer to Nye County, Nevada, an opportunity to designate a representative to conduct on-site oversight activities at such site. Reasonable expenses of such representatives shall be paid by the Secretary.

''SEC. 302. BENEFITS AGREEMENTS.

''(a) IN GENERAL.—

''(1) SEPARATE AGREEMENTS.—The Secretary shall offer to enter into separate agreements with Nye County, Nevada, and Lincoln County, Nevada, concerning the integrated management system.

''(2) AGREEMENT CONTENT.—Any agreement shall contain such terms and conditions, including such financial and institutional arrangements, as the Secretary and agreement entity determine to be reasonable and appropriate and shall contain such provisions as are necessary to preserve any right to participation or compensation of Nye County, Nevada, and Lincoln County, Nevada.

''(b) AMENDMENT.—An agreement entered into under subsection (a) may be amended only with the mutual consent of the parties to the amendment and terminated only in accordance with subsection (c).

''(c) TERMINATION.—The Secretary shall terminate an agreement under subsection (a) if any element of the integrated management system may not be completed.

''(d) LIMITATION.—Only 1 agreement each for Nye County, Nevada, and Lincoln County, Nevada, may be in effect at any one time.

''(e) JUDICIAL REVIEW.—Decisions of the Secretary under this section are not subject to judicial review.

''SEC. 303. CONTENT OF AGREEMENTS.

''(a) IN GENERAL.—

''(1) SCHEDULE.—The Secretary shall make payments to the party of a benefits agreement under section 302(a) in accordance with the following schedule:

''BENEFITS SCHEDULE

[Amounts in millions]

Event	County
(A) Annual payments prior to first receipt of fuel	$2.5
(B) Upon first spent fuel receipt	$5
(C) Annual payments after first spent fuel receipt until closure of facility	$5

''(2) DEFINITIONS.—For purposes of this section, the term—

''(A) 'spent fuel' means high-level radioactive waste or spent nuclear fuel; and

''(B) 'first spent fuel receipt' does not include receipt of spent fuel or high-level radioactive waste for purposes of testing or operational demonstration.

''(3) ANNUAL PAYMENTS.—Annual payments prior to first spent fuel receipt under line (A) of the benefit schedule shall be made on the date of execution of the benefits agreement and thereafter on the anniversary date of such execution. Annual payments after the first spent fuel receipt until closure of the facility under line (C) of the benefit schedule shall be made on the anniversary date of such first spent fuel receipt.

''(4) REDUCTION.—If the first spent fuel payment under line (B) is made within 6 months after the last annual payment prior to the receipt of spent fuel under line (A) of the benefit schedule, such first spent fuel payment under line (B) of the benefit schedule shall be reduced by an amount equal to 1/12 of such annual payment under line (A) of the benefit schedule for each full month less than 6 that has not elapsed since the last annual payment under line (A) of the benefit schedule.

''(b) CONTENTS.—A benefits agreement under section 302 shall provide that—

''(1) the parties to the agreement shall share with one another information relevant to the licensing process for the interim storage facility or repository, as it becomes available; and

''(2) the affected unit of local government that is party to such agreement may comment on the development of the integrated management system and on documents required under law or regulations governing the effects of the system on the public health and safety.

''(c) CONSTRUCTION.—The signature of the Secretary on a valid benefits agreement under section 302 shall constitute a commitment by the United States to make payments in accordance with such agreement.

''SEC. 304. ACCEPTANCE OF BENEFITS.

''(a) CONSENT.—The acceptance or use of any of the benefits provided under this title by any affected unit of local government shall not be deemed to be an expression of consent, express, or denied, either under the Constitution of the State of Nevada or any law thereof, to the siting of the interim storage facility or repository in the State of Nevada, any provision of such Constitution or laws to the contrary notwithstanding.

''(b) ARGUMENTS.—Neither the United States nor any other entity may assert any argument based on legal or equitable estoppel, or acquiescence, or waiver, or consensual involvement, in response to any decision by the State of Nevada, to oppose the siting in Nevada of the interim storage facility or repository premised upon or related to the acceptance or use of benefits under this title.

''(c) LIABILITY.—No liability of any nature shall accrue to be asserted against the State

of Nevada, its Governor, any official thereof, or any official of any governmental unit thereof, premised solely upon the acceptance or use of benefits under this title.

"SEC. 305. RESTRICTION ON USE OF FUNDS.

''None of the funding provided under section 303 may be used—

''(1) directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in section 1913 of title 18, United States Code;

''(2) for litigation purposes; and

''(3) to support multistate efforts or other coalition-building activities inconsistent with the purposes of this Act.

"SEC. 306. INITIAL LAND CONVEYANCES.

''(a) CONVEYANCE OF PUBLIC LANDS.—Within 120 days of the date of enactment of this Act, the Secretary of the Interior, or other agency with jurisdiction over the public lands described in subsection (b), shall convey the public lands described in subsection (b) to the appropriate county, unless the county notifies the Secretary of the Interior or the head of such other appropriate agency in writing within 60 days of such date of enactment that it elects not to take title to all or any part of the property, except that any lands conveyed to the County of Nye, County of Lincoln, or the City of Caliente under this subsection that are subject to a Federal grazing permit or a similar federally granted privilege shall be conveyed between 60 and 120 days of the earliest time the Federal agency administering or granting the privilege would be able to legally terminate such privilege under the statutes and regulations existing at the date of enactment of this Act, unless the Federal agency, county or city, and the affected holder of the privilege negotiate an agreement that allows for an earlier conveyance.

''(b) SPECIAL CONVEYANCES.—Subject to valid existing rights and notwithstanding any other law, the Secretary of the Interior or the head of the other appropriate agency shall convey:

''(1) To the County of Nye, Nevada, the following public lands depicted on the maps dated October 11, 1995, and on file with the Secretary:

Map 1: Proposed Pahrump Industrial Park Site

Map 2: Proposed Lathrop Wells (Gate 510) Industrial Park Site

Map 3: Pahrump Landfill Sites

Map 4: Amargosa Valley Regional Landfill Site

Map 5: Amargosa Valley Municipal Landfill Site

Map 6: Beatty Landfill/Transfer station Site

Map 7: Round Mountain Landfill Site

Map 8: Tonopah Landfill Site

Map 9: Gabbs Landfill Site.

''(2) To the County of Lincoln, Nevada, the following public lands depicted on the maps dated October 11, 1995, and on file with the Secretary:

Map 2: Lincoln County, Parcel M, Industrial Park Site, Jointly with the City of Caliente

Map 3: Lincoln County, Parcels F and G, Mixed Use, Industrial Sites

Map 4: Lincoln County, Parcels H and I, Mixed Use and Airport Expansion Sites

Map 5: Lincoln County, Parcels J and K, Mixed Use, Airport and Landfill Expansion Sites

Map 6: Lincoln County, Parcels E and L, Mixed Use, Airport and Industrial Expansion Sites.

''(3) To the City of Caliente, Nevada, the following public lands depicted on the maps dated October 11, 1995, and on file with the Secretary:

Map 1: City of Caliente, Parcels A, B, C and D, Community Growth, Landfill Expansion and Community Recreation Sites

Map 2: City of Caliente, Parcel M, Industrial Park Site, jointly with Lincoln County.

''(c) NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—The activities of the Secretary and the head of any other Federal agency in connection with subsections (a) and (b) shall be considered preliminary decision making activities. No such activity shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

"TITLE IV—FUNDING AND ORGANIZATION

"SEC. 401. PROGRAM FUNDING.

''(a) CONTRACTS.—

''(1) AUTHORITY OF SECRETARY.—In the performance of the Secretary's functions under this Act, the Secretary is authorized to enter into contracts with any person who generates or holds title to spent nuclear fuel or high-level radioactive waste of domestic origin for the acceptance of title and possession, transportation, interim storage, and disposal of such spent fuel or waste upon the payment of fees in accordance with paragraphs (2) and (3). Fees assessed pursuant to this paragraph shall be paid to the Treasury of the United States and shall be available for use by the Secretary pursuant to this section until expended.

''(2) ANNUAL FEES.—

''(A) ELECTRICITY.—Under a contract entered into under paragraph (1) there shall be a fee for electricity generated by civilian nuclear power reactors and sold on or after the date of enactment of this Act. The aggregate amount of such fees collected during each fiscal year shall be no greater than the annual level of appropriations for expenditures on the possession, transportation, interim storage, and disposal of such spent fuel or waste consistent with subsection (d) for that fiscal year, minus—

''(i) any unobligated balance of fees collected during the previous fiscal year;

''(ii) such appropriations required to be funded by the Federal Government pursuant to section 403; and

''(iii) the amount of one-time fees received pursuant to paragraph (3).

The Secretary shall determine the level of the annual fee for each civilian nuclear power reactor based on the amount of electricity generated and sold, except that the annual fee shall not exceed 1.0 mill per kilowatt-hour generated and sold. Fees assessed pursuant to this subparagraph shall be paid to the Treasury of the United States and shall be available for use by the Secretary pursuant to this section until expended.

''(B) EXPENDITURES IF SHORTFALL.—If, during any fiscal year, the aggregate amount of fees assessed pursuant to subparagraph (A) is less than the annual level of appropriations for expenditures on those activities specified in subsection (d) for that fiscal year, minus—

''(i) any unobligated balance collected pursuant to this section during the previous fiscal year;

''(ii) such appropriations required to be funded by the Federal Government pursuant to section 403; and

''(iii) the amount of one-time fees received pursuant to paragraph (3).

the Secretary may make expenditures from the Nuclear Waste Fund up to the level of the fees assessed.

''(C) BUDGET PRIORITIES IF SHORTFALL.—If, during any fiscal year, the provisions of subparagraph (B) come into effect—

''(i) the Secretary, for purposes of preparing annual requests for appropriations and allocating appropriated funds among competing requirements under the Nuclear Waste Policy Act of 1997, shall accord—

''(I) the activities leading to an operating repository the highest priority; and

''(II) the activities leading to an operating interim storage facility under section 204 the next highest priority; and

''(ii) the Commission, for purposes of preparing annual requests for appropriations and allocating appropriated funds among competing requirements under the Nuclear Waste Policy Act of 1997, shall accord—

''(I) the activities leading to an operating repository the highest priority; and

''(II) the activities leading to an operating interim storage facility under section 204 the next highest priority.

''(D) RULES.—The Secretary shall, by rule, establish procedures necessary to implement this paragraph.

''(3) ONE-TIME FEE.—The one-time fee collected under contracts executed under section 302(a) of the Nuclear Waste Policy Act of 1982 before the date of enactment of this Act on spent nuclear fuel, or high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor before April 7, 1983, shall be paid to the Treasury. The Secretary shall collect all such fees before the expiration of fiscal year 2002. The Commission shall suspend the license of any licensee who fails or refuses to pay the full amount of the fee referred to in this paragraph and the license shall remain suspended until the full amount of the fee referred to in this paragraph is paid. In paying such a fee, the person delivering such spent nuclear fuel or high-level radioactive wastes, to the Secretary shall have no further financial obligation under this paragraph to the Federal Government for the long-term storage and permanent disposal of such spent nuclear fuel or high-level radioactive waste.

''(b) ADVANCE CONTRACTING REQUIREMENT.—

''(1) IN GENERAL.—

''(A) LICENSE ISSUANCE AND RENEWAL.—The Commission shall not issue or renew a license to any person to use a utilization or production facility under the authority of section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) unless—

''(i) such person has entered into a contract under subsection (a) with the Secretary; or

''(ii) the Secretary affirms in writing that such person is actively and in good faith negotiating with the Secretary for a contract under subsection (a).

''(B) PRECONDITION.—The Commission, as it deems necessary or appropriate, may require as a precondition to the issuance or renewal of a license under section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) that the applicant for such license shall have entered into an agreement with the Secretary for the disposal of spent nuclear fuel and high-level radioactive waste that may result from the use of such license.

''(2) DISPOSAL IN REPOSITORY.—Except as provided in paragraph (1), no spent nuclear fuel or high-level radioactive waste generated or owned by any person (other than a department of the United States referred to in section 101 or 102 of title 5, United States Code) may be disposed of by the Secretary in the repository unless the generator or owner of such spent fuel or waste has entered into a contract under subsection (a) with the Secretary by not later than the date on which such generator or owner commences generation of, or takes title to, such spent fuel or waste.

''(3) ASSIGNMENT.—The rights and duties of a party to a contract entered into under this section may be assignable with transfer of

title to the spent nuclear fuel or high-level radioactive waste involved.

''(4) DISPOSAL CONDITION.—No spent nuclear fuel or high-level radioactive waste generated or owned by any department of the United States referred to in section 101 or 102 of title 5, United States Code, may be stored or disposed of by the Secretary at the interim storage facility or repository in the integrated management system developed under this Act unless, in each fiscal year, such department funds its appropriate portion of the costs of such storage and disposal as specified in section 403.

''(c) NUCLEAR WASTE FUND.—

''(1) IN GENERAL.—The Nuclear Waste Fund established in the Treasury of the United States under section 302(c) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act and shall consist of—

''(A) all receipts, proceeds, and recoveries realized by the Secretary before the date of enactment of this Act;

''(B) any appropriations made by the Congress before the date of enactment of the Nuclear Waste Policy Act of 1997 to the Nuclear Waste Fund; and

''(C) all interest paid on amounts invested by the Secretary of the Treasury under paragraph (3)(B).

''(2) USE.—The Nuclear Waste Fund shall be used only for purposes of the integrated management system.

''(3) ADMINISTRATION OF NUCLEAR WASTE FUND.—

''(A) IN GENERAL.—The Secretary of the Treasury shall hold the Nuclear Waste Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Nuclear Waste Fund during the preceding fiscal year.

''(B) AMOUNTS IN EXCESS OF CURRENT NEEDS.—If the Secretary determines that the Nuclear Waste Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

''(i) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Nuclear Waste Fund; and

''(ii) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

''(C) EXEMPTION.—Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Nuclear Waste Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

''(d) USE OF APPROPRIATED FUNDS.—During each fiscal year, the Secretary may make expenditures of funds collected after the date of enactment of this Act under this section and section 403, up to the level of appropriations for that fiscal year pursuant to subsection (f) only for purposes of the integrated management system.

''(e) PROHIBITION ON USE OF APPROPRIATIONS AND NUCLEAR WASTE FUND.—The Secretary shall not make expenditures of funds collected pursuant to this section or section 403 to design or construct systems and components for the transportation, storage, or disposal of spent nuclear fuel from civilian nuclear power reactors.

''(f) APPROPRIATIONS.—

''(1) BUDGET.—The Secretary shall submit the budget for implementation of the Secretary's responsibilities under this Act to the Office of Management and Budget triennially along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget shall consist of the estimates made by the Secretary of expenditures under this Act and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the budget of the United States Government.

''(2) APPROPRIATIONS.—Appropriations shall be subject to triennial authorization. During each fiscal year, the Secretary may make expenditures, up to the level of appropriations, out of the funds collected pursuant to this section and section 403, if the Secretary transmits the amounts appropriated for implementation of this Act to the Commission and the Nuclear Waste Technical Review Board in appropriate proportion to the collection of such funds.

''(g) EFFECTIVE DATE.—This section shall take effect October 1, 1998.

''SEC. 402. OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT.

''(a) CONTINUATION OF OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT.—The Office of Civilian Radioactive Waste Management established under section 304(a) of the Nuclear Waste Policy Act of 1982 as constituted prior to the date of enactment of this Act, shall continue in effect subsequent to the date of enactment of this Act.

''(b) FUNCTIONS OF DIRECTOR.—The Director of the Office shall be responsible for carrying out the functions of the Secretary under this Act, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Secretary.

''(c) AUDITS.—

''(1) STANDARD.—The Office of Civilian Radioactive Waste Management, its contractors, and subcontractors at all tiers, shall conduct, or have conducted, audits and examinations of their operations in accordance with the usual and customary practices of private corporations engaged in large nuclear construction projects consistent with its role in the program.

''(2) TIME.—The management practices and performances of the Office of Civilian Radioactive Waste Management shall be audited every 5 years by an independent management consulting firm with significant experience in similar audits of private corporations engaged in large nuclear construction projects. The first such audit shall be conducted 5 years after the date of enactment of this Act.

''(3) COMPTROLLER GENERAL.—The Comptroller General of the United States shall annually make an audit of the Office, in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Office as the Comptroller General determines to be necessary for the preparation of such audit. The Comptroller General shall submit to the Congress a report on the results of each audit conducted under this section.

''(4) TIME.—No audit contemplated by this subsection shall take longer than 30 days to conduct. An audit report shall be issued in final form no longer than 60 days after the audit is commenced.

''(5) PUBLIC DOCUMENTS.—All audit reports shall be public documents and available to any individual upon request.

''SEC. 403. DEFENSE CONTRIBUTION.

''(a) ALLOCATION.—No later than one year from the date of enactment of this Act, acting pursuant to section 553 of title 5, United States Code, the Secretary shall issue a final rule establishing the appropriate portion of the costs of managing spent nuclear fuel and high-level radioactive waste under this Act allocable to the interim storage or permanent disposal of spent nuclear fuel, high-level radioactive waste from atomic energy defense activities, and spent nuclear fuel from foreign research reactors. The share of costs allocable to the management of spent nuclear fuel, high-level radioactive waste from atomic energy defense activities, and spent nuclear fuel from foreign research reactors shall include—

''(1) an appropriate portion of the costs associated with research and development activities with respect to development of the interim storage facility and repository; and

''(2) interest on the principal amounts due calculated by reference to the appropriate Treasury bill rate as if the payments were made at a point in time consistent with the payment dates for spent nuclear fuel and high-level radioactive waste under the contracts.

''(b) APPROPRIATION REQUEST.—In addition to any request for an appropriation from the Nuclear Waste Fund, the Secretary shall request annual appropriations from general revenues in amounts sufficient to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities as established under subsection (a).

''(c) REPORT.—In conjunction with the annual report submitted to Congress under section 702, the Secretary shall advise the Congress annually of the amount of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities requiring management in the integrated management system.

''(d) AUTHORIZATION.—There is authorized to be appropriated to the Secretary, from general revenues, for carrying out the purposes of this Act, such sums as may be necessary to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities as established under subsection (a).

''TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

''SEC. 501. COMPLIANCE WITH OTHER LAWS.

''If the requirements of any law (other than the Federal Lands Policy Management Act of 1976, the Endangered Species Act of 1973, the Migratory Bird Treaty Act of 1918, and the Federal Water Pollution Control Act as such Acts pertain to fish and wildlife and wetlands) are inconsistent with or duplicative of the requirements of the Atomic Energy Act and this Act of 1954 (42 U.S.C. 2011 et seq.), the Secretary shall comply only with the requirements of the Atomic Energy Act of 1954 and this Act in implementing the integrated management system. Any requirement of a State or political subdivision of a State is preempted if—

''(1) complying with such requirement and a requirement of this Act is impossible; or

''(2) such requirement, as applied or enforced, is an obstacle to accomplishing or carrying out this Act or a regulation under this Act.

''SEC. 502. WATER RIGHTS.

''(a) NO FEDERAL RESERVATION.—Nothing in this Act or any other Act of Congress shall constitute or be construed to constitute either an express or implied Federal reservation of water or water rights for any purpose arising under this Act.

''(b) ACQUISITION AND EXERCISE OF WATER RIGHTS UNDER NEVADA LAW.—The United States may acquire and exercise such water rights as it deems necessary to carry out its responsibilities under this Act pursuant to the substantive and procedural requirements

of the State of Nevada. Nothing in this Act shall be construed to authorize the use of eminent domain by the United States to acquire water rights for such lands.

''(c) EXERCISE OF WATER RIGHTS GENERALLY UNDER NEVADA LAWS.—Nothing in this Act shall be construed to limit the exercise of water rights as provided under Nevada State laws.

''SEC. 503. JUDICIAL REVIEW OF AGENCY ACTIONS.

''(a) JURISDICTION OF UNITED STATES COURTS OF APPEALS.—

''(1) ORIGINAL AND EXCLUSIVE JURISDICTION.—Except for review in the Supreme Court of the United States, and except as otherwise provided in this Act, the United States courts of appeals shall have original and exclusive jurisdiction over any civil action—

''(A) for review of any final decision or action of the Secretary, the President, or the Commission under this Act;

''(B) alleging the failure of the Secretary, the President, or the Commission to make any decision, or take any action, required under this Act;

''(C) challenging the constitutionality of any decision made, or action taken, under any provision of this Act; or

''(D) for review of any environmental impact statement prepared or environmental assessment made pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under this Act or alleging a failure to prepare such statement with respect to any such action.

''(2) VENUE.—The venue of any proceeding under this section shall be in the judicial circuit in which the petitioner involved resides or has its principal office, or in the United States Court of Appeals for the District of Columbia.

''(b) DEADLINE FOR COMMENCING ACTION.—A civil action for judicial review described under subsection (a)(1) may be brought no later than 180 days after the date of the decision or action or failure to act involved, as the case may be, except that if a party shows that the party did not know of the decision or action complained of or of the failure to act, and that a reasonable person acting under the circumstances would not have known of such decision, action, or failure to act, such party may bring a civil action no later than 180 days after the date such party acquired actual or constructive knowledge of such decision, action, or failure to act.

''(c) APPLICATION OF OTHER LAW.—The provisions of this section relating to any matter shall apply in lieu of the provisions of any other Act relating to the same matter.

''SEC. 504. LICENSING OF FACILITY EXPANSIONS AND TRANSSHIPMENTS.

''(a) ORAL ARGUMENT.—In any Commission hearing under section 189 of the Atomic Energy Act of 1954 (42 U.S.C. 2239) on an application for a license, or for an amendment to an existing license, filed after January 7, 1983, to expand the spent nuclear fuel storage capacity at the site of a civilian nuclear power reactor, through the use of high-density fuel storage racks, fuel rod compaction, the transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, the construction of additional spent nuclear fuel pool capacity or dry storage capacity, or by other means, the Commission shall, at the request of any party, provide an opportunity for oral argument with respect to any matter which the Commission determines to be in controversy among the parties. The oral argument shall be preceded by such discovery procedures as the rules of the Commission shall provide. The Commission shall require each party, including the Commission staff, to submit in written form, at the time of the oral argument, a summary of the facts, data, and arguments upon which such party proposes to rely that are known at such time to such party. Only facts and data in the form of sworn testimony or written submission may be relied upon by the parties during oral argument. Of the materials that may be submitted by the parties during oral argument, the Commission shall only consider those facts and data that are submitted in the form of sworn testimony or written submission.

''(b) ADJUDICATORY HEARING.—

''(1) DESIGNATION.—At the conclusion of any oral argument under subsection (a), the Commission shall designate any disputed question of fact, together with any remaining questions of law, for resolution in an adjudicatory hearing only if it determines that—

''(A) there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in an adjudicatory hearing; and

''(B) the decision of the Commission is likely to depend in whole or in part on the resolution of such dispute.

''(2) DETERMINATION.—In making a determination under this subsection, the Commission—

''(A) shall designate in writing the specific facts that are in genuine and substantial dispute, the reason why the decision of the agency is likely to depend on the resolution of such facts, and the reason why an adjudicatory hearing is likely to resolve the dispute; and

''(B) shall not consider—

''(i) any issue relating to the design, construction, or operation of any civilian nuclear power reactor already licensed to operate at such site, or any civilian nuclear power reactor to which a construction permit has been granted at such site, unless the Commission determines that any such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered; or

''(ii) any siting or design issue fully considered and decided by the Commission in connection with the issuance of a construction permit or operating license for a civilian nuclear power reactor at such site, unless—

''(I) such issue results from any revision of siting or design criteria by the Commission following such decision; and

''(II) the Commission determines that such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered.

''(3) APPLICATION.—The provisions of paragraph (2)(B) shall apply only with respect to licenses, authorizations, or amendments to licenses or authorizations, applied for under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) before December 31, 2005.

''(4) CONSTRUCTION.—The provisions of this section shall not apply to the first application for a license or license amendment received by the Commission to expand onsite spent fuel storage capacity by the use of a new technology not previously approved for use at any nuclear power plant by the Commission.

''(c) JUDICIAL REVIEW.—No court shall hold unlawful or set aside a decision of the Commission in any proceeding described in subsection (a) because of a failure by the Commission to use a particular procedure pursuant to this section unless—

''(1) an objection to the procedure used was presented to the Commission in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection; and

''(2) the court finds that such failure has precluded a fair consideration and informed resolution of a significant issue of the proceeding taken as a whole.

''SEC. 505. SITING A SECOND REPOSITORY.

''(a) CONGRESSIONAL ACTION REQUIRED.—The Secretary may not conduct site-specific activities with respect to a second repository unless Congress has specifically authorized and appropriated funds for such activities.

''(b) REPORT.—The Secretary shall report to the President and to Congress on or after January 1, 2007, but not later than January 1, 2010, on the need for a second repository.

''SEC. 506. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL RADIOACTIVE WASTE SITE CLOSURE.

''(a) FINANCIAL ARRANGEMENTS.—

''(1) STANDARDS AND INSTRUCTIONS.—The Commission shall establish by rule, regulation, or order, after public notice, and in accordance with section 181 of the Atomic Energy Act of 1954 (42 U.S.C. 2231), such standards and instructions as the Commission may deem necessary or desirable to ensure in the case of each license for the disposal of low-level radioactive waste that an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided by a licensee to permit completion of all requirements established by the Commission for the decontamination, decommissioning, site closure, and reclamation of sites, structures, and equipment used in conjunction with such low-level radioactive waste. Such financial arrangements shall be provided and approved by the Commission, or, in the case of sites within the boundaries of any agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021), by the appropriate State or State entity, prior to issuance of licenses for low-level radioactive waste disposal or, in the case of licenses in effect on January 7, 1983, prior to termination of such licenses.

''(2) BONDING, SURETY, OR OTHER FINANCIAL ARRANGEMENTS.—If the Commission determines that any long-term maintenance or monitoring, or both, will be necessary at a site described in paragraph (1), the Commission shall ensure before termination of the license involved that the licensee has made available such bonding, surety, or other financial arrangements as may be necessary to ensure that any necessary long-term maintenance or monitoring needed for such site will be carried out by the person having title and custody for such site following license termination.

''(b) TITLE AND CUSTODY.—

''(1) AUTHORITY OF SECRETARY.—The Secretary shall have authority to assume title and custody of low-level radioactive waste and the land on which such waste is disposed of, upon request of the owner of such waste and land and following termination of the license issued by the Commission for such disposal, if the Commission determines that—

''(A) the requirements of the Commission for site closure, decommissioning, and decontamination have been met by the licensee involved and that such licensee is in compliance with the provisions of subsection (a);

''(B) such title and custody will be transferred to the Secretary without cost to the Federal Government; and

''(C) Federal ownership and management of such site is necessary or desirable in order to protect the public health and safety, and the environment.

''(2) PROTECTION.—If the Secretary assumes title and custody of any such waste and land under this subsection, the Secretary shall maintain such waste and land in a manner that will protect the public health and safety, and the environment.

''(c) SPECIAL SITES.—If the low-level radioactive waste involved is the result of a licensed activity to recover zirconium, hafnium, and rare earths from source material, the Secretary, upon request of the owner of the site involved, shall assume title and custody of such waste and the land on which it is disposed when such site has been decontaminated and stabilized in accordance with the requirements established by the Commission and when such owner has made adequate financial arrangements approved by the Commission for the long-term maintenance and monitoring of such site.

''SEC. 507. NUCLEAR REGULATORY COMMISSION TRAINING AUTHORIZATION.

''The Commission is authorized and directed to promulgate regulations, or other appropriate regulatory guidance, for the training and qualifications of civilian nuclear powerplant operators, supervisors, technicians, and other appropriate operating personnel. Such regulations or guidance shall establish simulator training requirements for applicants for civilian nuclear powerplant operator licenses and for operator requalification programs; requirements governing Commission administration of requalification examinations; requirements for operating tests at civilian nuclear powerplant simulators, and instructional requirements for civilian nuclear powerplant licensee personnel training programs.

''SEC. 508. ACCEPTANCE SCHEDULE.

''The acceptance schedule shall be implemented in accordance with the following:

''(1) Acceptance priority ranking shall be determined by the Department's annual 'Acceptance Priority Ranking' report.

''(2) The Secretary's spent fuel acceptance rate shall be no less than the following: 1,200 MTU in 2000 and 1,200 MTU in 2001, 2,000 MTU in 2002 and 2,000 MTU in 2003, 2,700 MTU in 2004, and 3,000 MTU thereafter.

''(3) If the Secretary is unable to begin acceptance by January 31, 2000 at the rates specified in paragraph (2), or if the cumulative amount accepted in any year thereafter is less than that which would have been accepted under the acceptance rate specified in paragraph (2), the acceptance schedule shall be adjusted upward such that within 5 years of the start of acceptance by the Secretary—

''(A) the total quantity accepted by the Secretary is consistent with the total quantity that the Secretary would have accepted if the Secretary had began acceptance in 1998, and

''(B) thereafter the acceptance rate is equivalent to the rate that would be in place pursuant to paragraph (2) above if the Secretary had commenced acceptance in 1998.

''(4) The acceptance schedule shall not be affected or modified in any way as a result of the Secretary's acceptance of any material other than contract holders' spent nuclear fuel and high-level radioactive waste.

''SEC. 509. SUBSEABED OR OCEAN WATER DISPOSAL.

''Notwithstanding any other provision of law—

''(1) the subseabed or ocean water disposal of spent nuclear fuel or high-level radioactive waste is prohibited; and

''(2) no funds shall be obligated for any activity relating to the subseabed or ocean water disposal of spent nuclear fuel or high-level radioactive waste.

''SEC. 510. COMPENSATION.

''The Secretary shall compensate the owners of any land the value of which is diminished by actions taken under this Act as follows:

''(1) If the value of the land, as set by a professional appraiser, is diminished by at least 20 percent, the Secretary shall provide compensation to the owner of the land so that when the compensation is added to the value of the land the value of the land will not be considered as diminished; and

''(2) If the value of the land is diminished by at least 50 percent, the Secretary shall offer to purchase the land at its value before action was taken under this Act.

''TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

''SEC. 601. DEFINITIONS.

''For purposes of this title—

''(1) CHAIRMAN.—The term 'Chairman' means the Chairman of the Nuclear Waste Technical Review Board.

''(2) BOARD.—The term 'Board' means the Nuclear Waste Technical Review Board continued under section 602.

''SEC. 602. NUCLEAR WASTE TECHNICAL REVIEW BOARD.

''(a) CONTINUATION OF NUCLEAR WASTE TECHNICAL REVIEW BOARD.—The Nuclear Waste Technical Review Board, established under section 502(a) of the Nuclear Waste Policy Act of 1982 as constituted prior to the date of enactment of this Act, shall continue in effect subsequent to the date of enactment of this Act.

''(b) MEMBERS.—

''(1) NUMBER.—The Board shall consist of 11 members who shall be appointed by the President not later than 90 days after December 22, 1987, from among persons nominated by the National Academy of Sciences in accordance with paragraph (3).

''(2) CHAIR.—The President shall designate a member of the Board to serve as Chairman.

''(3) NATIONAL ACADEMY OF SCIENCES.—

''(A) NOMINATIONS.—The National Academy of Sciences shall, not later than 90 days after December 22, 1987, nominate not less than 22 persons for appointment to the Board from among persons who meet the qualifications described in subparagraph (C).

''(B) VACANCIES.—The National Academy of Sciences shall nominate not less than 2 persons to fill any vacancy on the Board from among persons who meet the qualifications described in subparagraph (C).

''(C) NOMINEES.—

(i) Each person nominated for appointment to the Board shall be—

''(I) eminent in a field of science or engineering, including environmental sciences; and

''(II) selected solely on the basis of established records of distinguished service.

''(ii) The membership of the Board shall be representatives of the broad range of scientific and engineering disciplines related to activities under this title.

''(iii) No person shall be nominated for appointment to the Board who is an employee of—

''(I) the Department of Energy;

''(II) a national laboratory under contract with the Department of Energy; or

''(III) an entity performing spent nuclear fuel or high-level radioactive waste activities under contract with the Department of Energy.

''(4) VACANCIES.—Any vacancy on the Board shall be filled by the nomination and appointment process described in paragraphs (1) and (3).

''(5) TERMS.—Members of the Board shall be appointed for terms of 4 years, each such term to commence 120 days after December 22, 1987, except that of the 11 members first appointed to the Board, 5 shall serve for 2 years and 6 shall serve for 4 years, to be designated by the President at the time of appointment.

''SEC. 603. FUNCTIONS.

''The Board shall evaluate the technical and scientific validity of activities undertaken by the Secretary after December 22, 1987, including—

''(1) site characterization activities; and

''(2) activities relating to the packaging or transportation of spent nuclear fuel or high-level radioactive waste.

''SEC. 604. INVESTIGATORY POWERS.

''(a) HEARINGS.—Upon request of the Chairman or a majority of the members of the Board, the Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Board considers appropriate. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

''(b) PRODUCTION OF DOCUMENTS.—

''(1) RESPONSE TO INQUIRIES.—Upon the request of the Chairman or a majority of the members of the Board, and subject to existing law, the Secretary (or any contractor of the Secretary) shall provide the Board with such records, files, papers, data, or information as may be necessary to respond to any inquiry of the Board under this title.

''(2) EXTENT.—Subject to existing law, information obtainable under paragraph (1) shall not be limited to final work products of the Secretary, but shall include drafts of such products and documentation of work in progress.

''SEC. 605. COMPENSATION OF MEMBERS.

''(a) IN GENERAL.—Each member of the Board shall be paid at the rate of pay payable for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the Board.

''(b) TRAVEL EXPENSES.—Each member of the Board may receive travel expenses, including per diem in lieu of subsistence, in the same manner as is permitted under sections 5702 and 5703 of title 5, United States Code.

''SEC. 606. STAFF.

''(a) CLERICAL STAFF.—

''(1) AUTHORITY OF CHAIRMAN.—Subject to paragraph (2), the Chairman may appoint and fix the compensation of such clerical staff as may be necessary to discharge the responsibilities of the Board.

''(2) PROVISIONS OF TITLE 5.—Clerical staff shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 3 of such title relating to classification and General Schedule pay rates.

''(b) PROFESSIONAL STAFF.—

''(1) AUTHORITY OF CHAIRMAN.—Subject to paragraphs (2) and (3), the Chairman may appoint and fix the compensation of such professional staff as may be necessary to discharge the responsibilities of the Board.

''(2) NUMBER.—Not more than 10 professional staff members may be appointed under this subsection.

''(3) TITLE 5.—Professional staff members may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

''SEC. 607. SUPPORT SERVICES.

''(a) GENERAL SERVICES.—To the extent permitted by law and requested by the Chairman, the Administrator of General Services shall provide the Board with necessary administrative services, facilities, and support on a reimbursable basis.

''(b) ACCOUNTING, RESEARCH, AND TECHNOLOGY ASSESSMENT SERVICES.—The Comptroller General, the Librarian of Congress, and the Director of the Office of Technology

Assessment shall, to the extent permitted by law and subject to the availability of funds, provide the Board with such facilities, support, funds and services, including staff, as may be necessary for the effective performance of the functions of the Board.

''(c) ADDITIONAL SUPPORT.—Upon the request of the Chairman, the Board may secure directly from the head of any department or agency of the United States information necessary to enable it to carry out this title.

''(d) MAILS.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

''(e) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Board, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–18 of the General Schedule.

''SEC. 608. REPORT.

''The Board shall report not less than 2 times per year to Congress and the Secretary its findings, conclusions, and recommendations.

''SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated for expenditures such sums as may be necessary to carry out the provisions of this title.

''SEC. 610. TERMINATION OF THE BOARD.

''The Board shall cease to exist not later than one year after the date on which the Secretary begins disposal of spent nuclear fuel or high-level radioactive waste in the repository.

''TITLE VII—MANAGEMENT REFORM

''SEC. 701. MANAGEMENT REFORM INITIATIVES.

''(a) IN GENERAL.—The Secretary is directed to take actions as necessary to improve the management of the civilian radioactive waste management program to ensure that the program is operated, to the maximum extent practicable, in like manner as a private business.

''(b) SITE CHARACTERIZATION.—The Secretary shall employ, on an on-going basis, integrated performance modeling to identify appropriate parameters for the remaining site characterization effort and to eliminate studies of parameters that are shown not to affect long-term repository performance.

''SEC. 702. REPORTING.

''(a) INITIAL REPORT.—Within 180 days of the date of enactment of this Act, the Secretary shall report to Congress on its planned actions for implementing the provisions of this Act, including the development of the Integrated Waste Management System. Such report shall include—

''(1) an analysis of the Secretary's progress in meeting its statutory and contractual obligation to accept title to, possession of, and delivery of spent nuclear fuel and high-level radioactive waste beginning no later than January 31, 2000, and in accordance with the acceptance schedule;

''(2) a detailed schedule and timeline showing each action that the Secretary intends to take to meet the Secretary's obligations under this Act and the contracts;

''(3) a detailed description of the Secretary's contingency plans in the event that the Secretary is unable to meet the planned schedule and timeline; and

''(4) an analysis by the Secretary of its funding needs for fiscal years 1996 through 2001.

''(b) ANNUAL REPORTS.—On each anniversary of the submittal of the report required by subsection (a), the Secretary shall make annual reports to the Congress for the purpose of updating the information contained in such report. The annual reports shall be brief and shall notify the Congress of—

''(1) any modifications to the Secretary's schedule and timeline for meeting its obligations under this Act;

''(2) the reasons for such modifications, and the status of the implementation of any of the Secretary's contingency plans; and

''(3) the Secretary's analysis of its funding needs for the ensuing 5 fiscal years.''.

SEC. 2. CONTINUATION OF CONTRACTS.

Subsequent to the date of enactment of this Act, the contracts executed under section 302(a) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act in accordance with their terms except to the extent that the contracts have been modified by the parties to the contract.

The CHAIRMAN. No amendment shall be in order except those printed in House Report 105–354. Each amendment may be offered only in the order specified, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment, and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

After a motion that the Committee rise has been rejected on a day, the Chairman may entertain another such motion on that day only if offered by the majority leader or his designee.

After a motion to strike out the enacting clause of the bill has been rejected, the Chairman may not entertain another such motion during further consideration of the bill.

It is now in order to consider amendment No. 1, printed in House Report 105–354, as modified.

AMENDMENT NO. 1, AS MODIFIED, OFFERED BY MR. DAN SCHAEFER OF COLORADO

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I offer amendment No. 1, as modified.

The CHAIRMAN. The Clerk will designate the amendment, as modified.

The text of the amendment, as modified, is as follows:

Amendment No. 1, as modified, offered by Mr. DAN SCHAEFER of Colorado:

Page 19, line 2, insert before the period the following:

, using routes that minimize, to the maximum practicable extent and consistent with Federal requirements governing transportation of hazardous materials, transportation of spent nuclear fuel and high-level radioactive waste through populated areas

Page 19, beginning in line 3, strike ''In conjunction with'' and insert the following:

''(1) IN GENERAL.—In conjunction with''

and add after line 16 on page 19 the following:

''(2) RAIL ROUTES.—Not later than one year after the date of the enactment of this Act, the Secretary of Transportation shall establish procedures for the selection of preferred rail routes for the transportation of spent nuclear fuel and high-level radioactive waste to the interim storage site and the repository site. Such procedures shall be established in consultation with the designated emergency services planning management official for any State or Indian tribe affected by the rail routes selected.

Page 20, line 20, insert after ''organizations'' the following: '', voluntary emergency response organizations,''.

Page 24, line 16, strike ''regulations promulgated by the Commission'' and insert ''existing Federal regulations''.

Page 25, beginning on line 1, strike ''The'' and all that follows through ''paragraph (1)'' on line 3 and insert ''If training standards are required to be promulgated under paragraph (1), such standards''.

Page 25, line 5, strike ''include the following provisions—'' and insert ''provide for—''.

Page 25, after line 19, insert the following:

''The Secretary of Transportation may specify an appropriate combination of knowledge, skills, and prior training to fulfill the minimum number of hours requirements of subparagraphs (A) and (B).''.

Page 43, strike lines 17 and all that follows through line 13 on page 44, and insert the following:

''SEC. 207. APPLICABILITY.

''Nothing in this Act shall affect the application of chapter 51 of title 49, United States Code; part A of subtitle V of title 49, United States Code; part B of subtitle VI of title 49, United States Code; and title 23, United States Code.''.

Page 81, after line 13, insert the following:

''SEC. 510. SEPARABILITY.

''If any provision of this Act, or the application of such provision to any person or circumstance, is held to be invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.''.

In the table of contents—

(1) in the item relating to section 207 amend the heading to read as follows: ''Applicability''; and

(2) add at the end of title V the following:

''Sec. 510. Separability.

Page 21, line 6, redesignate subparagraph (B) as subparagraph (C) and insert after line 5 the following:

''(B) EMERGENCY RESPONDER TRAINING STANDARDS.—The training standards for persons responsible for responding to emergency situations occurring during the removal and transportation of spent nuclear and high level radioactive waste shall, in accordance with existing regulations, ensure their ability to protect nearby persons, property, or the environment from the effects of accidents involving spent nuclear fuel and high-level radioactive waste.

The CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Colorado [Mr. DAN SCHAEFER] and a Member opposed will each control 5 minutes.

The Chair recognizes the gentleman from Colorado [Mr. DAN SCHAEFER].

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to clarify that this pending amendment is an amendment made in order earlier by a unanimous consent request. The manager's amendment makes a number of noncontroversial changes to H.R. 1270, and reflects the views of the Committee on Commerce, the Committee on Resources, and the Committee on Transportation and Infrastructure.

□ 1830

Mr. Chairman, I yield 1 minute to the gentlewoman from Missouri [Ms. MCCARTHY].

(Ms. MCCARTHY of Missouri asked and was given permission to revise and extend her remarks.)

Ms. MCCARTHY of Missouri. Mr. Chairman, I thank the esteemed gentleman from Texas [Mr. HALL], ranking member, as well as the gentleman from Colorado [Mr. DAN SCHAEFER], and the gentleman from Michigan [Mr. UPTON], the sponsor of H.R. 1270. They have all been helpful and supportive in working with me to help clarify an issue related to rail transportation that is incorporated in the bill before us.

Mr. Chairman, it is an issue which is critical to the constituents in my district and the citizens of Missouri. While no specific routes for rail shipments have been determined, approximately 1,400 rail shipments of waste projected over the next 30 years, possibly a third of these wastes would be transported through Missouri.

There currently are no Federal regulations related to determining preferred rail routes for transportation of this material. My language in this manager's amendment establishes this process to safeguard rail transportation and ensure that the appropriate State and tribal authorities are involved in the decision-making process.

Mr. Chairman, this type of consultative relationship and route planning is essential to ensuring the highest levels of safety to our communities. There are other important clarifications in the manager's amendment that further advance safety and transportation portions of this bill. I thank the managers and urge support of this amendment.

Mr. Chairman, I would like to thank my esteemed ranking member, Mr. HALL, as well as the gentleman from Colorado, Chairman SCHAEFER, and the gentleman from Michigan [Mr. UPTON], sponsor of H.R. 1270, who have all been very helpful and supportive in working with me on clarifying an important issue related to rail transportation that is incorporated in the manager's amendment before us. This is an issue that is critically important to the constituents in my district of Greater Kansas City, the second largest rail hub in the nation, and the citizens of Missouri, which contains the 3rd largest rail hub in St. Louis.

While no specific routes for rail shipments have been determined, approximately 1,400 rail shipments of waste are projected over thirty years. Existing rail line options are limited for east-west transit and lead us to the realization that a significant percentage of shipments, possibly a third if distributed across all options, would be transported through Missouri.

Current Hazardous Materials [HazMat] law established a process, which this legislation builds upon, for highway routing decisions related to transportation of spent nuclear fuel. There currently are no federal regulations related to determining preferred rail routes for the transportation of this material. My language in the Manager's amendment establishes this process to safeguard rail transportation and ensure that the appropriate state and tribal authorities are involved in the decisionmaking process.

This type of consultative relationship and route planning is essential to ensuring the highest level of safety for our communities. There are other important clarifications in the manager's amendment that further advance the safety and transportation portions of the bill. I thank the managers for their inclusion of this language in the amendment and urge my colleagues to support the adoption of the amendment.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I would say that the gentlewoman from Missouri [Ms. MCCARTHY] has been very gracious in her input.

Mr. HALL of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to congratulate and give accolades to the gentlewoman from Missouri [Ms. MCCARTHY], who has established a system of selecting preferred rail routes, and currently there is no system for that. I thank her and I thank the gentleman from Ohio [Mr. SAWYER], and I thank those of the Nation's firefighters who have helped work this out.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Colorado [Mr. DAN SCHAEFER].

The amendment, as modified, was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 105–354.

AMENDMENT NO. 2 OFFERED BY MR. KILDEE

Mr. KILDEE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. KILDEE:

Page 4, strike line 11 and all that follows through page 5 line 11, and insert the following:

''(3) AFFECTED INDIAN TRIBE.—The term affected Indian tribe' means an Indian tribe whose reservation is surrounded by or borders on an affected unit of local government, or whose federally-defined possessory or usage rights to other lands outside of the border of the Indian tribe's reservation arising out of Congressionally-ratified treaties may be affected by the locating of an interim storage facility or repository, if the Secretary finds, upon petition of the appropriate government officials of the Indian tribe, that such affects are both substantial and adverse to the Indian tribe.

The CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Michigan [Mr. KILDEE] and a Member in opposition each will control 5 minutes.

The Chair recognizes the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Chairman, I yield myself such time as I may consume.

(Mr. KILDEE asked and was given permission to revise and extend his remarks.)

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentleman from Colorado.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, we have looked over this amendment. We have no opposition to it and we will accept it.

Mr. KILDEE. Mr. Chairman, with that then I will enter my remarks into the RECORD.

Mr. Chairman, the amendment I am offering today will make sure that Indian tribes are not inadvertently left out of the consultation or assistance process. My amendment simply incorporates the Senate definition of ''Affected Indian tribe''. This amendment is supported by the Nevada tribes as well as the National Congress of American Indians.

Under the current House definition of ''affected Indian tribe'', no Indian tribes in Nevada, including the shoshone and Paiute tribes who have lived on this land for more than 10,000 years, will qualify for treatment as an ''affected Indian tribe''. This strikes me and many others as patently unfair.

These tribes are governments and ought to be treated on the same footing as other local governments. That is to say, they ought to be given the same opportunity and the same level of financial and technical assistance as we are giving other Nevada communities to enable them to carefully review program activities and evaluate the impacts of nuclear storage on their lands.

The Senate definition of an ''affected Indian tribe'' includes tribes whose reservation boundaries are contiguous with other affected units of local government. This simply means that Indian tribes who are close to the storage site will have an opportunity to receive aid and assistance to the same extent that any other local government has.

I believe that this is a reasonable proposal and, given the fact that the tribes in Nevada have lived on this particular land for thousands of years, only fair.

I urge my Committee colleagues to support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. KILDEE].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. HASTERT. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the House Resolution 283, further proceedings on the amendment offered by the gentleman from Michigan [Mr. KILDEE] will be postponed.

It is now in order to consider amendment No. 3 printed in House Report 105–354.

AMENDMENT NO. 3 OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment, and I ask unanimous consent that that amendment be modified by the modification that has been placed at desk.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. TRAFICANT:

Page 7, line 14, strike ''reprocessing'' and insert ''reprocessing in the United States'', beginning in line 20 strike ''activities'' and insert ''activities in the United States'', and in line 21, strike ''material'' and insert ''material in the United States''.

Page 11, line 14, strike ''reactor'' and insert ''reactor in the United States''.

MODIFICATION TO AMENDMENT NO. 3 OFFERED BY MR. TRAFICANT

The CHAIRMAN. The Clerk will report the modification to the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The Clerk read as follows:

Amendment No. 3 printed in House Report 105–354, as modified by Mr. TRAFICANT:

Page 6, insert after line 7 the following:

''(II) Nuclear nonproliferation.''

Page 7, line 14, strike ''reprocessing'' and insert ''reprocessing in the United States''.

Page 11, line 13 insert after ''fuel'' the following: '', other than foreign spent nuclear fuel as defined in section 131f(4) of the Atomic Energy Act of 1954 (42 U.S.C. 2160(f)(4),''.

The CHAIRMAN. Is there objection to the modification to the amendment offered by the gentleman from Ohio [Mr. TRAFICANT]?

There was no objection.

The CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Ohio [Mr. TRAFICANT] and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, the amendment is very simple. It says that we will not become the dumping ground for any foreign waste unless it was covered by an international agreement or military procurement understandings.

Mr. Chairman, I yield to the gentleman from Colorado [Mr. DAN SCHAEFER], chairman of the committee.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, the Traficant amendment certainly prohibits the disposal of spent nuclear fuel from other plants in foreign countries, and I think the gentleman is right on. We worked out, I think, all the problems on this and we appreciate the fact that we have found a resolution to this. We have no problems on this side, and we will accept the amendment.

Mr. TRAFICANT. Mr. Chairman, I appreciate the gentleman's concerns and advice, and I yield to the gentleman from Texas [Mr. HALL], the ranking member.

Mr. HALL of Texas. Mr. Chairman, we certainly appreciate the modification and think it is a good amendment.

Mr. TRAFICANT. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Ohio [Mr. TRAFICANT].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. UPTON. Mr. Chairman, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to House Resolution 283, further proceedings on the amendment, as modified, offered by the gentleman from Ohio [Mr. TRAFICANT] will be postponed.

SEQUENTIAL VOTES POSTPONED IN THE COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 283, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 2 offered by the gentleman from Michigan [Mr. KILDEE]; the amendment No. 3, as modified, offered by the gentleman from Ohio [Mr. TRAFICANT].

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 2 OFFERED BY MR. KILDEE

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Michigan [Mr. KILDEE], on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 408, noes 10, not voting 14, as follows:

[Roll No. 543]

AYES—408

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Becerra
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastings (FL)
Hastings (WA)
Hayworth
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stupak
Sununu
Talent
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOES—10

Barr
Barton
Coble
Ewing
Hastert
Hefley
Hostettler
Sanford
Solomon
Stump

NOT VOTING—14

Berman
Cubin
Dingell
Gonzalez
Kelly
Lewis (CA)
McIntosh
Moran (VA)
Morella
Schiff
Stokes
Tauzin
Weldon (FL)
Yates

□ 1855

Messrs. COBLE, EWING, and HEFLEY changed their vote from ''aye'' to ''no.''

Mr. SHADEGG changed his vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to House Resolution 283, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the second amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 3, AS MODIFIED, OFFERED BY MR. TRAFICANT

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment, as modified, offered by the gentleman from Ohio [Mr. TRAFICANT] on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will designate the amendment, as modified.

The Clerk designated the amendment, as modified.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 407, noes 11, not voting 14, as follows:

[Roll No. 544]

AYES—407

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Wynn
Young (AK)
Young (FL)

NOES—11

Cannon
Clyburn
Frank (MA)
Furse
Johnson, E. B.
Kanjorski
Klink
Lofgren
Martinez
Waxman
Woolsey

NOT VOTING—14

Berman
Campbell
Cubin
Gilman
Gonzalez
Kelly
Manzullo
McIntosh
Morella
Schiff
Smith (TX)
Stokes
Weldon (FL)
Yates

□ 1906

Mr. BERRY and Mr. MILLER of California changed their vote from ''no'' to ''aye.''

So the amendment, as modified, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. LAHOOD). It is now in order to consider amendment No. 4 printed in House Report 105–354.

AMENDMENT NO. 4 OFFERED BY MR. ENSIGN

Mr. ENSIGN. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. ENSIGN:

Page 15, insert after line 8 the following:

''(e) RISK ASSESSMENT AND COST BENEFIT.—The Secretary shall not take any action under this Act unless the Secretary has with respect to such action conducted a risk assessment which is scientifically objective, unbased, and inclusive of all relevant data and relies, to the extent available and practicable, on scientific findings and which is grounded in cost-benefit principles.

The CHAIRMAN pro tempore. Pursuant to House Resolution 283, the gentleman from Nevada [Mr. ENSIGN] and a Member opposed each will control 10 minutes.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Colorado [Mr. DAN SCHAEFER] will control the 10 minutes in opposition.

The Chair recognizes the gentleman from Nevada [Mr. ENSIGN].

Mr. ENSIGN. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, the amendment that I have offered today is consistent with the language in the Contract With America that Republicans brought to this floor a little over 2 years ago. It is based on a concept that before the Government does something, we should do studies that say what are the risks, what are the costs versus the benefits? Very simple.

What this, H.R. 1270, does is, H.R. 1270 presumes that this Congress knows everything that there is to know about nuclear waste. It presumes that this Congress has all the experts that it needs right here, that all of the studies have already been done.

And the nuclear energy industry actually says that all of the studies say that the Yucca Mountain is suitable and all these things, when even the Government's own scientists have said

the Yucca Mountain has not been deemed suitable or acceptable. That is why the President has threatened to veto this bill. What we are saying with this amendment is simply that the Secretary of Energy shall conduct these studies prior to moving the bill forward.

The GAO has estimated the Yucca Mountain project to cost nearly $33 billion. Before dumping endless amounts of taxpayer dollars into the project, let us take a step back and make sure that this is the best use of the American people's money. If this project is as good as my colleagues say, obvious cost-benefit analysis will show that it is.

Mr. Chairman, we are asking that the Republicans especially who support this bill, that they be consistent in their arguments. They have argued in the past for cost benefit analysis. And why is that? They have argued in the past because it is a good thing to do. Before the Government goes and does something, we should prove that there are benefits. What are the risks? What are the benefits?

Let us just stick to the principle in the Contract With America that we all came and we all signed in 1994 on the steps of the Capitol.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. ENSIGN. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding.

You know, this is one item in the Contract With America that passed the House of Representatives overwhelmingly. Almost everyone agreed that there should be some risk assessment when the Federal Government is getting into these major Federal projects. We were guaranteed that there would not be any danger, because there was not going to be any delay, because that was not the objective, and now we get the perfect example of where it should apply. I urge adoption of the amendment.

Mr. ENSIGN. Mr. Chairman, I reserve the balance of my time.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. UPTON], the author of the bill.

Mr. UPTON. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I yield to the gentleman from Massachusetts [Mr. MARKEY] for a simple, quick answer. How did the gentleman vote on that provision of the Contract With America? I was looking for a ''yes'' or ''no,'' not a card game.

Mr. MARKEY. Mr. Chairman, if the gentleman will yield, even a blind squirrel finds an acorn once in a while. I now realize the correctness of the provision.

Mr. UPTON. Mr. Chairman, reclaiming my time, this Ensign amendment would require that the Department of Energy undertake a risk assessment before it takes any action under the act. The amendment would stop the nuclear waste program in its tracks and would prevent the Department of Energy from taking any action for years. It would guarantee that all nuclear waste in this country stays right where it is, spread out all over the country, rather than going to one safe site.

I would say, too, that the risk assessments required by the Ensign amendment are in addition to the requirements that the Department of Energy prepare EIS, environmental impact statements, before major actions.

□ 1915

Under this amendment the DOE would have to perform a risk assessment and prepare an environmental impact statement. There is no need for the risk assessment required by this amendment. The Department of Energy nuclear waste program is probably the most closely scrutinized Federal program created. There is layer after layer of oversight. The State of Nevada oversees the program, as does the Nuclear Waste Technical Review Board and the Nuclear Regulatory Commission. All of this oversight is funded by consumers, and this would be viewed as a killer amendment. I would urge my colleagues to vote ''no.''

Mr. ENSIGN. Mr. Chairman, I yield myself 30 seconds to say that, first of all, new science is being discovered all the time in Nevada. Plutonium just recently was discovered by the National Academy of Sciences to have migrated almost one mile. The significance of that discovery is that they did not expect that. Because all of the proponents of the bill have been saying, first of all, Yucca Mountain is safe, there is no water to worry about, do not worry about the groundwater table or any of that. But science is constantly finding new things. That is why we need this cost-benefit and risk analysis.

Mr. Chairman, I yield 2 minutes to the gentleman from Nevada [Mr. GIBBONS], who sits on the Committee on Resources, who rejected this bill, by the way.

Mr. GIBBONS. Mr. Chairman, I thank the gentleman for yielding me this time.

First, I find it odd that people would object to a cost-benefit analysis. It is a tool that is commonly used in private businesses throughout America. It is widely accepted in academia as a tool by which we make sound judgment for sound policy about what we are doing in this Nation.

If Members want to talk about risk, let us look at the environmental hazards that are posed by transportation of nuclear waste around America. Let us look at the idea that this bill tells us that we can ignore all those environmental laws that we have talked about earlier. Let us look at the fact that we have got a train wreck right here. This is a risk, Mr. Chairman. This is a risk for America. We need to look at these risks, and we need to analyze what is going to be the benefit or what is going to be the cost.

Once again, take a look at where all of these risks are going to take place. That is 43 States in this country. Forty-three States ought to have an opportunity to evaluate the risks of this bill and to analyze the costs that are going to be involved to these States with the transportation of this material through those States, through those communities, next to those schools with kids playing out there if an accident occurs.

This is a critically important amendment for this bill. It is an amendment which is going to allow States or require the Secretary of Energy to perform those analyses, to evaluate those risks, and to take appropriate actions with that information.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. Mr. Chairman, I of course believe that tools are good if they are used properly and if they are not used for obstruction, and that is really what this amendment is. This amendment would just simply prohibit the Secretary from taking any action. I think it creates an absolute obligation for the Secretary to conduct the proposed analysis subject to anything that comes under H.R. 1270, any type action. It makes no allowance for the Secretary to conduct a risk assessment during other steps of the process.

This proposal lacks even an adequate definition of risk assessment. It provides no direction as to the consequences of the assessment. We say that the EIS already requires this and it is going to be done, it will be done, it is directed that it be done.

It throws up a number of procedural hurdles that really renders impossible the storage as this act calls for. It is a little like back in the 1960's, the States of New Mexico and Arizona when they were mining copper, when the enviros, well meaning though they were, set up a rule of law that you had to replace the terrain as it was in its natural state. Of course, no court upheld that, but it gave rise to an injunction that put off and put off and put off and prevented and that caused escalation of the price.

This is a bad amendment. It is just meant to cripple. I urge that Members vote it down.

Mr. ENSIGN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, every major environmental group in this country opposes H.R. 1270: The Sierra Club, the National Resource Defense Council, Friends of the Earth, U.S. PIRG, Public Citizen, Citizen Alert, League of Conservation Voters, Greenpeace, Nuclear Information and Resources Service, Military Production Network.

By the way, those are the people that live around these facilities that we are talking about that have the nuclear

waste, and those people are standing up and saying that it is our moral responsibility to come up with solutions, and the solution is not an interim storage facility out in Nevada. The reason, and one of the reasons that these environmental groups oppose this bill is because we have not determined what the risks are. We have not determined what the costs are going to be. As the GAO does new studies and finds out that, first of all, Yucca Mountain is much more expensive than anybody ever thought before, and it seems like every year they come out with new studies that say Yucca Mountain is much more expensive, the same thing with interim storage. If you actually do the cost-benefit analysis and risk assessment, when you start taking into account, there was a case in New Mexico where radioactive waste was transported by a person's property, that person was awarded by the court and upheld by the State Supreme Court of New Mexico that that was considered a takings and that person had to be compensated for the loss because of the perceived loss of valuation of that person's land.

As we are transporting nuclear waste, the most deadly substance known to mankind, across 43 States, across all kinds of people's property, let us say that you have a very nice, beautiful piece of property that is a resort. Now you have got nuclear waste being transported by it. It could very well be argued, especially viewing what happened in Germany where they had 30,000 police officers being required to transport nuclear waste, just 6 casks, by the way, of nuclear waste, just 6,300 miles to the north, 173 people were injured.

People are trying to say that private property is not going to be devalued by nuclear waste being transported by it? And especially this bill says that you have to give local notice. We know that as you give local notice, that people are going to come out in this country and protest the shipment of this waste. Land is going to be devalued. So we do not even know how much this is actually going to cost because of that.

By the way, the taxpayer ends up holding the bill on this. It is under our Constitution, if the Federal Government based on the Fifth Amendment does devalue somebody's land, it is going to be the taxpayer that ends up holding the bill on this.

Mr. Chairman, I reserve the balance of my time.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 2 minutes to the gentleman from Idaho [Mr. CRAPO].

Mr. CRAPO. Mr. Chairman, I appreciate the opportunity to speak in opposition to the amendment. A lot has been said about this being an amendment to add risk assessment into the legislation, but properly understood, it really should be called the additional regulatory bureaucracy and delay amendment. It is very clear from the debate we have had here already that the action required by this amendment would be to force the Department of Energy to undertake a risk assessment before it takes any action under this act. And since the amendment does not define which DOE actions require a risk assessment, each action would probably end up requiring such a risk assessment.

We have heard discussion about whether there is unreasonable risk involved in this entire process. I think that the proponents of the amendment and the opponents of the bill would have Members believe that we are simply transporting nuclear fuel around the country without any evaluation of risk standards or that we are evaluating the sites without consideration of environmental harm or risk or other considerations. The fact of the matter is just the opposite.

As I said in my earlier debate, the regulatory regime for radioactive material transport has been very heavily evaluated. It focuses on risk extremely aggressively and has an absolutely perfect safety record. I went through that information previously but over the last 30 years, we have had 2500 shipments of spent nuclear fuel in the United States; since 1957, 667 shipments of Navy fuel, over a million miles of travel, and in the last 22 years the Department of Energy under these programs has transported nuclear weapons and special nuclear materials nearly 100 million miles. All of this has occurred without a radioactive release. Those who would have Members believe that risk is not carefully evaluated, monitored and regulated in our current nuclear regime in the United States are misstating the reality. The fact is that we will have adequate protections both environmentally and in terms of the risk, and there is no reason why we should not proceed with the legislation that is now before us to solve this critical issue to this country.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Chairman, the issue here is what is expedient, how do we get the job done, and how do we make sure it is done safely? Before we ever start to cross the threshold on this whole issue, there has to be an environmental impact study. That is in place. It is being done. What this amendment asks us to do is to every time that there is any action at all dealing with this, there has to be an impact study done, that there has to be a financial research study done.

If we want to give $2500 to the Mayville, Ohio fire department to beef up their education, there has to be a financial impact study done. If we want to help railroad employees do safety inspections and we decide to do that, that is an action. And so whenever one of these actions happens, you stop the whole process until the financial impact statement has been done, which might be a whole period of time, and you take instead of the whole gestalt, the whole issue, you divide it into millions of little pieces and you stop that action every time you turn around.

I understand that the proponents of this amendment would like to slow the action down. They would like to stop this from happening. They would like us to stop solving the problem of safe storage for nuclear waste in this country. But this amendment that brings this thing down to a death of a thousand cuts just will not work.

We need to pass this legislation, we need to do it safely, we need to do the environmental impact statements, we need to do the overall financial statements, but we cannot stop the process a million and 10 times that this amendment asks for. We need to reject this amendment and move forward.

The CHAIRMAN pro tempore [Mr. LAHOOD]. The Chair would advise that the gentleman from Colorado [Mr. DAN SCHAEFER] has 2 minutes remaining and the gentleman from Nevada [Mr. ENSIGN] has 1½ minutes remaining.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, may I inquire, who has the right to close on this amendment?

The CHAIRMAN pro tempore. The gentleman from Colorado has the right to close.

Mr. ENSIGN. Mr. Chairman, I yield 30 seconds to the gentleman from Ohio [Mr. KUCINICH].

Mr. KUCINICH. Mr. Chairman, I support the amendment to have a cost-benefit analysis. We are embarking on one of the most dramatic changes in nuclear policy that has ever been conducted in the history of the world. There are going to be 15,000 shipments by rail and highway of radioactive waste through 43 States and the District of Columbia. Hundreds of cities are involved across America's heartland. If nuclear waste is privatized as some are proposing, far more of the waste traffic would go by truck. It is estimated there would be 79,300 truck shipments, 12,600 rail shipments. We ought to evaluate this, we ought to look at the cost-benefit as it affects every community in this country.

Mr. ENSIGN. Mr. Chairman, I yield myself such time as I may consume. The government's own scientists at the Nuclear Waste Technical Review Board said that there is no hurry, that we do not need to do this now. There is time to do a cost-benefit analysis.

□ 1930

We are not running out of space, there is plenty of space. All you have to do is build cement pads at the nuclear facilities with dry cast storage. The NRC has said that is good for 100 years.

It has been mentioned we have not had an accident yet. Mr. Chairman, I am from Las Vegas. We go on odds in Las Vegas. With 100 miles or whatever they said that have been traveled so far with no accidents, the odds are, one is coming. All you have to do is see how many train wrecks we have had in the last several years. Imagine what one of

those train wrecks would do if the people that have done some of the early studies were wrong on these canisters.

We are not talking about a small risk here; we are talking about major environmental safety hazards. I think a reasonable cost-benefit risk assessment is very justified. I would urge a yes vote on this amendment.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman. I yield two minutes to the gentleman from Michigan [Mr. UPTON], the author of the bill.

Mr. UPTON. Mr. Chairman, I just want to remind my colleagues what this bill does is it gets it out of these temporary storage places that are along the Great Lakes and the Chesapeake Bay and rivers and streams and into one safe place. We have had a perfect record of transporting this stuff. It was not mined in the dunes of Lake Michigan. It had to get there somehow. It got there in a perfect way, without a single incident of exposure or release of radioactive material. We think that that can continue as we get it out of the dunes and off of the shores of these environmentally sensitive areas to one safe place.

I just want to close on this amendment and urge my colleagues to vote no. The result of this amendment is pointless delay. I want to give one example.

The amendment would require the Department of Energy to perform a risk assessment before it provided funds to emergency response teams for public safety training. It is redundant. We do not need a risk assessment for items like that, and this amendment, if it was adopted, would require that every action would require a risk assessment.

It is too much. We do not need it. The bill is designed to be safe in the transportation of this material. It will be so.

The CHAIRMAN pro tempore (Mr. LAHOOD). The question is on the amendment offered by the gentleman from Nevada [Mr. ENSIGN].

The question was taken, and the Chairman pro tempore announced that the noes appeared to have it

RECORDED VOTE

Mr. ENSIGN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 283, further proceedings on the amendment offered by the gentleman from Nevada will be postponed.

It is now in order to consider an Amendment No. 5 printed in House Report 105–354.

AMENDMENT NO. 5 OFFERED BY MR. GIBBONS

Mr. GIBBONS. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. GIBBONS:

Page 19, insert after line 16 the following:

''(e) EMERGENCY RESPONSE TEAM.—The Secretary may not plan for the transportation of spent nuclear fuel or high-level radioactive waste through any State unless the Governor of such State can certify that an adequate emergency response team exists in such State to appropriately manage any nuclear accident that may occur in such transportation.

The CHAIRMAN pro tempore. Pursuant to House Resolution 283, the gentleman from Nevada [Mr. GIBBONS] and a Member opposed will each control 10 minutes.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I rise to claim the time in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Colorado, Mr. DAN SCHAEFER will be recognized for 10 minutes in opposition to the amendment offered by the gentleman from Nevada, Mr. GIBBONS.

The Chair recognizes the gentleman from Nevada [Mr. GIBBONS].

Mr. GIBBONS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment simply states that the Governor of each State with nuclear waste routes shall certify that emergency response teams exist and can properly manage any nuclear accident before transportation plans can be implemented by the Secretary.

Governors of States faced with the mandate of accepting highly dangerous irradiated nuclear waste in their State should be given the legal authority to ensure that an emergency response team is adequately prepared to protect the health and safety of those citizens.

A Department of Energy report estimated that a radioactive accident could take up to 460 days and cost up to $19.4 billion to clean up. No State can afford the economic consequences of a disaster of this magnitude. Realizing that, these costs cannot include the intangible loss of life that could also occur.

Without the passage of my amendment, Mr. Chairman, Governors' voices will be stifled in the oversight of transportation of nuclear waste.

Many people feel as I do, that this is an infringement on States' rights. Every State should have the legal authority to make sure their citizenry is safe, and it is the job of that Governor to ensure that all possible remedies are used to ensure that.

If a nuclear accident did occur, those first to respond to the disaster must be adequately trained. Local firefighters and police officers will be the first to respond to nuclear truck or train accidents.

The International Association of Fire Fighters stated in a letter that the International Association of Fire Fighters represents more than 225,000 emergency responders, who are the Nation's first line of defense during any hazardous material incident, including the transportation of highly radioactive material. Without adequate training, it is easy to see why they are opposing this bill.

It is the responsibility of the Governor of these States to uphold their States' constitution and protect the health and safety of its citizenry. How can any Governor expect to protect their States, their constituents, as well as the firefighters and the policemen, without the legal authority granted under this amendment?

H.R. 1270, the Nuclear Waste Policy Act of 1997, would mandate that nuclear waste be shipped through 43 States, regardless if consent is granted by these States or not.

It is a simple issue of States' rights and public safety. If this body wishes to pass H.R. 1270, then I feel it is our obligation, an obligation that most of us, if not all on this side of the aisle, have stated for a long time, an obligation to return power to the States and allow them every opportunity to protect themselves from the deadly mandate under H.R. 1270 and this Congress.

Every State should be prepared to handle a nuclear accident before it happens, not after the deadly contents spill upon the ground. I would ask Members to trust their Governors, their State, and especially their constituency, to support State rights and support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. UPTON], the author of the bill.

Mr. UPTON. Mr. Chairman, I would note that this Gibbons amendment would bar the Department of Energy from planning for the transportation of spent nuclear fuel or high level radioactive waste through any State unless the Governor of the State certified that an adequate emergency response team existed in the State.

This, in a sense, would give every Governor a veto over nuclear waste transportation through their State. All that the Governor would have to do is to refuse to certify that their State has adequate emergency response teams, and that is it. That is it. A killer amendment.

The temptation would be irresistible to perhaps the Governor of Nevada, because no matter how adequately trained their emergency response team might be, the Governor would just say, no.

I would ask my colleagues to vote no on this amendment. I would note that in the deliberations in the markup before our full committee, the gentlewoman from Missouri, KAREN MCCARTHY, a respected Member, wanted to offer an amendment. We worked with her, it was included, in fact, in the manager's amendment, and it directed that the Secretary of Transportation would, in fact, establish procedures for the selection of preferred railroad routes for transportation of nuclear waste to an interim storage facility and repository, and DOT would be directed to consult with State emergency response officials in the development of these preferred routes.

That means that there is local input. The Governors and the States are

going to be involved. Thanks to the input of the gentlewoman from Missouri [Ms. MCCARTHY], that amendment has been adopted as part of this bill, and, therefore, there is no need for the Gibbons amendment.

Mr. GIBBONS. Mr. Chairman, I yield myself 30 seconds to respond to this.

Mr. Chairman, first of all, let me State we are not just simply picking this stuff up and placing it down here without any transportation occurring throughout the course of 43 different States. It is not irresponsible for Governors to want to work and present and protect the safety of their citizens. I think it is irresponsible of a Governor who does not do that.

Mr. Chairman, I yield 2 minutes to the gentleman from Nevada [Mr. ENSIGN].

Mr. ENSIGN. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, this is clearly about States' rights and the tenth amendment. This is not a national security issue, as some people have said it was. We have had nuclear waste at these facilities for decades. If it was a national security issue now, it would certainly have been a national security issue then, and it will be in the future then, because we are not taking all the nuclear waste from these facilities.

It will continue to exist in the district of the gentleman from Michigan [Mr. UPTON], in the district of the gentleman from Illinois [Mr. HASTERT], and on and on. Nuclear waste will still be in their districts. They will not have as much of it, but they will have it.

What the amendment of the gentleman from Nevada [Mr. GIBBONS] does is says that the Governor, who is the closest representative to a State and is aware of what is happening in their State and knows best, would say that these emergency response teams have to exist and be properly trained before nuclear waste can come through their State.

What representative here in Congress would not want their Governor to have to say, yes, the emergency response teams are in place? Now you can bring the waste through our State. But until that Governor says that these emergency response teams are in place and are trained properly, no nuclear waste can come through my State if I was a Governor. I would certainly want that right if I was a Governor, and I know virtually every Governor across this country would want that right as well.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, this amendment would prevent the Secretary from taking any, any, significant action to prepare for the transportation of this nuclear fuel through the State, if the Governor, any Governor of the State, refused to certify that ''an adequate emergency response team exists.''

In the first place, the amendment is not necessary for safe transportation, because the Hazardous Materials Transportation Act, as the gentleman from Ohio pointed out, and the Nuclear Regulatory Commission regulations, apply to all shipments of spent fuel and high level radioactive waste. That, and the consulting provisions of H.R. 1270, provide the Governor of each State with an opportunity to designate.

A Governor can designate the alternate transportation routes, but they do not give the Governor the authority to prohibit the interstate transportation of materials through a State as this amendment would do. This amendment would kill that.

Now, in reality, the amendment would bring the entire nuclear program to a halt by giving any Governor the right to veto transportation through their State. I think their Governor, I think it is Governor Miller, has indicated he would do almost anything to prevent this from happening. I do not blame him. I would take the same position he has taken. But this gives him the same position as any Governor. He is a Governor, and any Governor can do it. This gives them a veto.

First, I would point out that nuclear energy has been around a long, long time. The first plant came on in Shippingport, Pennsylvania, back in 1961. From that day to this date shipping is obvious. You have to ship it. It has to go somewhere. It has to be transported.

Then if that happens, we have to look and see what the safety record has been to date. During the last 30 years, commercial nuclear energy has built an impeccable safety record of more than 2,900 shipments of used fuel across the U.S. highways and railroads, and in that time, no injuries, no fatalities, no environmental damage has occurred, because of the radioactivity of the cargo. In fact, there has been no release of radioactivity during these shipments; 2,900 shipments, shipments of commercial used nuclear fuel and research reactor fuel, have traveled more than 1.6 million miles across the country's highways and rail lines since 1964, according to the data from the NRC, the State of Nevada, and from the industry.

This is not needed, and I certainly urge that it be defeated.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to my colleague and friend, the gentleman from Ohio [Mr. KUCINICH].

Mr. KUCINICH. Mr. Chairman, I rise in support of the Gibbons amendment. The commerce clause of the Constitution of the United States is not a vehicle to endanger the rights of States, but to facilitate the rights of the Union respecting the States.

There is no respect for the States when we decide to ship millions of tons of nuclear waste through 43 States without giving the States a strong voice in the process.

The Governors are ultimately responsible for the safety of populations within the State. Just today the Subcommittee on Government Operations urged that the protection of gulf war veterans, the responsibility for that protection, be taken away from two major Federal departments because those departments were lax in protecting the gulf war veterans who experienced the gulf war syndrome.

□ 1945

States ought to take pause when the safety and protection of their population rests solely on one Federal department which must be responsive first to the nuclear industries, and then perhaps to the civilian population.

Mr. Chairman, I urge a vote for the Gibbons amendment.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, one of the things that when we look at amendments we have to say, what is the reason this amendment exists? Why do people want to put it in?

It is very simple. If one wanted to stop nuclear waste and high-level military waste from moving across this country, as it has for scores of millions of miles, for decades across this country, safely, then one would say we would give the ability for an individual in a State, in this case the Governor, just to veto this and say ''You cannot move this through my State anymore.''

Especially if one wanted to stop nuclear waste from going to a permanent repository or a temporary repository, one would give the Governor the ability, the Governor of that State or of other States, to say, ''I am going to veto this,'' regardless of the Secretary of the Department of Transportation, the plans they have for safe transportation, and the Department of Energy, despite the plans they have for safe storage of high-level nuclear waste, regardless of what those plans are.

But one of the things that I think the author of this amendment forgot to look at is the constitutionality. One of the things that we have guaranteed in the Constitution of the United States is the ability for interstate trade, and the movement and transportation of trade across the borders of States not to be inhibited by any one State or any one person in a State.

This amendment, to my view, is clearly unconstitutional. What it really does is give the veto power to States and individuals in States to stop interstate commerce, something that is guaranteed in the Constitution.

But beyond that, it also is a way just to stop the process, not to stop the process just for the storage of nuclear waste that this bill tries to move us to, a safe storage of nuclear waste, but of all the movement of military waste, of domestic waste that we have in this country today.

That means we cannot move it anywhere, we cannot move it off the ships, we cannot move it off of any repositories we have, we cannot move it to safer places. So the only alternative left is to have this nuclear waste stack up in the open, out in the elements, near some of our most important natural resources, the Great Lakes, for instance, in Michigan and other places, and to be exposed to the elements. That is not the best and highest purpose that we have to move forward on to store high-level nuclear waste. It was never the intent.

We have to remember that the Federal Government had made a contract with the American people in 1982 that they would take this nuclear waste and store it in a safe way, and when we say store it, we also have to assume it is transportation in a safe manner. We need to move forward and reject this amendment.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to my colleague, the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I am a very strong believer in Thomas Jefferson's belief in States' rights, the rights of States to assert their legitimate authority over that which takes place in their domain.

I hate it when I see Members of Congress out trampling on an individual State's ability to act, on a Governor's right to protect a State's own citizens, especially when we are told that we do not even have to make the truck drivers liable because it is so safe. They cannot even have an accident if they tried. It is in containers that cannot break, so we are told. Well, as a result, we are going to suspend the Governor's right to be able to ask a few questions, but it is over a subject that they are telling us is absolutely harmless.

Again, I think if Thomas Jefferson were here, he would be very suspicious of a central government telling the State to trust us, we are sending through cannisters of highly dangerous materials, but they do not have to worry because the central government has taken care of them. That is where I think Alexander Hamilton was always questioned by Thomas Jefferson. I hate to see it when Members are out usurping the legitimate right of Governors on this kind of a matter.

Mr. GIBBONS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to thank the Members for allowing me to present my argument on this matter.

Mr. Chairman, I notice my colleague, the gentleman from Illinois, talks about the Commerce Clause. The Commerce Clause regulates commerce among the several States, but it is the 10th Amendment which reserves those powers not expressly delegated to the Federal Government to the States themselves and to the people.

It is the health and safety of the people of those States through which this transport of hazardous nuclear waste material is going to take place. Those Governors have the right, notwithstanding any other arguments that I have heard here before, to regulate and ask that the safety of their constituents be protected.

Let me also say something my mother said to me, that ''If you fail to prepare, you are preparing to fail.'' Governors across this Nation should prepare their response teams for the inevitable accident of nuclear waste.

Mr. Chairman, I ask that my colleagues support this, support this in the name of safety, support this in the name of States' rights.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this can turn into a political issue very, very rapidly when a Governor of a particular State has to make the decision on whether or not they are going to allow the transport of this across State lines.

I guess the one concern that I have on this is that every one of these Governors politically are going to say, hey, no way, and we will end up leaving the waste in the 35 States or 38 States that it is in today. So I would just say I oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nevada [Mr. GIBBONS].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. GIBBONS. Mr. Chairman, on that I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 283, further proceedings on the amendment offered by the gentleman from Nevada [Mr. GIBBONS] will be postponed.

It is now in order to consider amendment No. 6 printed in the House report 105–354.

AMENDMENT NO. 6 OFFERED BY MR. ENSIGN

Mr. ENSIGN. Mr. Chairman, I offer amendment No. 6.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. ENSIGN:

Page 19, insert after line 16 the following:

''(c) EMERGENCY RESPONSE.—The Secretary may not plan for the transportation of spent nuclear fuel or high-level radioactive waste in a fiscal year for which funds appropriated under section 203(c) are insufficient (as determined by the Federal Emergency Management Agency) to ensure adequate and trained emergency response teams along all the transportation routes to be used in such fiscal year.

The CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Nevada [Mr. ENSIGN] and a Member opposed each will control 10 minutes.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I rise to claim opposition to the amendment.

The CHAIRMAN. The gentleman from Colorado, Mr. DAN SCHAEFER, will control 10 minutes in opposition to the amendment offered by the gentleman from Nevada [Mr. ENSIGN].

The Chair recognizes the gentleman from Nevada [Mr. ENSIGN].

Mr. ENSIGN. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, before I go on to talk about this amendment, which deals with safety, I want to talk about the comment that the subcommittee chairman made on the last amendment when he said that, well, of course, if the Governors had their choice, every one of them would oppose nuclear waste being transported across their State and they would stop it. He said every Governor. He may want to retract that statement, but he said every Governor. Does it not make sense that we would oppose a bill if every Governor in every State does not want nuclear waste being transported across their State?

Mr. Chairman, I have an amendment, and this amendment would simply require certification by FEMA, and by the way, this is an independent agency, that adequate appropriations, in other words, monies be appropriated to exist for the emergency response teams that are going to be necessary across those 43 States if an accident did occur.

Local fire and police departments will be the first ones on the scene of a nuclear waste accident, and it is vitally important that these forces are mobilized and trained in responding to possible radiation leaks. H.R. 1270 authorizes funding for these purposes, but makes that funding contingent upon actions of the Committee on Appropriations.

This year, for an example, the energy and water appropriations bill provided $2.6 billion less than the administration's request for programs that are ongoing. The money simply is not there. But we need to ensure that if that money is not provided, that we do not undertake activities when we have not adequately prepared to deal with the consequences of those activities.

Mr. Chairman, I think it is absolutely outrageous that we would not simply make sure that the money is there, that adequate money is there; not to be appropriated, but actually there, mandated that we spend to make sure that the transport of the deadliest substance known to mankind, if an accident occurs, that those response teams have the adequate funding that they can prepare to meet the type of accident that could ensue.

Mr. Chairman, I reserve the balance of my time.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 3 minutes to the gentleman from Idaho [Mr. CRAPO].

Mr. CRAPO. Mr. Chairman, this amendment bars the Department of Energy from planning for nuclear waste transportation in any fiscal year in which funds are deemed to be insufficient by the Federal Energy Management Agency to ensure adequate and trained emergency response teams along all the transportation routes to be used in each such fiscal year.

On its face this sounds like a good idea, but when we look at it, it is another amendment designed to prevent transportation of nuclear waste. It is going to create a circumstance in which, instead of addressing this issue once and for all, we create now yet again another regulatory mechanism, where every year we have to fight in this Congress over whether we are going to have in place the necessary structure to move ahead with transporting the spent nuclear fuel of this country to permanent storage.

This amendment would prevent the Department of Energy from beginning to accept nuclear waste in the year 2002. Last year a Federal court said that the United States has a legal obligation to begin acceptance of nuclear waste in the year 1998. H.R. 1270 provides for that acceptance at least by the year 2002.

This amendment would delay the beginning of that acceptance for years. In addition, once FEMA was able to make determinations as required by this amendment, opponents of the nuclear waste program would seek annually to cut funding for emergency response training or to otherwise argue that the funding simply was not sufficient, and if that was not enough, they would try to work through regulatory routes to get FEMA to simply say they were not ready.

If their efforts were successful, nuclear transportation would be blocked for another entire year, year after year, as the process of debate moved forward. This amendment is designed to create yet one more venue where we debate endlessly the question of how will we deal with spent nuclear fuel in this country. It is not designed to improve training of emergency response teams or promote that safe transportation; it is designed to keep nuclear waste where it now is, spread out across the country in scores of sites in 35 or more States.

We have, as we have discussed repeatedly tonight, a safe transportation system. If we need more safety, we can appropriate the necessary dollars to do so. I do not believe there would be much objection to appropriating for strengthened and increased training in FEMA. But we do not need to fall for the trick of tying that FEMA funding to the ability of the Department of Energy to transport the spent nuclear fuel in this country as is necessary for the security and safety of our Nation.

□ 2000

Mr. ENSIGN. Mr. Chairman, I think it is important to point out that we are more concerned about people's lives, where they are more concerned about the process that goes on here in the Congress.

Mr. Chairman, I yield 2 minutes to the gentleman from Nevada [Mr. GIBBONS].

Mr. GIBBONS. Mr. Chairman, it seems that we have been called a lot of things this evening, especially obstructionists. Well, I think those people who are opposing these amendments are the obstructionists.

What we are talking about here is response team funding, paying money out to save people's lives, human lives. The health of humanity, the environment is at risk here. The safety of the citizens is a responsibility of the Governors in these 43 States through which this material is going to be transported. They need the resources to make sure that we are doing this safely in the event of that actuality of an accident that is bound to happen.

By the way, let me also take a little time here to talk a little bit about ''Indiana Michigan Power versus DOE.'' I want to dispel these myths about the law as it now stands. It does not require the Federal Government to take into possession this nuclear material. It says that in the event of an unavoidable delay, in the event of an unavoidable delay, the parties are to readjust schedules as appropriate to accommodate the delay. It does not mandate that the Federal Government take possession of this in 1998. It does nothing that all of this hyperbole that we hear from the opponents of this amendment say. This case literally does not require the Federal Government to take possession of that.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. Mr. Chairman, inasmuch as the gentleman from Nevada [Mr. ENSIGN] took some of his time to answer the gentleman from Colorado [Mr. SCHAEFER], let me answer something the gentleman from Nevada said a little bit ago.

Mr. Chairman, I do not consider them obstructionists, and we are trying not to be. The gentleman mentioned that they play the odds in Las Vegas. I have been to Las Vegas. The last time I was out there I saw a dejected fellow sitting over there. He lost all of his money and he could not borrow any more money and he could not cash any checks, but the management was kind out there and they offered him some food. And he said, ''No, I can't do that. My bus will be here in a few minutes.'' And they said, ''Oh, you have to catch the bus?'' And he said, ''No, I'm going to get in front of it.''

Mr. Chairman, that is what we would do if this amendment passed. Because whereas the other amendment said that any Governor could veto it, this sets out that a bureaucrat can veto it. They are going to let FERC veto it. That is of course outrageous.

H.R. 1270 provides already for technical assistance and funding to the States, to the effected units of local governments, Indian tribes and nonprofit organizations for the training of local public safety officials.

The amendment would give the Director of FEMA complete discretion over whether this act is implemented. I just do not think we want to do that. It would be an illegal delegation of power. It is not a good idea. We do not want to leave it up to the bureaucrats.

Mr. ENSIGN. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, if it is so very safe to ship these materials under the legal regime which has been established under this bill, then the sponsors should not have any problems with this amendment. All we really do here is say if FEMA determines that there is insufficient funds that have been appropriated for emergency response teams, then we have to basically deal with that issue.

But we have reached a point here now where we are saying we have got an unfunded mandate where we are not going to help out the State or the local municipality in dealing with this issue. We are telling the Governors they do not have any authority here to deal with it. And now we are turning to the FEMA and we are saying that this very safe material is stuff that we do not even want FEMA to have to certify that they have enough money to be able to handle it.

Mr. Chairman, I think that the proponents of this bill do protesteth too much about how safe it is while at the same time telling Governors, mayors, FEMA to butt out in terms of questioning, in fact, the real protections given to the public.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, I would just remind my colleagues that this is a duplicative amendment. Under the existing law and this bill, H.R. 1270, DOE provides funding from the income under this program to provide emergency response training for State and local entities in the unlikely event of an accident with radioactive materials.

Under the funding, the DOE already provides assistance for training of State and local officials and tribal emergency rescue workers. The commercial nuclear safe record during 2,900 shipments speak to the effectiveness of the training.

I remind my colleagues that this radioactive material did not just show up at these 80 different facilities around the country. It had to get there. And some 1,300 tons of the radioactive rods were shipped without accident, without spillage, without a single release of nuclear material, all under the safe guidance of the Department of Energy.

Mr. Chairman, to change that record and give it to somebody else and let them start all over and do their regulations is just further delay. I would urge my colleagues: ''If it ain't broke, don't fix it.'' The system works now under the guidance of the Department of Energy, and I have a feeling of confidence that it will continue without this amendment.

Mr. ENSIGN. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. KUCINICH].

Mr. KUCINICH. Mr. Chairman, I urge a ''yes'' vote on the amendment. There

are a number of assumptions that are being made here in this debate. I recall the remarks of the gentleman from Texas [Mr. HALL] about betting in Las Vegas. We are betting that radioactive waste cannot spill. We are betting that trucks carrying the radioactive waste will not have accidents. We are betting that trains which carry the radioactive waste will not derail. We are betting that the casks which contain the radioactive waste transported will not break, will not come open or leak.

But that has a familiar ring. It sounds like the Titanic will not sink. The Hindenburg will not fall out of the sky. Or if my colleagues want a modern reference, that Three Mile Island will never have an accident.

Mr. Chairman, I would say, again referring to the remarks of the gentleman from Texas, that we might have better odds of getting out in front of that bus than we may have of there not being any accident.

So safety is an issue. Let us keep focused on this safety issue which is implicit in this amendment. The bill would send an estimated 100,000 shipments of high-level radioactive waste through 43 States, passing 50 million people in their communities. At the very least, we need to ensure there are safeguards in place and that means money to train emergency response teams along the transportation routes. And if there is not enough money, appropriate it to ensure that adequate response teams are in place along the waste transportation route.

Mr. Chairman, the Department of Energy ought not be prohibited from planning for the transportation of this radioactive waste.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Chairman, I remember when I was a kid the old western movies were out there. My mother never told me much about nuclear waste, but we used to watch the western movies. And if they had to stop the train that had the stuff in it from getting to the good guys, first of all they sent the Indians after it. We have to confer with the Indians. We passed that amendment tonight. Then they switched it off on the spur so it cannot go down the track. Well, we can do that. But really the question is here how many bureaucracies do we have to have to stop nuclear waste from getting to a place of safe storage?

Well, Mr. Chairman, we have the Department of Defense, first of all, that has some of this nuclear waste. They are involved in this thing. We have DOE, Department of Energy, who prescribes the safe way to transport this, to bundle it, to package it, to store it. And then we also have the Department of Transportation.

Now, I understand that the sponsors of this amendment certainly would like to stop nuclear waste from going to a safe destination where we can have a final resting place for this stuff that is stored in scores of States and scores of places, in people's backyards, backyards in our communities next to natural resources. We need to find a safe place to do it.

But if they are going to stop that from happening, what they really do here is say, well, let us let FEMA do this now. Mr. Chairman, FEMA has never had any experience in nuclear waste. They are not an agency that deals with transportation of nuclear waste, but we are going to say that FEMA now has the ability to do this and has to put together rules and has to put together a whole process and, by the way, that is going to be a couple of years so we cannot even begin to plan to move nuclear waste in this country until we have another bureaucracy involved.

Mr. Chairman, we might as well bring in the Indians and try to switch this thing off onto the dead track. We need to defeat this amendment and move on.

Mr. ENSIGN. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, what we are talking about here is really just a safety issue, just to make sure that there is a comfort level for the people in America.

The authors of the bill have even said this is unnecessary because this bill authorizes the monies for these emergency response teams. All we are saying is, and I have only been here almost 3 years, and even in that very short period of time I have seen bills that are authorized for certain amount of money. Does the Highway Trust Fund sound familiar to anybody? Authorized for a certain amount of money and then that money not being spent. The trust fund that we are talking about here, does that sound familiar to my colleagues?

Well, what we are saying is that we want to make sure that the money is not just authorized; that the money actually gets to those emergency response teams so that if there is an accident, that the people are adequately trained and can handle this.

We have been lucky in this country. We have not had the kind of nuclear disaster from an accident that all of us would never want to happen. But if it does happen, would any of us want to face the parents of a child that was killed in one of these accidents? Was exposed to some kind of radiation that ended up at that point leading to cancer or to certain death?

Well, Mr. Chairman, I think that the very least we can do for those people is to make sure that if an accident does occur, that the people in the surrounding areas have the comfort level that their emergency response teams are in place and have been well-trained because the monies from this Congress, and this Congress is the one who is doing all of this. It is not the States out there. This Congress is the one transporting this waste, authorizing the transport of this waste.

So this Congress should take the responsibility to make sure that the money is appropriated, the money is adequately appropriated, not just authorized but adequately appropriated, that these emergency response teams would be in place. To do anything less would be a dereliction of our moral duty to our constituents all across these United States.

Mr. Chairman, I yield back the balance of my time.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I have no more speakers, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nevada [Mr. ENSIGN].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ENSIGN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 283, further proceedings on the amendment offered by the gentleman from Nevada [Mr. ENSIGN] will be postponed.

It is now in order to consider amendment No. 7 printed in House Report 105–354.

AMENDMENT NO. 7 OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. MARKEY:

Page 36, strike line 18 and all that follows through line 9 on page 39.

The CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Massachusetts [Mr. MARKEY] and the gentleman from Colorado [Mr. DAN SCHAEFER] will each control 10 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

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Mr. MARKEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is one thing when they tell us, as proponents of this legislation, that we really do not have to be concerned about it traveling down the highway and we really do not have to give any authority to local mayors or Governors, even the FEMA, to be able to properly protect public safety. But it is another thing, Mr. Chairman, when the Congress determines that a human being can be exposed to 100 millirems of radiation at this site with no health consequences for the individual.

In other countries in the world, they have much different standards than are built into this bill. In Canada, it is one millirem a year. In Finland and Switzerland, it is 10 millirems a year. In France, it is 25 millirems a year. But here the Congress is going to decide that pregnant women, children can be exposed to 100 millirems a year, even though we know that at that level, one in 286 people exposed to that level of

radiation will, in fact, contract fatal cancer.

Now, I can understand how we can pretend that the canisters cannot break. I can understand how we can pretend that the driver will never get drunk. But we cannot pretend that science does not exist. We cannot pretend that the National Academy of Sciences does not exist. And we cannot pretend to be experts. A congressional expert is an oxymoron. We are only experts compared to each other. We are not experts compared to real experts, radiation experts, medical people.

Where do we get off picking 100 millirems knowing that one in 286 people exposed will in fact contract fatal cancer? By the way, this 100 millirems is on top of all of the other radiation exposure that a human being is exposed to in the course of a year. It is absolutely unbelievable.

Now, the second part of my amendment deals with the absolutely, I think, preposterous leap that there can be no human intrusion at Yucca Mountain for 1,000 years. That is, by assuming that, we do not have to build in any extra environmental protections. Now, we have no idea if some nuclear Indiana Jones nine centuries from now might be wandering around some desolate location in Nevada not knowing what went on back in the Congress in 1997. And perhaps we have not left behind some nuclear Rosetta stone, because perhaps English is not being spoken in that part of the world at that time, and they come across this site.

Well, this bill assumes that Indiana Jones cannot break in, cannot wander in with their entire tribe and be exposed to this incredible blast of radiation that will hit them as soon as they crack through. All of it, of course, contributing to the ridiculous final picture of what is being sold out here on the floor, is just an attempt to run roughshod over EPA, over the Nuclear Regulatory Commission, over the FEMA, over Governors, over mayors, over selectmen, over individual Americans and over unsuspecting-centuries-from-now individuals that might run across this site.

I ask, Mr. Chairman, for this amendment to be adopted. My amendment restores the EPA as an agency which will have to establish the minimal radiation exposure for human beings at this site. My amendment pulls back the assumption that no human intrusion is possible and, as a result, says we have got to build in protections upon the assumption that it just might happen at some time.

We are burying this for 10,000 years, longer than all recorded history to this moment. And this Congress is sitting around in committees making decisions about how much protection we are going to be giving to people centuries from now. I do not think so. I do not think we have that kind of wisdom, congressional experts that we may be.

So I ask that the Markey amendment be adopted for the protection near term of the women, the children, the men who are going to be exposed to the millirems in the construction of this site and working around this site, and I ask that it be adopted for future generations as they may be exposed unwittingly to this facility.

Mr. Chairman, I reserve the balance of my time.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 4 minutes to the gentleman from Idaho [Mr. CRAPO].

Mr. CRAPO. Mr. Chairman, once again we are debating another amendment which clearly is going to stop the purpose of the bill from moving forward.

H.R. 1270 establishes a presumptive radiation protection standard of 100 millirems or 1/3 background levels. This standard was not chosen arbitrarily, as those who support the amendment seem to suggest. Instead it reflects the judgment of the International Council for Radiation Protection and is the standard that has been adopted by the NRC in its regulations for general public protection.

H.R. 1270 further allows NRC to amend the radiation standard if they deem it necessary for the protection of public health and safety. And it is the NRC, not the EPA, that is the agency with expertise on radiation. NRC has concluded that the standard in H.R. 1270, and I quote, will fully protect public health and safety and the environment. And H.R. 1270 requires the NRC to consult with the EPA.

But another point needs to be made. That is, this bill does not set a standard out of just the desire for Congress to move ahead on this. It sets it out of frustration with inaction by the EPA. In 1982, the EPA was directed to promulgate these standards. It failed to do so.

Fifteen years later it has not established such a standard. In 1992, the EPA was directed to establish standards for radiation releases and still after entering into a science study and getting the results of that study in 1995, it has not issued those standards.

Continued inaction by the EPA should not be allowed to block us from moving forward.

The gentleman from Massachusetts [Mr. MARKEY] often states that the radiation standard in H.R. 1270 will cause cancer deaths. The fact is, however, that two years ago the NRC told the gentleman from Massachusetts [Mr. MARKEY] that the radiation standard in H.R. 1270 would protect human health.

On July 13, 1995, the NRC wrote to him and told him that this radiation standard will likely cause zero cancer deaths. In the letter the NRC stated that there would only be cancer deaths if a population of 1,400 people lived on top of the repository for 70 years. And Yucca Mountain, as we know, has been withdrawn into this bill and is very sparsely populated.

The fact is that the average American is exposed to 300 millirems of natural radiation per year. This standard is safe. The agencies involved have declared it to be safe. And if it needs to be adjusted, it can be adjusted.

What about the issue of human intrusion? The gentleman from Massachusetts [Mr. MARKEY] made a good point. He speculated, I think with a little smile on his face, about what extreme circumstances we could hypothesize that could happen in the future. I guess we could hypothesize that the entire earth population would be obliterated by some tragedy, that we would lose all ability to communicate or understand what had happened, and that someone would then go to Yucca Mountain and drill down through the core of the earth into the facility and cause a release.

It is exactly that type of speculation that has caused the National Academy of Sciences to say that reaching a conclusion on these types of assumptions is not possible in terms of predicting human behavior thousands of years into the future, and to say that for that reason it is hardly surprising that Congress would seek a resolution of these issues so that the EPA and that those conducting the studies do not have to go on with endless speculation about these types of activities, can make sensible, common sense analysis and move forward in a common sense way rather than going on with these irrational ideas about speculating about such highly remote possibilities. Those are the issues we are facing in this amendment. It is one more attempt to derail this legislation. Mr. Chairman, we should oppose this amendment.

The CHAIRMAN. The gentleman from Massachusetts [Mr. MARKEY] has 4½ minutes remaining, and the gentleman from Colorado [Mr. DAN SCHAEFER] has 6 minutes remaining.

Mr. MARKEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Nevada [Mr. GIBBONS].

Mr. GIBBONS. Mr. Chairman, I thank the gentleman for yielding me the time. I think he hit the nuclear highlight right on the head today with setting the standards. The standards were set not by scientists, not by doctors who understand radioactive materials, but rather the Congressmen and women, sitting on the Committee on Commerce, established a bill with these radioactive standards in it.

Let me tell my colleagues what the standard really talks about here. We are talking about 100 millirems. The standard is clearly far above any other standard established in the law today; that was clearly pointed out by my colleague, the gentleman from Massachusetts [Mr. MARKEY].

Let me tell Members a little more about nuclear radiation and what one of these nuclear irradiated rods means to us.

Now, if you are a person standing one yard away from an unshielded 10-year-old nuclear rod assembly, you would get a lethal dose; that is, a deadly dose of radiation, 500 rems in less than 3 minutes, less than 3 minutes. A 30-second exposure at 100 rems, which is the

proposed standard that they have established, a 30-second exposure at the same distance at 100 rems would significantly increase the risk of cancer or genetic damage.

Mr. Chairman, we are talking about significant human risk, human life and the establishment of a new standard that was not set by scientific evaluation. It was set by the people on the Committee on Commerce. That is wrong. Vote for the Markey amendment.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. Mr. Chairman, I yield to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, I did not want to leave my friend from Massachusetts' comments unresponded to with regard to the thousand years. Here is what it looks like. Looks like the moon.

I would like to propose that we might get a unanimous consent amendment to put a statue of ED MARKEY out in front with some of the speeches that he has delivered. I can guarantee my colleagues that no one will be close to this thing for 2,000 years, let alone 1,000, and we will not need the Park Service to build a $330,000 commode for 950 years from now. I wonder if the gentleman would object to such a unanimous consent amendment?

Mr. MARKEY. Mr. Chairman, if it is facing the Upton statue, I would be more than willing.

Mr. HALL of Texas. Reclaiming my time, Mr. Chairman, I do not know anything about statues, but I do not know anybody that runs roughshod over the gentleman from Massachusetts [Mr. MARKEY]. He stands his ground pretty well. Sometimes I agree with him; usually I do not. But I always respect him and admire him.

This amendment would strike H.R. 1270 provisions that limit the Environmental Protection Agency from setting radiation protection standards. Well, for them to set it, we charged EPA 15 years ago to develop a radiation standard for a Federal repository. They have yet to do so. I do not see any reason to ask them or to even seek their opinion, but it is asked.

EPA is involved in the standard setting practice by advising the Nuclear Regulatory Commission. And if the NRC believes a stricter standard is required to protect health and safety, the bill authorizes the commission to develop a stricter standard. So it gives more standards and more strictness to the bill.

NRC has testified before the Committee on Commerce and let me talk about that. Did we run roughshod over them? Listen to the testimony of Shirley Ann Jackson, NRC Chairman, April 29, 1997 in testimony regarding H.R. 1270 before the House Subcommittee on Energy and Power.

''The Nuclear Regulatory Commission notes the standard in H.R. 1270 of an annual effective dose of 100 millirems to the average member of the general population in the vicinity of Yucca Mountain and views that standard as consistent with the protection of the public health and safety.''

Not roughshod. What happened in the Committee on Commerce? We had this identical, I believe it was identical amendment in the Committee on Commerce about a month ago. It was voted down at least 2 to 1. This committee voted on this bill just recently, less than a month ago. They voted 43 to 3 for the standard that is in this bill.

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I think it is obvious that this is an amendment that should be defeated, and I urge the defeat of the amendment.

The CHAIRMAN. The gentleman from Massachusetts, Mr. MARKEY, has 3 minutes remaining. The gentleman from Colorado, Mr. DAN SCHAEFER, has 3 minutes remaining.

Mr. MARKEY. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. KUCINICH].

Mr. KUCINICH. Mr. Chairman, Lincoln is often quoted as saying, ''A government of the people, by the people, and for the people shall not perish from this earth.'' Well, neither will radioactive waste.

If an accident should occur that exposes the public to spent nuclear fuel, the results could be deadly. A person standing one yard away from an unshielded 10-year-old fuel assembly could receive a lethal dose of radiation in less than 3 minutes, and exposure of only 30 seconds would significantly increase the risk of cancer or genetic damage. So the public ought to be fully informed of such risks.

The bill sets a standard which allows an annual radiation dose of 100 millirems per average member of the surrounding population, which is 4 times the amount allowed by current regulations for storage facilities. This exposure level is associated with the lifetime risk of one excess cancer death for every 286 exposed individuals.

If the population local to the interim dump site is to be exposed to this increased health risk, then they should be protected in every possible way.

I say support the Markey amendment.

The CHAIRMAN. The gentleman from Massachusetts, Mr. MARKEY, has 2 minutes remaining. The gentleman from Colorado, Mr. DAN SCHAEFER, has 3 minutes remaining.

Mr. MARKEY. Mr. Chairman, I yield 1 minute to the gentleman from Nevada [Mr. ENSIGN].

Mr. ENSIGN. Mr. Chairman, I thank the gentleman from Massachusetts [Mr. MARKEY] for yielding.

We have heard that the NRC says that 100 millirems is fine. But also, remember, I am from the State of Nevada. Remember what the Federal Government said back in the 1950s. They said above-ground nuclear tests, atmospheric tests, are safe. As a matter of fact, if we go out to the Nevada test site, we will see where the bleachers used to be where people used to put on, basically, these glasses with little slits in them and they used to watch above-ground nuclear, atmospheric nuclear tests. Ask the people in southern Utah if they trust the Federal Government to be setting a standard like this.

We are raising the standard simply because we need to for transportation. The international community, in Sweden the standard is 10 millirems, not 100, like this bill says; France is 25 millirems per year; Finland and Switzerland, 10 millirems per year; and Canada is 1 millirem per year.

Should we in the United States not protect our citizens the same as these countries? I urge a ''yes'' vote on the Markey amendment.

Mr. MARKEY. Mr. Chairman, I yield myself the remaining 1 minute.

Mr. Chairman, the people in Nevada and the people of this country were told in the 1940's and the 1950's that they were not going to be exposed to undue amounts of radiation when the nuclear test blasts were going off in that part of America.

Well, it turns out that this summer, after holding this information for the last 40 to 45 years, that the Federal Government now tells us that, in fact, millions of Americans were exposed to unhealthy levels of iodine, unhealthy levels of strontium 90 in locations that had never before been considered, not just in Nevada but all over the United States, wherever the plume of those explosions carried by the winds might have endangered health and safety.

Well, once again we have the Federal Government sitting here picking a start, 100 millirems. We decide. ''Do not worry about it. Bring your children. Bring your pregnant wife. Do not worry about it.'' We have no right, we have no business, especially after what we have learned this past summer about what the Federal Government did in Nevada and surrounding States in the 1950's.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I yield the final 3 minutes to the gentleman from Iowa [Mr. GANSKE].

Mr. GANSKE. Mr. Chairman, I rise in opposition to this amendment. I am on the Committee on Commerce. I am also a physician. And in looking at this legislation, I think it is reasonable, I think the standards are reasonable.

We are talking about 100 millirems per year. For the average American, the exposure from the sunlight is about 300 millirems per year, three times that amount. If one lives in a higher place, a higher altitude place like Denver, CO, we are talking about 400 millirems per year. If we are talking about a flight attendant, actually probably almost all our colleagues who have to fly in airplanes, we get higher doses than that. If we are talking about two chest x-rays, we are talking about 100 millirems. If we are talking

about a surgeon who works in an operating room where they take x-rays, we are talking about in excess of 100 millirems per year. This is safe.

But I also support the bill, and I think that we need to look at the safety that is built into this bill. The Nuclear Regulatory Commission has looked at these casks that this material is going to be transported in. That cask is literally stronger and more powerful than a locomotive. When a speeding 120-ton locomotive is crashed into a 25-ton nuclear waste cask at 80 miles per hour, the train is demolished but the cask is okay.

Other tests show that the cask is impervious to heat, including a 30-minute exposure to 1475 degrees Fahrenheit that engulfs the entire chamber. We drop that cask nearly 4 feet onto a 6-inch steel rod and it still does not leak.

Furthermore, Mr. Chairman, it is not that we have not seen a lot of transportation of nuclear material in the last 30 years. There have been, on an average, 100 trips per year by specially-trained crews, over 2,300 trips, and there has never been a leak or release of any radioactivity.

When we get right down to it, Mr. Chairman, we have to decide on a very important issue: Do we want this nuclear waste scattered around the country at 50 sites, close to Lake Superior, close to major population centers, or should we put it out in the desert away from the population centers in a safe place?

Mr. Chairman, I will tell my colleagues what the people of Iowa are telling me. They are telling me, put it away from where the people are, put it away from our Great Lakes, get it away from our rivers where, if an accident would happen, we would have a disaster; and put it into one place, put it into one place where it is efficiently and safely watched over.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. MARKEY].

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. MARKEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 283, further proceedings on the amendment offered by the gentleman from Massachusetts [Mr. MARKEY] will be postponed.

It is now in order to consider Amendment No. 8 printed in House Report 105–354.

AMENDMENT NO. 8 OFFERED BY MR. GIBBONS

Mr. GIBBONS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. GIBBONS:

Page 55, beginning in line 3 strike ‘‘, except that’’ and all that follows through line 21 and insert a period.

The CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Nevada [Mr. GIBBONS] and a Member opposed each will control 10 minutes.

Mr. HALL of Texas. Mr. Chairman, I claim the time in opposition to the amendment offered by the gentleman from Nevada [Mr. GIBBONS].

The CHAIRMAN. The gentleman from Texas [Mr. HALL] will be allocated 10 minutes in opposition to the amendment offered by the gentleman from Nevada [Mr. GIBBONS].

The Chair recognizes the gentleman from Nevada [Mr. GIBBONS].

Mr. GIBBONS. Mr. Chairman, I yield myself such time as I may consume.

The amendment that I am offering today will protect the American taxpayers from being forced to pay out of their own pockets for a highly irradiated nuclear storage facility at Yucca Mountain, Nevada, thousands and thousands of years into the future.

Since 1987, the utility ratepayers have paid, yes, they have, based on electricity generated by nuclear power plants, into the nuclear waste trust fund. These funds were intended to be used for suitability study and construction of a deep geologic storage facility at Yucca Mountain, Nevada, for high-level nuclear waste. The fees were based on 1 mill per kilowatt hour; 1 mill roughly equals one-tenth of one cent.

Unfortunately, despite the presence of this trust fund, the nuclear power lobby is trying to force all American taxpayers to pick up the tab for transporting and storing this waste at Yucca Mountain. Why? Because nuclear waste translates into stranded capital cost for these energy companies.

The current Nuclear Waste Policy Act assumes that a permanent storage facility would be ready by 1998. However, this option is not available. The Nuclear Waste Policy Act states in section 111(a)(5) and 131(a)(1) that the responsibility for interim storage rests directly upon the generators of high-level waste. However, yet again, these poster boys for corporate welfare want American taxpayers to take all legal responsibility and provide the funding for this highly irradiated nuclear waste.

My amendment would delete the cap within the bill and give the Secretary of Energy the authority to assess a fee on the existing reactors to reflect the amount of funding needed in a given year to cover the cost of operating Yucca Mountain, thereby sparing taxpayers who have no stake in nuclear power or nuclear waste.

The problem exists as reactors shut down, Mr. Chairman, which will increase logarithmically into the future. This means that there will no longer be revenue generated nor a revenue stream to fund the development and operation of that repository for thousands and thousands of years following the last reactor shutdown. The likelihood of the utilities being able to cover the cost of permanent repository is very unlikely, and the financial burden will be shifted to the taxpayer.

A GAO study has estimated that the Yucca Mountain project construction cost will be nearly $33 billion. There is only $13 billion in the fund right now. The shortfalls would quickly appear if Congress should pass H.R. 1270 without this amendment.

The Congressional Budget Office states that the impact of carrying out H.R. 1270 would be a net discretionary spending increase of $1.9 billion over the expected waste fund receipts during the 1998 to the 2002 period. While H.R. 1270 would change the financing of the nuclear waste program from a steady 1 mill per kilowatt hour fee to an adjustable fee tied to annual program appropriations, the bill also dictates that the average fee over the next 12 years cannot exceed 1 mill.

Moreover, as electricity deregulation continues and the higher-priced nuclear power is forced to compete with cheaper forms of generated electricity, it is probable that many nuclear reactors will be decommissioned before their licenses expire. One study predicted that 40 percent of operating reactors would shut down early and would therefore cease making contributions to the nuclear waste fund.

Without passage of this amendment, the nuclear waste fund will boil and distill down to Congress either making the taxpayers of this country pay for the storage and transportation of nuclear waste or abandon the project altogether.

The great people of Nevada do not benefit from nuclear energy, nor do States that lack nuclear power plants. Why should they be required to pay for a nuclear storage facility? Why should they be forced to spend their tax dollars to support a nuclear industry bailout?

At a time when Congress is making great strides to balancing the Federal budget, we should continue this laudable goal and allow the Secretary of Energy to increase the mill rate to protect the taxpayers of this country. It is for these reasons, Mr. Chairman, that I ask Members to protect the American taxpayer and make a common sense vote on a very important fiscal issue. I ask for their support and ask them to vote favorably for this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. HALL of Texas. Mr. Chairman, I yield myself such time as I may consume.

Let me say, this amendment would delete the 1 mill cap and permit the Secretary of Energy to assess a fee on existing nuclear energy plants to reflect the amount of funding needed in a given year to cover the cost of operations. Basically, that is what it does, but let us really analyze it.

First, they suggested to let the governor have veto power. That will flat kill it. Next, they are going to let FERC make some decisions that could cancel it. And now they are going to let the Secretary of Energy assess a fee, not only an illegal delegation of fees and of congressional authority.

□ 2045

It is not only an illegal delegation of fees and the congressional authority, the facts are hard and clear that sufficient funding exists already under H.R. 1270. The annual contribution of nuclear generated electricity consumers to the Nuclear Waste Fund would be based on the annual amount spent by the government to build storage and disposal facilities for used nuclear fuel. This amendment, so far as I read it, says, ''We gotta collect more money because there isn't enough money to finish the program 30 years from now.'' The key argument against that is that we have collected over $13 billion since 1983. We have spent $6 billion, diverted it elsewhere. I think by 2010 the Nuclear Waste Fund balance is projected to be $20.9 billion. That is enough to support an interim storage facility and begin operating a permanent repository, according to the DOE program cost projections provided to Congress in July of this year. Also there is already a provision in the bill to expand the $1 million cap to $1.5 million to pay for construction of central storage facilities. Mr. Chairman, the amendment is not needed. It is already provided for. We urge the defeat of the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Las Vegas, Nevada [Mr. ENSIGN].

Mr. ENSIGN. Mr. Chairman, I thank the gentleman for yielding me this time. First we had environmental protections. They nixed those. Next safety, public safety, discarded. Next, States rights, 10th amendment, ignored. Also private property rights. They would not even allow us to have an amendment on this floor to debate private property rights. Gotten rid of. Lastly, Mr. Chairman, we have to at least support the taxpayer. Of anybody we have got to be concerned about on here, should we at least not be supportive of the taxpayer?

For crying out loud, what this bill does is says that when these nuclear power plants shut down, and they are going to shut down, and there will not be ratepayers to pay the bills to keep nuclear waste stored and to pay for that nuclear waste and there is not enough money in the trust fund and these ratepayers over the next years will not have enough money in the trust fund, when that happens, guess who ends up holding the buck? The person out there making $30,000 a year, the middle income American that has everything on their shoulders already, that has this huge national debt already. Now we are going to pile more debt on them.

If Members consider themselves fiscal conservatives, and I do not know anybody in this body hardly that considers themselves anything but a fiscal conservative, but if you consider yourself a fiscal conservative, you have to at least vote for this amendment. This bill is bad enough, but at least this amendment would give the taxpayer some sort of protection against the nuclear power industry shifting the burden from themselves to the taxpayer.

Mr. HALL of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Chairman, I thank the gentleman from Texas for yielding me this time.

If Members want to stand logic on its head, take the argument from the last gentleman from Nevada and say what we are going to do is not the nuclear companies that are the power companies that have this, it is the ratepayers. Ratepayers are people who flip the switch on and expect the lights to go on and they also happen to be taxpayers. So the people who are getting gouged in this amendment are the taxpayers of this country, the ratepayers. What they really want you to do is say, now when you flick the lights on, not only are you going to have to pay, are you paying this contract that you had with the Federal Government and the Federal Government says you are going to take this waste and store it as of 1998, the Federal Government and these folks here say, you can just forget about that contract, that promise to the American people, and, by the way, we are going to ask for more money. But the real ridiculous issue here is they are going to ask for more money. They want more money from American ratepayers, American taxpayers? Mr. Chairman, we have paid in $13 billion. Six billion of those dollars never went to the nuclear repository. $6 billion went to the big spenders over here in the Federal Government. They have funded the United Nations with it. They have funded welfare programs with it. Now they want to fund more of their big government programs with it. I think we need to have some responsibility for the American taxpayer and the American ratepayer, those people who have to be responsible, that have to go out and earn a living, that carry a lunch box to work. By the way, they hope to have lights go on when they flip the lights on, they hope to have a safe place to live. They expect the Federal Government to carry out its promise, its Federal contract, to say they are going to take this nuclear waste and store it. Now all of a sudden they are saying, ''Oh, by the way, we're going to change this bill. We're going to ask you to pay more.''

Mr. Chairman, it is not right. We need to keep the contract with the American people. We need to dispose of nuclear waste in a safe way, and we need to move forward with it. I would ask that Members reject this very expensive amendment to the American people and move forward.

Mr. GIBBONS. Mr. Chairman, I would hope that the gentleman who just spoke would yield me the opportunity to offer him to give back all this money if he would keep his nuclear waste.

Mr. Chairman, I yield 1½ minutes to the gentleman from Ohio [Mr. KUCINICH].

Mr. KUCINICH. Mr. Chairman, utility bills will go up because of this legislation. Taxes will go up because of this bill. Utility profits and stocks will also go up. Is there a connection? It is an outrage that the American people will pay the price with their health, with higher utility rates and with higher tax dollars to dispose of waste which comes from commercial nuclear reactors. The Gibbons amendment seeks to mitigate this unfair condition by ensuring that there will be enough money in the Nuclear Waste Fund to pay for the safe disposal of high-level nuclear waste generated at commercial nuclear reactors. Let the nuclear utilities pay the bill for the nuclear dump, not the American taxpayers.

Mr. Chairman, the utilities exist for us. We do not exist for them. We give them the right to operate in the public interest, and we have the responsibility to protect the American taxpayers. There is a rather notorious nuclear reactor in northeast Ohio called the Perry Nuclear Power Plant. More than 20 years ago I stood on the grounds where Perry was being built to protest this project. It was supposed to have been 2 reactors at a price of $1 billion, and it turned into one reactor at a price of $6 billion. Guess what? The reactor was built on a fault line. Since then the nuclear utility company has gone down into the dumper and the stocks have gone down. It has almost gone bankrupt. But the taxpayers and ratepayers of northeast Ohio have had to suffer the consequences.

Mr. HALL of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, I would remind my colleagues that the Nuclear Waste Policy Act of 1982 required that consumers of nuclear-generated electricity pay a fixed fee to the Nuclear Waste Fund for the government to manage for this program. Of the $13 billion that has been committed to the fund since 1983, about $6 or $7 billion in fact has been used for other activities not relating to this one.

In 1982, I worked for President Reagan. I can remember his signing statement in 1982 when Congress passed that bill. Some of us here, not me, but some of the Members here voted for that bill, and President Reagan thought that in a few years this thing would be done. Here it is, 1997, 15 years later, we are debating a bill that, when enacted, still will not see this thing completed for another 10 or 15 years.

We do not need this amendment. The ratepayers are paying already tooth and nail for this program. Not all of the money has been spent for the program as it was originally intended. To lift the cap on this program is not necessary. I would urge my colleagues to vote no.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute and 10 seconds to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding me this time.

This is a great amendment. This bill puts a cap on how much money is going to be collected for the permanent and interim storage facility, and then it says that the money for the permanent repository will be expended for the interim facility. Because of wholesale and pretty soon retail competition in the marketplace, we know that there are going to be fewer and fewer nuclear power plants because they cannot compete economically. Connecticut Yankee closed down this year. Maine Yankee is about to close. The only place from which you can generate revenues from this are nuclear power plants. All the other power plants do not have to kick in.

What is going to happen in the year 2002 is we may find that Yucca Mountain is not suitable, we will have run out of money, we will need more, there will not be any, we are going to have to pick a new State for the site. We know it will be a State with fewer than 3 Members of Congress. Maybe it will be a territory, I do not know, but once we do, we are going to have to go through the whole process again. Where will the money come from? Under the proponents' amendment, all of the money will come out of the taxpayers' pockets, even those that never had a single kilowatt of nuclear-generated electricity. That is wrong. The money should come from those that in fact enjoyed the benefit.

The CHAIRMAN. The gentleman from Nevada [Mr. GIBBONS] has 20 seconds remaining, and the gentleman from Texas [Mr. HALL] has 4 minutes remaining. The gentleman from Texas has the right to close.

Mr. GIBBONS. Mr. Chairman, I yield myself the balance of my time.

I urge every Member of this House to support the Gibbons amendment to this bill. Nuclear waste has a half-life of 10,000 years. The opponents of this measure are thinking 5, 10 years down the road. Who is going to pay for the 9,990 years remaining on this bill and on this nuclear waste tab? It is going to be the taxpayers if we do not pass this amendment. The shortsighted opposition certainly has not got the best interests of the taxpayers of America in sight. Vote yes on this amendment.

Mr. HALL of Texas. Mr. Chairman, I yield myself the balance of my time. Let me just address the matter of States rights a little bit, whether or not States rights have been violated. None of us want to violate States rights. We all claim to support States rights. Of course, some of us want to put national standards on them and other things to give them a little direction.

But which States are denied or which rights are violated? I do not think any of them are because all States send a proportional group of selected Congressmen, each of them refigured and recalculated every 10 years when they do the census. This site was selected by that group of Congressmen 10 years ago. The 47 contiguous States, I think, that did not get selected have some rights, also. They have the right to expect safe transportation. The 47 contiguous States have the right to believe that zero transportation reports are true. The 47 contiguous States have the right, I think, to believe that the Nuclear Regulatory Commission and the Transportation Department would require and regulate very strict nuclear fuel shipments and that the commercial nuclear industry has safely transported more than 10,000 used fuel assemblies and 2900 shipments. None have resulted in the release of radioactivity.

All the States, all 50 of the States have the right to believe that the Department of Energy so far has conducted more than 170 public meetings about the transportation of used nuclear fuel across the country and all 50 States, contiguous States included, have the right to accept that H.R. 1270 would continue to permit States to choose alternate highway routes. No other hazardous material in the United States undergoes such rigorous transportation planning, even though only less than 1 percent of the 100 million packages of hazardous material shipped per year in the U.S. are used nuclear fuel.

I object to this amendment. I urge that we defeat this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nevada [Mr. GIBBONS].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. GIBBONS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 283, further proceedings on the amendment offered by the gentleman from Nevada [Mr. GIBBONS] will be postponed.

□ 2100

The CHAIRMAN. It is now in order to consider Amendment No. 9 printed in House Report 105–354.

AMENDMENT NO. 9 OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer Amendment No. 9.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. TRAFICANT:

Page 81, insert after line 13 the following:

"SEC. 510. PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.

"(a) IN GENERAL.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

"(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available under this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

"(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available under this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

The CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Ohio [Mr. TRAFICANT] and a Member opposed will each control 5 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment says if we do not buy America, we will in fact waste America. It also says if anyone affixes a fraudulent made-in-America label to an import, they will be tortured and planted for 10,000 years at Yucca Mountain.

Mr. Chairman, I yield such time as he may consume to the gentleman from Colorado, Mr. DAN SCHAEFER.

Mr. DAN SCHAEFER of Colorado. I thank the gentleman for yielding me time.

Mr. Chairman, I did not claim any time in opposition, because I think it is a terrific amendment, and we over on this side are certainly willing to accept it.

Mr. TRAFICANT. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. HALL], the ranking member.

Mr. HALL of Texas. Mr. Chairman, I certainly agree, and compliment the gentleman on his consistent support of buy America.

Mr. TRAFICANT. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Michigan [Mr. UPTON], the author of the legislation.

Mr. UPTON. Mr. Chairman, I would say I do not think I have opposed one of the gentleman's buy America amendments in the years we have been together on the floor, and I look forward to voting for it tomorrow.

Mr. TRAFICANT. Mr. Chairman, with that, I urge an "aye" vote, and I yield back my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. UPTON. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 283, further proceedings on

the amendment offered by the gentleman from Ohio [Mr. TRAFICANT] will be postponed.

It is now in order to consider Amendment No. 10 printed in House Report 105–354.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BLUNT) having assumed the chair, Mr. MCINNIS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1270), to amend the Nuclear Waste Policy Act of 1982, had come to no resolution thereon.

REPORT ON NATION'S ACHIEVEMENTS IN AERONAUTICS AND SPACE DURING FISCAL YEAR 1996—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Science.

To the Congress of the United States:

I am pleased to transmit this report on the Nation's achievements in aeronautics and space during fiscal year (FY) 1996, as required under section 206 of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2476). Aeronautics and space activities in FY 1996 involved 14 contributing departments and agencies of the Federal Government.

A wide variety of aeronautics and space developments took place during FY 1996. The Administration issued an integrated National Space Policy, consolidating a number of previous policy directives into a singular, coherent vision of the future for the civil, commercial, and national security space sectors. The Administration also issued a formal policy on the future management and use of the U.S. Global Positioning System.

During FY 1996, the National Aeronautics and Space Administration (NASA) successfully completed eight Space Shuttle flights. NASA also launched 7 expendable launch vehicles, while the Department of Defense launched 9 and the commercial sector launched 13. In the reusable launch vehicle program, Vice President Gore announced NASA's selection of a private sector partner to design, fabricate, and flight test the X–33 vehicle.

Scientists made some dramatic new discoveries in various space-related fields such as space science, Earth science and remote sensing, and life and microgravity science. Most notably, NASA researchers cooperating with the National Science Foundation found possible evidence of ancient microbial life in a meteorite believed to be from Mars.

In aeronautics, activities included the development of technologies to improve performance, increase safety, reduce engine noise, and assist U.S. industry to be more competitive in the world market. Air traffic control activities focused on various automation systems to increase flight safety and enhance the efficient use of air space.

Close international cooperation with Russia occurred in the Shuttle-Mir docking missions and with Canada, Europe, Japan, and Russia in the International Space Station program. The United States also entered into new cooperative agreements with Japan and new partners in South America and Asia.

In conclusion, FY 1996 was a very active and successful year for U.S. aeronautics and space programs. Efforts in these areas have contributed significantly to the Nation's scientific and technical knowledge, international cooperation, environmental health, and economic competitiveness.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 29, 1997.*

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2746, THE HELPING EMPOWER LOW-INCOME PARENTS (HELP) SCHOLARSHIPS AMENDMENTS OF 1997 AND H.R. 2616, CHARTER SCHOOLS AMENDMENTS OF 1997.

Mr. MCINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 105–357) on the resolutions (H. Res. 288) providing for consideration of the bill (H.R. 2746) to amend title VI of the Elementary and Secondary Education Act of 1965 to give parents with low-incomes the opportunity to choose the appropriate school for their children and for consideration of the bill (H.R. 2616) to amend titles VI and X of the Elementary and Secondary Education Act of 1965 to improve and expand charter schools, which was referred to the House Calendar and ordered to be printed.

FORAGE IMPROVEMENT ACT OF 1997

Mr. MCINNIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 284 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 284

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2493) to establish a mechanism by which the Secretary of Agriculture and the Secretary of the Interior can provide for uniform management of livestock grazing on Federal lands. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour, with thirty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Resources and thirty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture. After general debate the bill shall be considered for amendment under the five-minute rule for a period not to exceed three hours. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Resources now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. Before consideration of any other amendment it shall be in order to consider the amendment printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Smith of Oregon or his designee. That amendment shall be considered as read, shall be debatable for ten minutes equally divided and controlled by the proponent and an opponent, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. If that amendment is adopted, the committee amendment in the nature of a substitute, as amended, shall be considered as the original bill for the purpose of further amendment. During consideration of the bill for further amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose of clause 6 of rule XXIII. Amendments so printed shall be considered as read. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum, time for electronic voting on the first in any series of questions shall be fifteen minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with are without instructions.

The SPEAKER pro tempore. The gentleman from Colorado [Mr. MCINNIS] is recognized for one hour.

Mr. MCINNIS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York [Ms. SLAUGHTER] pending which I yield myself such time as I may consume. During the consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this is a very simple resolution. The proposed rule is a modified open rule providing for one hour of general debate, with 30 minutes equally divided between the chairman and ranking member of the Committee on Resources, and 30 minutes equally divided between the chairman and ranking member of the Committee on Agriculture. After general debate, the