NUCLEAR WASTE POLICY AMENDMENTS ACT OF 1999

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1287 which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1287) to provide for the storage of spent nuclear fuel pending completion of a nuclear waste repository, and for other purposes.

Pending:

Lott (for Murkowski) amendment No. 2808, in the nature of a substitute.

The PRESIDING OFFICER. The time until 11 a.m. shall be controlled by the Senator from Alaska, Mr. MURKOWSKI, and the Senator from New Mexico, Mr. BINGAMAN, or their designees.

The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, we are now in the final hour of discussion about this nuclear waste-related bill. I thought, since I do not see Senator MURKOWSKI, the chairman of our committee, I would go ahead and make my statement indicating my position. I did speak yesterday on the Senate floor on this issue and laid out the reasons I will be voting against S. 1287 this morning. I encourage my colleagues to join me in voting against the bill. I do so for the simple reason that the bill as presently before us does not solve the problems of the nuclear waste program. In fact, it magnifies those problems.

Let me go through some of the specifics.

First, the bill does not reduce the liability that is borne by taxpayers for the program's failure. Instead of reducing that liability, this bill would increase that liability. The part of the bill that purports to offer the Department of Energy authority to settle lawsuits filed against it is arguably worse for the U.S. taxpayer than is current law. Other parts of the bill set new and arbitrary deadlines for the Department of Energy to ship nuclear waste to Nevada. We know today that the Department of Energy cannot meet those deadlines, and a vote for this bill is a vote for a new wave of litigation. We are already enmeshed in a great deal of litigation. A vote for this bill will bring us even more litigation.

Second, this bill does not speed up the decision of the Department of Energy on whether Yucca Mountain is suitable for a repository. In fact, the effect of the bill is to slow down that decision. By delaying the issuance of a radiation standard for Yucca Mountain by EPA, the bill would delay the process of finalizing whether Yucca Mountain will be a repository site.

The third point I want to make is that this bill does not make new funds available to the nuclear waste program so we can do an effective job of investigating Yucca Mountain and building a repository. Instead of making those funds available, which we should be doing, to the contrary, this bill caps the amount of funds the Department of Energy can collect and shifts the burden of paying for nuclear waste disposal from the beneficiaries of that nuclear power—that is, the people who received electricity from it—to everyone else in the country.

The fourth point I want to make is that the bill does not facilitate the movement of nuclear waste out of our individual States. In fact, this bill, as I read it, would impede the transportation of waste out of those States. Even if we managed to build a repository, if you are from a State that has nuclear waste, the bill contains an impossible hurdle to moving that waste out of your State. Read page 17 of the bill. You will find that no shipments of nuclear waste can occur anywhere until the Secretary of Energy has determined that emergency responders in every locality and every tribal entity along primary or alternative shipping routes for nuclear waste have met acceptable standards of training.

Right in that single provision are the seeds of two huge lawsuits that will keep nuclear waste in your State forever: A lawsuit over what constitutes acceptable training and a lawsuit over the reasonableness of the required determination by the Secretary of Energy that every volunteer fire or ambulance company in every locality that might see nuclear waste at some point is adequately trained.

Also, the requirements are vastly more restrictive on the Department of Energy than anything we have ever considered in the Waste Isolation Pilot Plant case.

In my view, such a certification by a Cabinet officer is a practical impossibility, not to mention an unprecedented intrusion by the Federal Government into local government responsibilities.

The fifth point is that this bill does not fix the problem of the one utility that is actually threatened by a shutdown of one of its plants because of the failings of the Department of Energy's nuclear waste program. I am speaking about the Northern States Power plant at Prairie Island. Nothing in this bill forestalls the shutdown of that plant which is expected in January of 2007.

One of the most disappointing developments of the past few days has been the stripping from the bill of the major provision that did make this bill worth passing, in my view, even though some of the flaws I have described are still in the bill.

The provision that was stripped was a provision giving the Department of Energy new authority and capability to resolve lawsuits that have been filed against it. We have been told this is what a group of seven Governors are insisting. They wanted us to drop this provision.

I studied a copy of their purported letter on this subject, and I find it a very strange document. The copy I have been given is not dated, it carries no signatures, and it is not on any official letterhead. In fact, it carries a heading that suggests it is a draft document. The letter is not about this bill. It is about testimony Secretary of Energy Bill Richardson gave about a year ago.

Some of the reasons given in the draft letter for opposing take title do not apply to this legislation. One argument in the letter complains that nuclear waste might be stored on riverfronts or lakes or seashores where, of course, the reality is one finds nuclear waste stored today in powerplants.

Specifically, an alternative to take title recommended in the letter is not contained in the bill on which we are about to vote, so the claim that by gutting this bill of its key provision —that is, its take title provision—we have satisfied seven Governors is certainly not supported by anything I have found in the document.

The other curious thing about what we have done to the bill during the course of our deliberations this week when we removed this take title provision is that we have converted its statutory instructions to the Department of Energy for settling industry lawsuits into something we know the States themselves publicly oppose. Without take title, all the Department of Energy can do is use money from the nuclear waste fund to give monetary and in-kind compensation to the utilities. That is what section 105 of the bill now authorizes.

Listen to what 51 State agencies from 35 different States told a District of Columbia Circuit Court of Appeals in January 1998 about this concept. This is a quote from their pleadings in that case:

> The Court should act decisively to bar DOE from using the NWF [Nuclear Waste Fund] and ongoing fee payments to pay the costs and damages resulting from its deliberate noncompliance. Even the potential for DOE to consider such a course should be immediately invalidated. . . .

That is what the States said in 1998, and in this legislation we instruct the Secretary of Energy to do exactly what 35 States pleaded with the court not to allow the Department of Energy to do.

The No. 1 remedy sought by the 35 States in this lawsuit, several pages after this statement, was a court order forbidding the Department of Energy from doing what section 105 of this bill now tells the Department of Energy to do. I am not making this statement based on some unsigned, undated document. We have a copy of the signed petition to the court here. I am glad to share that with any colleague who wants to review it between now and the time of our final vote.

On that document, many of us will see the signature of our Attorney General, our respective attorneys general from the States, or our representatives from the public utility commissions in our States.

The bottom line is this bill is not going to fix what is wrong with the Department of Energy's nuclear waste

program. On the contrary, it will move us further from a final solution we need to achieve. We should not pass the legislation. I hope my colleagues will join me in voting against it.

Mr. President, I yield the floor, and I reserve the remainder of our time.

Mr. THOMAS. I yield 5 minutes from our time to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the Senator from Wyoming for his graciousness.

I rise in support of the provisions of the manager's amendment that strikes the take title language from the Nuclear Waste Policy Act amendments. I express my great appreciation to the committee chairman, Senator MURKOWSKI, for his willingness to work with us to address the concerns of a number of States, including my home State of Maine, about the take title provisions.

Our States feared that the take title provisions would grant the Department of Energy a license to permanently store nuclear waste where it now sits—on the very vulnerable riverfronts, seashores, and lake borders of many States.

The take title provision was a fatal flaw in this otherwise necessary and sound legislation. This provision was based upon an ill-advised effort by the Department of Energy to shirk its responsibilities to store nuclear waste.

The take title provision would have allowed the Department of Energy to take ownership of the nuclear waste at each individual nuclear plant across the Nation. At first blush, that sounds very reasonable, but we have to look at the record.

Given the Department of Energy's dismal record of missed deadlines and its utter failure to deal with the nuclear waste issue, new waste storage facilities created under the take title provision would run the very real risk of becoming de facto permanent waste sites.

Moreover, this administration has simply done a miserable job of allaying the fears of the Governor of my State and the people of many other States who all fear the take title provision is a ruse to create permanent repositories at each site.

Residents of my State of Maine have been paying into the nuclear waste fund for years with assurances that the radioactive waste from the State of Maine and from Maine Yankee, in particular, would be moved to a permanent repository, not left in Wiscasset, ME, where the plant once operated. Since 1982, the ratepayers of Maine have paid nearly $150 million into the fund. Yet we have seen no progress, no results.

What to do with our Nation's nuclear waste is, indeed, a difficult question, but creating semipermanent storage at over 100 facilities across the Nation is clearly not the answer.

Similarly, allowing the Department of Energy to continue to dodge its responsibilities is not the answer. The answer is a safe, consolidated facility. The answer is for the Department of Energy to fulfill its obligations. The answer is for the Department of Energy to take possession of the waste, not just in Maine but by physically removing it from these sites across our country.

I urge my colleagues to support the manager's amendment. I believe it will solve the problems with the take title provision and thus improve this important piece of legislation.

Mr. President, I yield the floor and thank the Senator from Wyoming for yielding.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I will be brief.

I come to the floor for just a couple of moments to express my sincere regret that we have not been able to come together to resolve the outstanding differences that are represented today in the debate and will be represented in the final outcome of the vote.

I give great credit to the distinguished ranking member of the committee, Senator BINGAMAN, and to our colleagues, both from Alaska and Nevada, for the effort that has been made to try to reach some accommodation.

Unfortunately, in part because of a lack of willingness on the part of some of our Republican colleagues to come to the middle, we have lost a golden opportunity to finally resolve this matter once and for all.

The administration has indicated it will veto this bill in its current form. The EPA, the Secretary of Energy, and others, have expressed vehement opposition. Environmental groups, both liberal and conservative, the energy utility companies, oftentimes in favor of this legislation, in many cases today have come out in opposition to this bill, in part because of the failure to reach some compromise, and in part because this situation now makes their lives even more complicated and more difficult than it was before. Furthermore, there is deep concern that this bill undermines EPA's ability to protect the American public by delaying its authority to issue a radiation safety standard until 2001.

Instead of streamlining the process of moving nuclear waste to Nevada, this bill has complicated it even more. And, it fails to relieve American taxpayers of the extraordinary liability they face due to the failure to establish a long-term storage site. As a result, we have no choice but to continue to oppose the legislation in its current form.

I hope my colleagues will join me in opposition to this bill. Maybe in conference we can work it out. If we can, maybe we can come to the floor at another date, with another opportunity to see if we cannot successfully resolve these outstanding problems. But today that has not happened.

Today, Senator BINGAMAN and others have expressed their regret and their opposition. We simply cannot allow a bad bill to pass and be signed into law. This is the one opportunity we will have to do it right. We have to do it right before it is signed into law. The President has insisted on that. I think it is incumbent on us to insist on that. I think the American people expect no less.

Mr. President, in just a short while we will have the opportunity to vote. It is my sincere hope that a large number of colleagues, on both sides of the aisle, will join us in saying: No. We have not done the job yet. Until we do it right, our vote will remain no.

I yield the floor.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. I yield myself such time as I may utilize.

Mr. President, I rise in support of the bill. The time has come for the Congress and the Federal Government to step up to do something. This is not a new issue. It has been going on for a very long time. As a matter of fact, the basic legislation—the Nuclear Waste Policy Act of 1982—required the Federal Government to build a storage facility for spent fuel, to accept nuclear waste by 1998, to develop a transportation system, and that the cost would be paid for by the electric utility customers. The Department of Energy has not done this. The administration has not lived up to its part of it. They have been required to have a plan, but they have done very little.

The Federal Government has accepted the more than $16 billion collected from utility customers to do this. It has not shown results. The customers, of course, have been hit more than once in terms of paying the higher rates.

The time has sort of expired to continue to debate this issue, to continue to have opposition, which does not surprise me because there has not been many positive options coming from the other side of the aisle. All we have is resistance. All we have is: No, we are not going to do that.

This year I had the chance to go down to the nuclear storage site in New Mexico. We have spent billions of dollars there. We have moved only a very small amount into that storage spot. Idaho has not been able to use that at all.

Currently over 40,000 metric tons of spent nuclear fuel is being stored at 74 sites in 36 States. An additional 35,000 metric tons from weapons production and naval facilities increases the number of sites.

I understand this legislation isn't what everybody would like to have, but the fact is that we need to do something. Passing this bill will start us moving in that direction. That is what we ought to do.

The legislation drops interim storage, requires the Congress to approve

increases in fees collected, sets a schedule for the development of a repository, authorizes backup storage for any spent fuels, and allows EPA to set radiation standards after June 1, 2001. It does a number of things on which we need to move further. It authorizes the settlement for outstanding litigation and sets an acceptance schedule for spent fuel. I know it is a difficult issue.

I commend Chairman MURKOWSKI and Senator CRAIG for all of their hard work. The Energy Committee, which has approached this several times, has done a number of things. Frankly, the time for delay is over.

We are experiencing some of the same kind of resistance to doing something now in the INEEL situation in Idaho where we are looking very hard at some alternative to incineration.

I have heard from the Vice President. He said he would look into it. I have heard from Mr. Frampton from the White House who said he would look into it. I have heard from the Secretary of Energy who promised to look into it, but nothing has happened.

There is a limit to the amount of time we can continue to stall in making some decisions with regard to this nuclear issue.

I urge support for this bill. I hope we can move forward with it today.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I wish the Chair a good morning.

I ask, how much time is remaining for the majority?

The PRESIDING OFFICER. The majority has 18½ minutes.

Mr. MURKOWSKI. And for the minority?

The PRESIDING OFFICER. Fourteen minutes.

Mr. MURKOWSKI. Mr. President, I note a Dear Colleague letter is circulating this morning from one of our colleagues from Montana and one of our colleagues from California. It concerns the critical environmental vote that will occur at 11 o'clock on the Nuclear Waste Policy Act amendments.

It identifies that the protection of the health and safety of American citizens should be our highest priority. I agree with that. It further states that in order to do this, all decisions must be made based on science, not politics. It suggests this legislation does not do that.

I implore my colleagues, what we are attempting to do is use the best science available. That is why we brought the Nuclear Regulatory Commission and the National Science Academy into the recommending process for EPA. But I point out for the benefit of anyone who still has a doubt that the Environmental Protection Agency has the final authority on determining the radiation standards. But the effort is to get the best science.

Let's be honest with one another. Every time this legislation comes up, it comes down to one thing: Nobody wants the waste.

I have said time and again, if you throw it up in the air, it has to come down somewhere and that somewhere is Nevada. That decision was made some time ago. We have expended $6 billion in the Yucca Mountain effort.

The criticism of this legislation to which this Dear Colleague letter points is it doesn't address an alternative. It is innuendo to say the legislation ''unnecessarily slows EPA's ability.'' It can't do anything until it is licensed. The ''legislation conveys undisclosed acreage of Federal land to Nye and Lincoln Counties in Nevada without providing any maps of the areas or conducting any hearings.'' That is simply not true.

We are trying to accommodate the two affected counties in Nevada by giving them BLM-accessed land. What in the world is wrong with that? Is that contrary to the public health and safety? To me it is good for the people of Nevada. I am sure if you asked the two Senators from Nevada whether their constituents should receive this land, they would have a pretty positive opinion.

What we have here are more smokescreens. We have a statement by the minority ranking member of the Committee on Environment and Public Works saying they have the sole discretion over nonmilitary environmental regulations and control of atomic energy. Well, as chairman of the Energy and Natural Resources Committee, we have the obligation to address the disposal of the nuclear waste. We have attempted to do that in a responsible manner.

Yes, this is politics. This is hard core politics. It is trying to accommodate my good friends from Nevada over their objection to put the waste in their State. The Clinton administration, the administration of Vice President Gore, simply doesn't want to address it on their watch. That is all there is to it.

Each Member who votes against this legislation better be prepared to go home and explain why they voted to keep the waste in their individual State, when we had a chance to move it out to one central location at Yucca Mountain. There it is, 80 sites in 40 States. We have a chance to move it to one location.

The Northeast corridor State Governors said: We don't trust the Federal Government; they didn't take the waste in 1998 when it was contractually due; the ratepayers paid $15 billion; they broke the sanctity of a contractual relationship. What the Governors are saying is they don't want the waste stored in their State by the Federal Government taking title because they are convinced the Federal Government will leave it there. Well, they very well could be right.

As a consequence, we have this waste stored in these States on the way to the schoolgrounds, the playgrounds, the hospitals, homes. We have it on the shores of the Great Lakes—Lake Michigan, Lake Huron, Lake Erie, Lake Superior, Lake Ontario—the great rivers—the Mississippi, the Colorado, the Columbia—the Nation's seashores. We must resolve to put it at a permanent site. That is all there is to it.

We have a good bill. This is a responsible environmental vote. The environmental community has said, we are opposed to this legislation. What are they for? Are they for leaving the waste where it is? Well, they wouldn't respond to that question.

Each Member of this body is elected to make a responsible decision and not be led by groups motivated by their own particular ideology. Make no mistake about it: A large segment of America's environmental community wants to kill the nuclear power industry. They want to kill the nuclear industry because they are opposed to it. But they don't look at the contribution that industry makes to clean air, and they do not address the responsibility of what the alternative is.

So a responsible environmental vote is to move this from these 40 States and 80 sites to one central location that is designed for it. Make no mistake about it: These temporary locations are not designed for it.

There is criticism that this is some kind of a full blown attack by the nuclear power industry. What they are seeking is relief. They are seeking relief from the waste that has been generated over an extended period of time and the inability of the Federal Government to meet its contractual commitments. That should make every Member of this body indignant. But that is what happened. Do you know who is taking it in the shorts? The American taxpayer, because the claims against the Federal Government for not taking that waste under the contract are somewhere between $40 and $80 billion. That is about $1,400 per family every year in this country. Nobody seems to care about it. I care about it. I am sure you do, Mr. President.

We have a good bill. It uses the WIPP transportation model. It is safe transport. The States decide the routes. Some of my colleagues are fearful it is going to be moved by rail. It is not going to be moved by rail. It is very doubtful. Rails don't go direct. A rail goes from one railyard to the next railyard. Oftentimes those railyards are around areas of high concentration of population. That doesn't make sense. The Governors are going to have control of where these routes are determined. They are going to be safe routes because we are going to have professionals out there determining the safeguards, the drivers, and so forth. In fact, we submitted a letter yesterday from the national Teamsters Union. They are concerned because they want trained people. Their trained people will be involved.

Finally, EPA has the sole authority to set the radiation standard. Don't let anybody tell you differently. I love my friends from Nevada. I really do. I have a great deal of respect for them. I know where they are coming from. Do you know what they said in the hearing? They said, regardless of what the safeguards are, what assurances we have, we are not going to support a bill that would put the waste in Nevada. I understand that. So it means it doesn't make any difference what we do, what the minority does, what the Senator from California and the Senator from Montana do. We will never be able to convince them. I understand that. So let's recognize that for what it is.

The Secretary may settle lawsuits and save the taxpayers this $80 billion liability. This legislation allows early receipt of fuel, once construction is authorized, as early as 2006. The nuclear waste fee can only be increased by Congress. It prevents unreasonable increases in the fees. We provide benefits to counties most affected by repository land conveyance of the 76,000 acres to Nye and Lincoln Counties. This is the land that Nevada wanted. Well, I wonder how bad they want it now.

We struggled with this problem for many years. The time is right. S. 1287 is the solution. Utility consumers have paid over $15 billion into that waste fund. We cannot jeopardize the health and safety of citizens across the country by leaving that spent nuclear fuel in 80 sites in 40 States. That is irresponsible. We should move it once and for all where it belongs: at a remote site on the desert.

I will show my colleagues that picture one more time, where we have had 800 nuclear tests over a period of 50 years. That is the site. We risk, if we can't get this legislation through, losing 20 percent of our clean generation. Where are we going to make it up? We can't jeopardize our economic and environmental future by ignoring the nuclear waste management issues. That is what we are going to do if this legislation is not supported. We risk losing 103 nuclear powerplants.

I urge Members to vote for S. 1287 and finally put this problem behind us. And one more time, Mr. President—remember, each Member who votes against this bill is going to be obliged to explain why they voted to keep the waste in one of the 40 States that they come from when they had a chance to move it to one central location, Yucca Mountain.

Mr. JEFFORDS. Will the Senator yield?

Mr. MURKOWSKI. Yes. How much time remains?

The PRESIDING OFFICER. Six minutes.

Mr. JEFFORDS. I will be very brief.

Mr. MURKOWSKI. I yield 1 minute to my friend from Vermont.

Mr. JEFFORDS. Mr. President, I thank the Senator for the changes made in the take title provisions. I have discussed it with my Governor, and now I can say that we no longer have an objection to the bill. The Governor hopes it passes with the changes that were made. So I wanted to let everybody know that I am in favor of the bill, and I appreciate the changes that were made.

I yield the floor.

Mr. BINGAMAN. I yield 3 minutes to Senator BRYAN, the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. I thank the Chair.

I hardly know where to begin because so much misinformation has been uttered about this piece of legislation. This is clearly a legislative vessel that is flying under false colors. There is absolutely nothing in this bill that says, look, it is going to be Yucca Mountain as opposed to anything else. That decision, in terms of studying it, has already been made. I regret that, but it doesn't alter the fact that only Yucca Mountain is being considered and that process goes forward. The bill has nothing to do with whether or not Yucca Mountain is going to be the site that is going to be considered and studied over the next few years, absolutely nothing. So vote against this bill.

With respect to the compensation issue, we have agreed for more than a decade, and this Senator has personally offered legislation to compensate the utilities. That is not an issue. We agree. This bill would pass by unanimous consent if that was the only provision that was in there. This Senator would be among the first to say that is fair.

What this is all about is trying to game the standards. That is what we are talking about. By and large, in its original form, this bill stripped out EPA. Now, games are still being played. Somehow it is suggested that EPA is being unreasonable. EPA has set a standard of 15 millirems, the same one set at WIPP, the transuranic for nuclear waste. In 1982, when the Nuclear Waste Policy Act was enacted, Congress thought EPA ought to be the one to make that determination. Now, is it a fair, reasonable standard? Somehow this crazy myth has been spilled out all over the floor that this is an unreasonable standard. The National Academy of Sciences—and this is not a Nevada-based group; the ''N'' stands for National, not Nevada—has looked at the standards and said, look, the range should be between 2 and 20 millirems, and it is 15.

Any Member of this Senate can defend a ''no'' vote on this legislation on the basis that Yucca Mountain is going forward in the study process. Nothing changes that. All we are saying is, in the interest of fairness, don't play politics with the standards. And that is what is occurring. All we are asking is that the health and safety of Nevada be accorded the same protection that the good citizens of New Mexico and every other place in America enjoy. So by moving this into the next year, they are trying to play politics. Do you know what. The very perverse result of all of this is that it is going to result in a further delay, and that would be as a result of this legislation being enacted.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BINGAMAN. Mr. President, let me respond to a few of the points made in debate. The other Senator from Nevada also wishes to speak.

First, when my good friend from Wyoming made his comments, he made a point that we hear a lot on the floor, which is that the people who are opposed to this bill have offered no alternatives. That is not true. I think anyone who has followed the course of this legislation in committee knows that I offered an alternative in committee, which got a significant number of votes, which I believe would have been a substantial step forward. On each of the issues we are debating, I have offered alternative language. So, clearly, that is not the case.

Second, on the issue about the Department of Energy making no progress with the Yucca Mountain project, I don't think that is an accurate or fair criticism at this point. Clearly, they have not done all we wish had been done, but it is also true that Congress, most years, has not provided the funding requested for this project.

The Department of Energy is on target to characterize the Yucca Mountain facility. Five miles of tunnel have been built in the last few years. Numerous test facilities have been built. Progress is being made but not adequate progress. I am sure they are unhappy with the pace of progress. Of course, this legislation contains a delay in the EPA's ability to issue their standards. The take title is perhaps the part that is most confusing because there seems to be an underlying belief on the part of some Senators who have spoken that if we provide this take title authority so that the Department of Energy can go in and take the title and settle these lawsuits that are pending, somehow or other that lessens the need for the Department of Energy to go ahead and move the waste to Yucca Mountain or to any other central facility. I don't see that myself. What Federal agency is going to want to permanently be the owner and caretaker of nuclear waste in 80 different locations? Clearly, DOE would not want that result. They would like to resolve the pending lawsuits, take title to the property, move ahead as quickly as possible to get the site characterized, and if it meets the standard, then go ahead with it. So I don't think this take title thing is what it is described to be.

On the land transfer issue, on which there has been some discussion, there were no land transfers in the committee-reported bill. I think we need to understand that. So there are no maps

and there was no discussion about it in the committee because it wasn't brought up there. Page 11 of the bill makes reference to ''maps dated February 1, 2000, and on file with the Secretary of Energy.'' We can't find any such maps. The Secretary of Energy can't find any such maps. We don't know what they are talking about. There is real confusion about the specifics of these land transfers.

The final point I will make on this—and I will defer to my colleague, Senator REID—is the chairman, understandably, in his concluding remarks, said if you vote for this bill, we will put this problem behind us. Mr. President, if that were true, I would be sorely tempted to vote for this bill. The truth is, we can vote for this bill, pass this bill, and the President can sign this bill, but not only are the problems not behind us, our problems would be compounded. Therefore, I will not be able to support the bill. I regret that we will not pass something that does, in fact, put the problem behind us.

I yield 3 minutes to my colleague from Nevada, Senator REID.

Mr. REID. Mr. President, as I said yesterday, when I practiced law, I represented car dealers, and there were times when they got cars in their inventory that simply were bad cars, lemons. There wasn't anything they could do to fix them. They would take them into the shop two, three, four times, and they turned out to be lemons. I represented a car dealer who sold a car to someone and he said, ''They have a car out in front of my place painted yellow that looks like a float; it is a lemon.'' He said, ''You have to settle this case.''

That is what we have. This legislation is a lemon. Whatever the esteemed chairman of the full committee tries to do, he can't make an orange out of a lemon. This is bad legislation. The Senator from New Mexico is known in the Senate as being a very thoughtful man. He has tried very hard to get a piece of legislation that improves the process for Yucca Mountain. Now, this situation has been amply described by anybody who is willing to read this legislation as being a travesty. This legislation doesn't help anything. It is opposed by the environmental community, the President of the United States, the Director of the EPA, and the Department of Energy Secretary. This is bad legislation and it should be voted against.

Talking about the land in Nevada, nobody knows what that is. There are about 74 million acres in Nevada. They are talking about maps that don't exist. What the chairman has tried to do in this legislation is satisfy one group of people and, in the process, he eliminates others.

For the first time in the history of this legislation, the utilities are opposed to the States. The utilities wanted to get rid of this nuclear waste. Now they own it more than they ever owned it. They will be stuck with it forever if this legislation passes.

I think this legislation should be taken back to the drawing board to see if anything can be done to improve it. In the meantime, at Yucca Mountain the characterization is still taking place. I think we should let the 1987 act stand for what is going to take place at Yucca Mountain—not some cockamamie piece of legislation that is trying to give the nuclear industry a reward they don't deserve.

Mr. FEINGOLD. Mr. President, I want to share my views on the Nuclear Waste Policy Amendments Act of 2000 (S. 1287). Specifically, I want to explain why I will continue to oppose this legislation in its current form.

Let me first express my grave concern about the process by which this legislation has been developed over the last few days. My office received a new version of this legislation, which eventually was proposed as a substitute amendment, nearly every day last week. Closed negotiations have continued even while the bill has been on the floor. For those of us who have utilities in our states that are grappling with nuclear waste storage questions, this made it nearly impossible to analyze this bill on behalf of our constituents. The issues presented in this legislation are serious policy issues, and our constituents deserve better information.

I am principally opposed to this bill because it does little to address the nuclear waste storage question in my home state of Wisconsin. Wisconsinites want nuclear waste removed from our state and stored in a permanent geologic repository out of state so that it has no chance of coming back to Wisconsin. I opposed nuclear waste legislation in the last Congress which sought to build large scale interim storage facilities before the permanent storage site is ready and would have jeopardized consideration of the permanent site. This year's bill would have provided federal funds for on-site storage of nuclear waste until the permanent storage site at Yucca Mountain was ready to take our waste.

The substitute amendment stripped out the on-site storage provisions. This bill now does nothing to address the waste situation at the majority of Wisconsin's nuclear plants. The bill, as amended by the substitute amendment, does contain a specific section which would address the nuclear waste situation at the La Crosse Boiling Water Reactor, which is owned by Dairyland Power and has been shut down for years. The Dairyland language is something that I have supported and will continue to support, but I had hoped this legislation would be able to extend similar relief to other Wisconsin utilities.

With the on-site storage provisions stripped out, the bill retains a loosely knit collection of provisions that seem unlikely to have a beneficial impact on the country's nuclear waste program. The bill requires the Nuclear Regulatory Commission's and the National Academy of Sciences' concurrence in the radiation exposure standard that the U.S. Environmental Protection Agency is drafting—an entirely new procedure. If those entities do not agree, the responsibility to set the standard comes back to Congress. I am concerned that if those entities cannot agree it is likely that Congress can not do much better to resolve the issues.

One of my other concerns has always been the safety and security of shipping nuclear materials from their current locations to a permanent geologic storage site outside of the state. Obviously, there is a risk that, during the transportation, accidents may occur. Although the legislation provides for emergency response training in the jurisdictions through which nuclear material would be transported, I still feel that these provisions need to be strengthened to ensure that state and local governments have the financial and equipment resources they need to respond to accidents.

In conclusion, I cannot support legislation which purports to fix the country's nuclear waste program and leaves Wisconsin so far behind. I continue to remain hopeful that legislation in this area can be crafted that can win my support.

Mr. LEVIN. Mr. President, I will vote for the most recent version of the Nuclear Waste Policy Amendments Act of 2000. It advances the process further, and it is essential that the promised and paid for disposal of nuclear waste from Michigan proceed. There are a number of provisions in this bill which are problematic and while I will vote to advance this legislation, I will review the final product that comes before the Senate.

Mr. DASCHLE. Mr. President, for the last several days the Chairman of the Energy and Natural Resources Committee, Senator MURKOWSKI, and the Ranking Member, Senator BINGAMAN, have been working to come to an agreement on legislation to resolve how our nation will provide long-term storage for deadly nuclear waste that is currently stockpiled near nuclear reactors around the country.

Despite many hours of hard work, an agreement was not reached. The legislation before the Senate today will not ensure the safety of the American public or deal with the critical issues of liability that first led us to consider this legislation.

I would like to take a few moments this morning to explain why I will be opposing the substitute amendment to S. 1287, the Nuclear Waste Amendments Act of 2000.

As Senator BINGAMAN explained last night, this legislation was proposed because the federal government was unable to meet its obligation under the law to provide a long-term storage site for nuclear waste. In 1982, Congress directed the Department of Energy to begin accepting waste at a long-term storage site by 1998. This deadline has not been met, and as a result, the taxpayers are facing billions of dollars in potential liability.

Originally, this bill would have allowed the Department to settle these lawsuits by taking title to the waste in its current sites pending completion of a long-term storage facility. This provision has now been removed from the bill. As a result, this legislation does nothing to relieve the taxpayers of the enormous bill they may have to foot.

I am also deeply concerned by steps taken in the bill to undermine the authority of the Environmental Protection Agency to set radiation safety standards. EPA has currently proposed tough but reasonable standards to protect groundwater and those living in the area. These standards are consistent with a report of the National Academy of Sciences issued in 1995.

However, this legislation prevents EPA from issuing final standards until June 1, 2001. The clear expectation underlying this provision is that a new president will be in office who will support weaker standards than those currently proposed.

Mr. President, it is unacceptable to gamble with the health of Americans who will be living near the long-term storage site. It is very likely that waste will be stored at Yucca Mountain in Nevada. Nearby, there is a dairy farm and fields of crops that use groundwater for irrigation. If we do not support tough safety standards, there is a chance that radiation in the groundwater will end up in the water used in these farms and for drinking by those who live there, putting public health at risk.

Finally, I am concerned about an enormous potential write-off for nuclear utilities in this bill. Currently, utilities pay into a Nuclear Waste Fund to ensure that the Department of Energy has the resources it needs to pay for long-term storage. This bill caps the amount that must be paid by utilities, setting up the taxpayer to fund whatever costs remain.

We need to do a better job of protecting the safety of the American public and the taxpayers from the bottomless liability that may result from this legislation. For these reasons, I will oppose this bill.

Finally, I want to thank Senator BINGAMAN for his hard work on this issue, and Senators REID and BRYAN. While this bill today is not yet satisfactory, it is significantly better than those we have seen in the past. It is largely thanks to the efforts of these Senators that these changes have been made.

Mr. CRAPO. Mr. President, I rise in support of S. 1287, a bill to provide for the storage of spent nuclear fuel, pending completion of the permanent nuclear waste repository.

I also want to thank Senator CRAIG and Senator MURKOWSKI for their tireless efforts to move forward on legislation to address the issue of disposing of spent nuclear fuel and high-level waste.

The federal government made a commitment to the nation's nuclear utilities that it would build a permanent repository to dispose of commercial spent nuclear fuel. By law, the repository was supposed to be ready to accept nuclear waste by 1998.

Six billion dollars later, the Department of Energy effort to build a repository is years behind schedule and mired in political warfare.

As a result of these delays, the U.S. Court of Appeals for the District of Columbia ruled that the DOE had failed to meet its legal obligations and ordered the Department to pay contractual damages to the nuclear utilities.

If the current situation is allowed to continue, the utilities will be paying twice. They have already contributed to the nuclear waste fund to build the repository. Without this legislation, they will continue to pay for the repository and on site storage for waste the federal government said it would take.

As a result of national defense and research activities, the federal government itself has generated thousands of tons of spent nuclear fuel and high-level waste. This waste continues to be monitored and stored at federal sites across the country, including the Idaho National Engineering and Environmental Laboratory, at significant cost. This waste is also waiting to be sent to a permanent repository.

The financial resources that are necessary to continuously store, monitor, and maintain this fuel and waste are overwhelming and could be used for other constructive purposes by the government and utilities instead of watching and waiting as has been the past practice.

This bill offers an option for relief to utilities where the Department of Energy could take title to the fuel and transport it to the repository site. Different from past legislation, this bill identifies that spent fuel storage at the repository site, in advance of fuel placement in a repository, cannot occur until construction of the repository has been authorized.

This bill is particularly important to the State of Idaho because of the 1995 Settlement Agreement. This agreement was entered into in Federal court. It was agreed to by the Departments of Energy and Navy and the State of Idaho. One of the requirements is to remove all spent fuel from Idaho by 2035. A repository or interim storage site is essential for the parties to comply with the agreement.

The logical location for the permanent repository is Yucca Mountain. It has been designated by Congress as the only site for study. It is located on dry Federal desert land. It is adjacent to the Nation's nuclear testing site where hundreds of nuclear weapons have been exploded.

The bill establishes a schedule for decisions on the adequacy of Yucca Mountain as a repository which will allow the parties to comply with the Idaho Settlement Agreement. The bill also deletes the 70,000 metric ton uranium cap which had been imposed on the repository. Removal of this cap allows one geological repository to be capable of handling the nation's inventory of spent fuel and high-level waste instead of multiple repositories.

The bill allows the Nuclear Regulatory Commission and National Academy of Sciences to give input on the scientific validity and protection of the public health and safety provided by the proposed Environmental Protection Agency radiation standard. The Environmental Protection Agency maintains standard setting authority, cannot set a standard until June 1, 2001, and is not bound to accept or even consider the Nuclear Regulatory Commission or National Academy of Sciences input. This compromise only delays the setting of a radiation standard by the Environmental Protection Agency and delays the date by when the Secretary of Energy will have an established radiation standard to work to. Although I dislike the compromise that was reached I understand that a compromise needed to be made to move this important legislation forward.

Support of this bill is the right thing to do for the country.

Idaho is one of several states where defense and DOE spent nuclear fuel and high level waste are stored; other major states include Washington, South Carolina, and New York.

There are over 70 commercial nuclear utilities that are storing spent nuclear fuel because the federal government has not lived up to its contract.

Storage facilities at these locations are filling up quickly, will not last forever, and will be expensive to monitor and maintain.

The U.S. receives 20 percent of its electricity capacity from nuclear power. There are no other emission free alternative power generating technologies that could replace this capacity if opponents are successful in shutting down nuclear power. Many of the issues associated with spent nuclear fuel are political, not technical. Nuclear fuel has been moved safely across this country and around the world for nearly forty years. The ''mobile Chernobyl'' scare tactics are a myth.

Movement needs to continue on a permanent repository and relief needs to be provided for nuclear utilities. This bill provides forward momentum and relief.

I would have preferred to see the bill go further by establishing an interim storage facility at the Nevada Test Site and vesting standard setting authority with the Nuclear Regulatory Commission. Unfortunately, the Congress has been unable to enact this type of legislation because of the threat of a presidential veto. While I would have preferred to vote in support of a stronger bill, I understand why Senator MURKOWSKI has made concessions to the other side to try to move this legislation forward.

This is an important piece of legislation which will show the American people that we can address the issue of nuclear waste in a way that is technically and environmentally sound.

I urge my colleagues to vote to support enactment of this important piece of legislation.

Mr. BINGAMAN. Mr. President, I would like to take this opportunity before we vote to recognize a member of the Senate staff who has contributed a lot to the nuclear waste debate over the years. That person is Joe Barry, who has worked for Senator BRYAN for many years, and who apparently has actually had other duties not related to nuclear waste, as well. He is a tremendous professional who has helped keep the debate in the Senate on this issue on a high level of technical accuracy. I understand that he will be leaving for a position in the private sector in Boston when we break for this recess. Senators don't always agree with each other in debate. The search for relevant and accurate information and perspectives is essential to the legislative process, and is greatly helped when Members have highly competent professional staff like Joe. We will miss him in this chamber, and I would like to extend my personal best wishes to him for great success in the future.

Mr. WELLSTONE. Mr. President, I regret that I cannot support S. 1287, the Nuclear Waste Policy Amendments Act of 2000.

I cannot support this bill because it fails to meet the safety concerns of our local communities regarding the hazards of nuclear waste. I cannot support this bill because it poses an unacceptable danger to the lives and health of the thousands of Minnesotans and millions of Americans who live near shipment routes.

By dramatically increasing the number of hazardous shipments through local communities, S. 1287 increases the risk of transportation accidents involving nuclear waste and could put public health and safety in jeopardy. This legislation would mean an additional 800 shipments in the first two years, growing to about 1,800 shipments annually by the fifth year. These shipments would continue for at least 25 years, traveling within half a mile of 50 million Americans.

Under this legislation, highly dangerous nuclear waste would be shipped through 40 or more states, including my own state of Minnesota, regardless of whether it is safe for our local communities, and without their input. Without reliable and efficient emergency response safeguards for our local communities, S. 1287 fails to protect local communities from even a small accident during the shipment of nuclear waste.

Recently, DOE projected that a nuclear waste transportation accident in a rural area with even a small release of radioactive material would contaminate 42 square miles. DOE also estimated that it would take 460 days to clean up such an accident, at a cost of $620 million. The safety record of nuclear waste transportation should give us pause. Between 1964 and 1997, the Department of Energy (DOE) made approximately 2,913 shipments of used nuclear fuel. During this time, there were 47 safety incidents involving nuclear shipments, including 6 accidents.

Furthermore, S. 1287 undermines the Environmental Protection Agency's (EPA) standard-setting process. It would delay the EPA's existing statutory authority to adopt health and safety standards to protect local communities from the release of radioactive materials. This delay stands in fundamental contradiction to the claimed urgency of this legislation. It also highlights the misplaced priorities of S. 1287, with an unacceptable emphasis on disposal at any cost, regardless of whether the safety and health of local communities have been adequately provided for.

It is especially regrettable that S. 1287 does not resolve our dilemma regarding the future of nuclear waste storage. Nobody, including me, wants this waste to stay onsite forever, but we need a safe and responsible solution for disposal of the waste we have created. As we head into the 21st century, we urgently need to develop a policy that protects the health and safety of local communities and all Americans. Unfortunately, this bill fails to meet that requirement. S. 1287 is a disappointing step in the wrong direction and a regression from past legislative efforts in this area. And for that reason I am voting against it.

Mrs. BOXER. Mr. President, I strongly oppose S. 1287 and the substitute amendment being offered. This is bad policy and should be rejected by the Senate.

Protecting the health and safety of American citizens should be our highest priority in evaluating the disposal of our nuclear waste. In order to do this, all decisions must be made based on science, not politics. This legislation does not do that. Under the cover of a ''compromise'' bill, this legislation is the latest attempt to pre-empt science and legislate the scientific suitability of Yucca Mountain, Nevada, as a high-level nuclear waste dump.

Instead of finding a repository that meets our health and safety standards established in law, this legislation attempts to weaken our health and safety standards to meet the repository. I cannot and will not support such an action.

For many years we have debated the suitability of a high-level radioactive waste dump site at Yucca Mountain. And for years, I have been down on this Senate floor with my colleagues from Nevada fighting to protect the health and safety of the citizens of Nevada. But I know that Yucca Mountain is not just a Nevada issue, it is a national issue—and more important to me, it seriously and directly affects my State of California.

Yucca Mountain is only 17 miles from the California border and the Death Valley National Park. Development of this site has the potential to contaminate California's groundwater and poses unnecessary threats to the health and safety of Californians due to possible transportation accidents from shipping high-level nuclear waste through Inyo, San Bernardino and neighboring California counties.

Since its inception as a National Monument in 1933, the federal government has invested more than $600 million in the Death Valley National Park. The Park receives over 1.4 million visitors every year. Furthermore, the communities surrounding the park are economically dependent on tourism. The income generated by the presence of the Park exceeds $125 million per year. The Park has been the most significant element in the sustainable growth of the tourist industry in the Mojave Desert. The Park is committed to sustainable growth of jobs and infrastructure in contrast to the traditional boom-and-dust desert economy.

Scientific studies show that a significant part of the regional groundwater aquifer surrounding Yucca Mountain discharges in Death Valley because the valley is down-gradient of areas to the east. If the groundwater at Death Valley is contaminated, that will be the demise of the Park and the surrounding communities. The long-term viability of fish, wildlife and human populations in the area are largely dependent on water from this aquifer. The vast majority of the Park's visitors rely on services and facilities at the park headquarters near Furnace Creek. These facilities are all dependent upon the groundwater aquifer that flows under or near Yucca Mountain. And, unfortunately, there is no alternative water source that can support the visitor facilities and wildlife resources.

Water is life in the desert. Water quality must be preserved for the viability of Death Valley National Park and the dependent tourism industry.

I hope my colleagues agree that we should not threaten these visitors, this natural treasure, and our huge financial investment with incomplete science and unnecessary actions. The potential loss is just too great.

It has been extremely difficult to get the Energy Department to accept California's connection to the site. Although DOE now recognizes Inyo County, California as an Affected Unit of Local Government under the Nuclear Waste Policy Act, it did so reluctantly after a successful lawsuit by the county that resulted in DOE granting affected unit status in 1991. Inyo is the only county in California that is now listed. Fortunately, in response to a letter that I sent to the Energy Department, a hearing will be schedule in San Bernardino County to discuss the potential threat of transportation routes through the county. But my State's concerns are not being fully addressed. I ask unanimous consent that my letter to Secretary Richardson and his response be included in the RECORD.

As an Affected Unit of Local Government, Inyo County receives Federal appropriations to monitor the Yucca

Mountain project. The primary thrust of Inyo County's monitoring program has been to demonstrate the hydrologic connection between the aquifer underlying Yucca Mountain and the discharge points in Death Valley National Park and surrounding communities.

In addition to the groundwater concerns, my State is extremely concerned about the increased transportation of high level radioactive waste that will be shipped through our State as a result of this bill. Despite my objections, the Department of Energy has already started to ship low-level nuclear waste through Inyo County to the Nevada Test Site. Inyo and San Bernardino are especially concerned because of the lack of thorough studies on the transportation routes.

The State of California has also been very involved in this issue. The California Energy Commission's comments on the Yucca Mountain Project Draft Environmental Impact Statement express the State's serious concerns over the possible groundwater contamination and the lack of adequate analysis of proper transportation routes. In fact, the Western Governor's Association has repeatedly asked the Energy Department to complete a more detailed and thorough analysis of the transportation routes to Yucca Mountain to no avail.

While the legislation that we are debating today is an improvement from bills introduced and debated in the past, it still must be stopped. This legislation would undermine the regulatory framework authorized in the Nuclear Waste Policy Act of 1982 and implemented by the EPA and DOE.

The EPA was directed by Congress to establish a radiation exposure standard for Yucca Mountain. The EPA is in the process of completing that requirement. The draft standards were issued last August and the EPA is currently considering all comments on the proposal. The draft standard includes a separate—and much needed—groundwater standard for the repository that must meet the requirements of the Safe Drinking Water Act.

The legislation we are discussing today prevents the Clinton Administration from acting in a timely manner to protect public health. However, once this Administration leaves office, the EPA standards could move forward. Where is the science in that?

This provision flies in the face of science and the fundamental principle of protecting public health and safety first and foremost.

I understand that a 1995 study by the Department of Energy showed that the radiation at Yucca Mountain would be much higher than allowed under current regulations. In fact, the DOE study finds that maximum doses at the site would be 50 rem per year.

If, like me, you are not a scientist, let me put that number into perspective for you. That is like having approximately 5,000 chest x-rays annually. Furthermore, it is about 2000 times higher than what the public is currently permitted to receive under an operating powerplant under current EPA regulations. That dose is sufficient to produce approximately 100 percent probability of dying of cancer under NRC and DOE current risk estimates. Virtually everyone exposed to that dose would die of cancer. So rather than go back and try to design a better repository to meet the standards, we are on this floor to change the standards to meet the repository.

Finally, the one provision in S. 1287 that most people could agree on was stripped from this substitute amendment. That provision would have allowed the Energy Secretary to take title to the waste that is currently being stored on-site in order to resolve the liability issue.

The alleged reason for moving this legislation was to deal with the liability issue that was created by a successful lawsuit from the utilities against the Energy Department. The utilities claimed that the Energy Department was not meeting its obligations under the Nuclear Waste Policy Act to store this waste. And the utilities won. Senator MURKOWSKI and Secretary Richardson seemed to agree that the best way to resolve this issue was to have the Energy Department take title to the waste at the utilities. That was the reason for moving a bill. Now, that provision is gone, and therefore the reason to move this bill is gone.

Mr. President, I urge my colleagues to vote no on this unnecessary legislation.

I ask unanimous consent that correspondence in regard to this bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
HART SENATE OFFICE BUILDING,
Washington, DC, January 12, 2000.

Hon. BILL RICHARDSON,
Secretary of Energy, James Forrestal Building, Washington, DC.

DEAR MR. SECRETARY: I am writing about the environmental impact report being prepared for the proposed transfer of radioactive material to Yucca Mountain near Las Vegas. More specifically, I am writing about the concerns of the San Bernardino Board of Supervisors that the County of San Bernardino has received less than adequate information about the process.

Though radioactive material being transported to Yucca Mountain in Nevada will be transported within San Bernardino County, there has been no hearing on the proposal within the County. Further, San Bernardino County officials allege that they have received no formal notice of hearings held outside the county or other notices of the environmental process.

I understand that other hearings were recently added to the Yucca Mountain review process. This is a request that you schedule a further hearing within San Bernardino County. I am certain that San Bernardino County officials will be happy to help arrange such a hearing. Thank you for your attention to this matter. Please respond to me through my San Bernardino office.

Sincerely,

BARBARA BOXER,
U.S. Senator.

SECRETARY OF ENERGY,
Washington, DC, February 3, 2000.

Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: Thank you for your letter of January 12, 2000, regarding the environmental impact report being prepared for the proposed transfer of radioactive material to Yucca Mountain.

I am sensitive to your concerns and the concerns of your constituents in San Bernardino County regarding their involvement in the Draft Environmental Impact Statement (EIS) for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada. I have added an additional public hearing in the city of San Bernardino. The hearing will be held prior to the end of the comment period for the Draft EIS, which has been extended until February 28, 2000. A Federal Register Notice announcing the date and location of this public hearing is forthcoming.

The Department is making every effort to address the public's interest in this document. This past December, three additional hearings were scheduled to include locations in the Midwest, including Lincoln, Nebraska; Cleveland, Ohio; and Chicago, Illinois. With the inclusion of an additional hearing in your State, the Department will have conducted a total of 21 hearings, 11 throughout the country and 10 in the State of Nevada. The Department is striving to ensure that the public has ample opportunity to comment on the Draft EIS. I hope the additional hearing in California addresses your concerns and those of your constituents.

If you have any questions or additional concerns, please call me or have a member of your staff contact John C. Angell, Assistant Secretary for Congressional and Intergovernmental Affairs, at 202–586–5450.

Yours sincerely,

BILL RICHARDSON.

BOARD OF SUPERVISORS
COUNTY OF SAN BERNARDINO,
San Bernardino, CA, January 12, 2000.

Hon. BARBARA BOXER,
U.S. Senate, Washington, DC.

DEAR SENATOR BOXER: The Board of Supervisors unanimously approved [a] resolution at our meeting yesterday. It expresses our substantial concern over the lack of notification from the Department of Energy with regard to their plans to transport thousands of shipments of high-level radioactive waste through the major cities of our County.

The only hearing held in this State took place in a remote area hundreds of miles from our major population centers. In addition we were not provided with any official notification of the Issuance of the Environmental Impact Statement nor were we provided a copy of same.

While we understand that transportation and storage/disposal of this material is essential for operation of various facilities, it is only appropriate that the jurisdictions which will be recipient of the majority of these shipments be given notice and response opportunities.

We ask for your strong support for our request to the Department of Energy for full disclosure, additional time for response and review, and for a public hearing to be held in our area. The hearing should be held somewhere near the population centers which will be subject to these shipments and the potential dangers imposed thereby.

We appreciate your serious consideration of this request.

Sincerely.

JERRY EAVES,
Supervisor, Fifth District.

COUNTY OF VENTURA,
February 1, 2000.

Hon. BARBARA BOXER,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR BOXER: I am writing to reiterate the Ventura County Board of Supervisors' opposition to S. 1287, the Nuclear Waste Policy Amendments of 1999, which, as currently written, would allow spent nuclear fuel and radioactive waste to be transported through Ventura County.

The Board of Supervisors endorses the development of a national policy for the transportation of spent nuclear fuel. However, the Board opposes transporting these material through Ventura County. County officials and residents are concerned about the proximity of the Diablo Canyon Nuclear Power Plant in San Luis Obispo County and the vulnerability to potential disasters related to the transportation of hazardous materials through the community, which poses serious health and safety risks to County residents.

Please vote against S. 1287 unless it is amended to prohibit the transportation of spent nuclear fuel and radioactive waste through Ventura County and other heavily populated areas.

Sincerely yours,

THOMAS P. WALTERS,
Washington Representative.

COUNTY OF INYO,
Independence, CA, February 1, 2000.

Hon. BARBARA BOXER,
U.S. Senate, Senate Office Building, Washington, DC.

DEAR SENATOR BOXER, I am writing to express concern with S. 1287, the Nuclear Waste Policy Amendments Act of 1999. S. 1287 proposes to abandon current specific DOE guidelines for determining the suitability of Yucca Mountain, Nevada (for siting of a nuclear waste repository) in lieu of less-demanding, generalized criteria. S. 1287 also removes the role of the Environmental Protection Agency from determining the human health standard to which repository design and operations should be held.

S. 1287, as it currently stands, would replace DOE's current and specific site suitability criteria (10 CFR 960—adopted in 1986 after considerable public input) with a generalized ''total system performance assessment'' approach (proposed in 10 CFR 963) which does not require the site to meet specific criteria with regard to site geology and hydrology or waste packet performance. Replacement of the current site suitability criteria by 10 CFR 963 would reduce the likelihood that the repository would be designed and constructed using the best available technology. Individual components of the repository system could be less than optimal in design and performance if computer modeling of the design showed it capable of meeting NRC's less-demanding standard. Given the significant long-term risk that development of the repository places on California populations and resources, any compromises on repository design, operations or materials cannot be tolerated.

S. 1287 allows the Nuclear Regulatory Commission to set a standard for protection of the public from radiological exposure associated with development of the repository. The power to set a standard for the Yucca Mountain project rightfully belongs with the EPA in its traditional role of setting health standards for Federal projects. In our recent response to EPA's proposed radiological health standard for the repository, Inyo County stated its strong support for EPA authority over the project and for use of a standard which focuses on maintaining the safety of groundwater in the Yucca Mountain-Amargosa Valley-Death Valley region.

Based on these considerations, S. 1287 will not provide adequate protection for Inyo County resources or citizens. We hope that the provisions in the bill for setting repository standards and for changing the site suitability guidelines will be deleted.

We appreciate your continued support of Inyo County's efforts to safeguard the health and safety of its citizens.

Sincerely,

MICHAEL DORAME,
Supervisor, Fifth District, County of Inyo.

CALIFORNIA ENERGY COMMISSION,
Sacramento, CA, February 7, 2000.

Hon. BARBARA BOXER,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR BOXER: We have reviewed S. 1287 (Nuclear Waste Policy Amendments Act of 2000) (NWPA) and offer the following comments.

The State of California, including thirteen California agencies, has reviewed the Department of Energy's (DOE) Draft Environmental Impact Statement (DEIS) for the proposed Yucca Mountain High-Level Nuclear Waste Repository. This review, coordinated by the California Energy Commission, identified major areas of deficiencies and scientific uncertainties in the DEIS regarding potential transportation and groundwater impacts in California from the repository. In light of these deficiencies and uncertainties, there are serious questions whether a decision should/can be made on the Yucca Mt. site's suitability in time for shipments to begin in 2007, as required by S. 1287.

These deficiencies and uncertainties include the need for better data and more realistic models to evaluate groundwater flow and potential radionuclide migration toward regional groundwater supplies in eastern California. In addition, there are major scientific uncertainties regarding key variables affecting how well geologic and engineered barriers at the repository can isolate the wastes from the environment. For example, there is considerable uncertainty regarding waste package corrosion rates, potential water seepage through the walls of the repository, groundwater levels and flow beneath the repository, and the potential impact on California aquifers from the potential migration of radionuclides from the repository. California is concerned about these uncertainties and deficiencies in studies of the Yucca Mt. project and the serious lack of progress in DOE's developing transportation plans for shipments to the repository.

Potential major impacts in California from the proposed repository include: (1) transportation impacts, (2) potential radionuclide contamination of groundwater in the Death Valley region, and (3) impacts on wildlife, natural habitat and public parks along shipment corridors and from groundwater contamination. Transportation is the single area of the proposed Yucca Mt. project that will affect the most people across the United States, since the shipments will be traveling cross-country on the nation's highways and railways. California is a major generator of spent nuclear fuel and currently stores this waste at four operating commercial nuclear power reactors, three commercial reactors being decommissioned, and at five research reactor locations throughout the State. Under current plans, spent nuclear fuel shipments from California reactors will begin the first year of shipments to a repository or storage facility.

In addition to the spent fuel generated in California, a major portion of the shipments from other states to the Yucca Mountain site could be routed through California. This concern was elevated recently when DOE decided, over the objections of California and Inyo and San Bernardino Counties, to reroute through southeastern California, along California Route 127, thousands of low-level waste shipments from eastern states to the Nevada Test Site, in order to avoid nuclear waste shipments through Las Vegas and over Hoover Dam. We objected to DOE's rerouting these shipments over California Route 127 because this roadway was not engineered for such large volumes of heavy truck traffic, lacks timely emergency response capability, is heavily traveled by tourists, and is subject to periodic flash flooding. We are concerned that S. 1287, by requiring that shipments minimize transport through heavily populated areas, could force NWPA shipments onto roadways in California, such as State Route 127, that are not suitable for such shipments.

The massive scale of these shipments to the repository or interim storage site will be unprecedented. Nevada's preliminary estimates of potential legal-weight truck shipments to Yucca Mountain show that an estimated 74,000 truck shipments, about three-fourths of the total, could traverse southern California under DOE's ''mostly truck'' scenario. Shipments could average five truck shipments daily through California during the 39-year time period of waste emplacement. Under a mixed truck and rail scenario, California could receive an average of two truck shipments per day and 4–5 rail shipments per week for 39 years. Under a ''best case'' scenario that assumes the use of large rail shipping containers, Nevada estimates there could be more than 26,000 truck shipments and 9,800 shipments through California to the repository.

We are concerned that S. 1287 would require that NWPA shipments begin prematurely before the necessary studies determining the site's suitability have been completed and before the transportation impacts of this decision have been fully evaluated. S. 1287 accelerates the schedule for the repository by requiring shipments to begin at the earliest practicable date and no later than January 31, 2007. In contrast, DOE has been planning for shipments to begin in 2010, a date considered by many to be overly optimistic. Shipping waste to a site before the necessary scientific evaluations of the site have been completed and before route-specific transportation impacts have been fully evaluated could have costly results. The DOE nuclear weapons complex has many examples of inappropriate sites where expediency has created a legacy of very costly waste clean-up, e.g., Hanford, Washington. The use of methods that were not fully tested for the storage and disposal of nuclear wastes has resulted in contaminants from these wastes leaking into the environment. Transporting waste to a site, as mandated by S. 1287, before the appropriate analyses are completed could create a ''de facto'' high-level waste repository in perpetuity with unknown and potentially serious long-term public and environmental consequences.

Sincerely,

ROBERT A. LAURIE,
Commissioner and State Liaison Officer to the Nuclear Regulatory Commission.

WHY NUCLEAR WASTE WON'T GO TO SOUTH CAROLINA

Mr. HOLLINGS. I would like to inquire of the manager whether it is possible for any spent nuclear fuel to go to South Carolina under the provisions of Section 102, ''Backup Storage Capacity'' of the manager's substitute amendment.

Mr. MURKOWSKI. Absolutely not. Spent nuclear fuel cannot go to South Carolina under the specific terms of the amendment's Backup Storage Capacity provisions, which states that the government shall: ''* * * transport such spent fuel to, and store such spent fuel at, the repository site. * * *'' That site is Yucca Mountain, Nevada.

Mr. HOLLINGS. I thank the manager.

Mr. MURKOWSKI. Mr. President, what is the remaining time on this side?

The PRESIDING OFFICER. Five minutes.

Mr. MURKOWSKI. Mr. President, as this debate comes to an end, I think it appropriate to respond to my friend from New Mexico relative to what I understand he said—that he had not seen a real letter from the Governors opposing taking title. I don't know whether the White House will not make that available, but we have it here. I will be happy to share it with him. I will put it in the RECORD because it shows all the signatures of all the Governors:

The Honorable Howard Dean, Governor of Vermont; the Honorable Jeb Bush, Governor of Florida; the Honorable Angus King, Jr., Governor of Maine; the Honorable John Kitzhaber, Governor of Oregon; the Honorable Jeanne Shaheen, Governor of New Hampshire; the Honorable Jesse Ventura, Governor of Minnesota; and the Honorable Tom Vilsack, Governor of Iowa.

There are more coming, I am told. I hope we can put that particular criticism to rest.

This is not an imaginary letter. This a letter from the Governors objecting, if you will, to the situation of leaving the waste in their States for the specific reason that they don't trust the Federal Government. The reason they do not trust the Federal Government is the Federal Government has not performed on its contract after taking $15 billion from the ratepayers to take the waste. They are fearful that the waste will stay in their States under the control of the Federal Government. That is a legitimate concern.

Again, I refer to the chart of where that waste is. It is in those 40 States. It is in 40 States, and each Member is going to have to respond as to why they voted to leave that waste in their State.

We have had questions brought up about the land in Nevada. It is kind of fuzzy because this is beneficial to Nevada. Now they are saying they did not have any notice and they don't have the maps. The maps are in our office. We have them for the counties. I am sure the minority could get them. I am sure the two Senators from Nevada could get the maps of their own counties. We have them in our office, in fact, and I will try to get them in the RECORD so they can see them.

As far as the land transfer is concerned, it has always been in previous bills. These are smokescreens. Our friends from Nevada are trying to explain why this isn't a good deal. They wanted it. It is there. Now they are saying: Well, just wait a minute; we don't have the facts. We have them. They are there and available for anybody. The land transfer is authorized in the previous bills. Let's not beat around the bush.

In the remaining time I have, I want to highlight what this bill really accomplishes.

I think the minority ranking member would recognize that we have tried to work with him on his list of alternatives. We addressed his concern on the interim storage. Our bill uses the WIPP transportation model. EPA has the sole authority to set the standard. We took out the international collaboration in transmutation which they wanted. We couldn't take everything, but we certainly tried.

This is a valuable piece of legislation as it stands because we have in this substitute dropped the interim storage. Isn't this kind of ironic? We dropped the interim storage. The administration was opposed to the interim storage in Nevada. The idea was that we could move this stuff out at a critical time and put it out there. They said: No, we can't do that until Yucca is finalized—until it is finally licensed. But now they are doing it twice. They are having it both ways. They are saying we will just leave it in the State. Then it becomes interim in the State. These Governors are smart enough to figure it out. I hope every Member of this body is because it is a flimflam. That is just what it is.

The administration wants to have it both ways. They do not want interim storage. They want the interim storage in the States. It drops interim storage.

It requires Congress to approve any increase in fees to protect the consumer. It sets schedules for development of a repository. It authorizes backup storage at the repository for any spent fuel that the utilities can't store on site. It allows the EPA to set radiation standards after June 1, 2001; prior to that consultation only with NAS and NRC, to ensure that any standard is the best science available.

What in the world is wrong with that?

It authorizes settlement agreements for outstanding litigation. It requires an election to settle within 180 days as requested by the administration. In other words, it brings them together.

Finally, it transfers 76,000 acres.

Let me conclude by saying that each Member is going to have to respond as to why they left this waste in their State if they don't support this bill. I encourage my colleagues to recognize that it is time to bring this matter to an end. Let's support the legislation.

I yield the floor.

Mr. BINGAMAN. Mr. President, I yield 1 minute to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. I thank the Chair. I thank the Senator from New Mexico.

Mr. President, let me respond to the map issue. I think the Senator from Alaska characterized it as ''flimflam.'' That is what this legislation is. As recently as yesterday, in requesting the maps, they had none. The only thing they have is these notes right here. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PAYMENTS TO LOCAL COUNTIES ELIMINATED

Annual payments prior to first receipt of fuel: 2.5 million/year $12.5.

Upon 1st fuel receipt: 5 million/one time 5.0.

Annual payments after 1st receipt until closure: $5 million/year (2007–2042 125 million.)

Total—Over 140 million up to 2042 then 5 million/year after that.

LAND CONVEYANCES RETAINED

Total of: 76,000 acres.
46,000 to Nye County.
30,000 to Lincoln County.
For a variety of uses: For example—
City of Caliente:
Municipal landfill (240 acres).
Community growth (2,640 acres).
Community recreation (800 acres).
Lincoln County
Community Growth:
Pioche—2,080 acres.
Panaca—2,240 acres.
Rachel—1,280 acres.
Alamo—1,920 acres.

These lands had been previously identified by BLM as available for disposal.

Towns:
Beatty—3,400 acres.
Ione—1,280 acres.
Manhattan—750 acres.
Round Mountain/Smokey Valley—11,300 acres.
Tonopah—11,500 acres.
Total estimated 28,230 acres.
Towns:
Amargosa—2,700 acres.
Pahrump—14,750 acres.
Total estimated 17,450 acres.
BLM/Grand Total: 45,680 acres.

Western Members should be pleased about this kind of transfer of public lands from federal ownership.

There are lots of benefits to doing these kinds of transfers:

Long term financial benefits are:
Decrease federal mgmt costs;
Increase State & local benefits;

The land can now be used for income providing activities.

Such transfers help consolidate land ownership and that leads to a more cost-effective and environmentally sound ecosystem management.

Mr. BRYAN. Mr. President, there are no maps.

That will give you some indication of what a shoddy, moving target this has been as we have tried to debate and expand on it. It is simply indefensible public policy.

I urge my colleagues to vote against it.

Mr. BINGAMAN. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. Two and one-half minutes.

Mr. BINGAMAN. Mr. President, let me take the remaining time to commend our chairman, Senator MURKOWSKI, for his heroic efforts in trying

to come up with legislation that would be constructive and deal with this problem. This is not an easy issue to resolve. There are many points of view.

First, the subject is complex. The history of the legislation is certainly varied and difficult.

I certainly believe the chairman has worked in good faith to try to come up with a solution. As I stated several times this morning, I do not believe he has been successful in that regard.

I am not able to support the bill.

I think there is a lot of confusion that has surrounded our debate here on the floor. As to the whole notion that the Governors are fearful that waste would wind up remaining in their States if they did not drop this take title provision, I can say if they are worried that waste will remain, they have good grounds to be worried because it is going to remain in their States. Under current law, and under this legislation, if this legislation becomes law, the waste will remain in their States. The only question is, who is going to have ownership and responsibility for that waste.

We had proposed that the Department of Energy be given ownership and responsibility. We believe that would, if anything, desensitize the Department to move ahead more quickly on Yucca Mountain. I believe that is clearly the case.

The notion that anybody who opposes this bill is going to have to explain why they want waste to remain in their States is not the issue on which we are voting. Waste is going to remain in each of the States where it is now located unless and until we get the Yucca Mountain site characterized. I hope we do that quickly. I am doing all I can to support doing that quickly. I believe the waste should be moved to a permanent repository. I think that is clearly where we need to head. But the notion that this problem is going to be somehow solved by passing this bill is just not supported by anything. There is no logic to that.

We can pass this bill. This bill can be signed by the President. You can wind up 5 years from now trying to explain to people in your State why the waste is still sitting there because it is going to be there in 5 years regardless.

I think people need to understand that there is much less here than meets the eye. As far as this legislation is concerned, anyone who thinks this legislation is going to put any problem behind them is going to be sorely disappointed down the road. In fact, I think the problems will be compounded if we enact this legislation and it were to become law.

I urge colleagues to oppose the bill and I yield the floor.

The PRESIDING OFFICER. All time has expired. Under the previous order, the hour of 11 a.m. having arrived, the substitute amendment, No. 2808, is agreed to.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill, as amended, pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote ''no.''

The result was announced—yeas 64, nays 34, as follows:

[Rollcall Vote No. 8 Leg.]

YEAS—64

Abraham	Gramm	McConnell
Allard	Grams	Murkowski
Ashcroft	Grassley	Murray
Bennett	Gregg	Nickles
Bond	Hagel	Robb
Breaux	Hatch	Roberts
Brownback	Helms	Roth
Bunning	Hollings	Santorum
Burns	Hutchinson	Sessions
Cleland	Hutchison	Shelby
Cochran	Inhofe	Smith (NH)
Collins	Jeffords	Smith (OR)
Coverdell	Kerrey	Snowe
Craig	Kohl	Specter
Crapo	Kyl	Stevens
DeWine	Landrieu	Thomas
Domenici	Leahy	Thompson
Enzi	Levin	Thurmond
Fitzgerald	Lincoln	Voinovich
Frist	Lott	Warner
Gorton	Lugar	
Graham	Mack	

NAYS—34

Akaka	Dodd	Mikulski
Baucus	Dorgan	Moynihan
Bayh	Durbin	Reed
Biden	Edwards	Reid
Bingaman	Feingold	Rockefeller
Boxer	Feinstein	Sarbanes
Bryan	Harkin	Schumer
Byrd	Inouye	Torricelli
Campbell	Johnson	Wellstone
Chafee, L.	Kerry	Wyden
Conrad	Lautenberg	
Daschle	Lieberman	

NOT VOTING—2

Kennedy	McCain

The bill (S. 1287), as amended, was passed, as follows:

S. 1287

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Nuclear Waste Policy Amendments Act of 2000''.

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) the term ''contract holder'' means a party to a contract with the Secretary of Energy for the disposal of spent nuclear fuel or high-level radioactive waste entered into pursuant to section 302(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)); and

(2) the terms ''Administrator'', ''civilian nuclear power reactor'', ''Commission'', ''Department'', ''disposal'', ''high-level radioactive waste'', ''Indian tribe'', ''repository'', ''reservation'', ''Secretary'', ''spent nuclear fuel'', ''State'', ''storage'', ''Waste Fund'', and ''Yucca Mountain site'' shall have the meanings given such terms in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

TITLE I—STORAGE AND DISPOSAL

SEC. 101. PROGRAM SCHEDULE.

(a) IN GENERAL.—The President, the Secretary, and the Nuclear Regulatory Commission shall carry out their duties under this Act and the Nuclear Waste Policy Act of 1982 by the earliest practicable date consistent with the public interest and applicable provisions of law.

(b) MILESTONES.—(1) The Secretary shall make a final decision whether to recommend the Yucca Mountain site for development of the repository to the President by December 31, 2001;

(2) The President shall make a final decision whether to recommend the Yucca Mountain site for development of the repository to the Congress by March 31, 2002;

(3) The Nuclear Regulatory Commission shall make a final decision whether to authorize construction of the repository by January 31, 2006; and

(4) As provided in subsection (c), the Secretary shall begin receiving waste at the repository site at the earliest practicable date and no later than eighteen months after receiving construction authorization from the Nuclear Regulatory Commission.

(c) RECEIPT FACILITIES.—(1) As part of the submission of an application for a construction authorization pursuant to section 114(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(b)), the Secretary shall apply to the Commission to receive and possess spent nuclear fuel and high-level radioactive waste at surface facilities within the geologic repository operations area for the receipt, handling, packaging, and storage prior to emplacement.

(2) As part of the issuance of the construction authorization under section 114(b) of the Nuclear Waste Policy Act of 1982, the Commission shall authorize construction of surface facilities described in subsection (c)(1) and the receipt and possession of spent nuclear fuel and high-level radioactive waste at such surface facilities within the geologic repository operations area for the purposes in subsection (c)(1), in accordance with such standards as the Commission finds are necessary to protect the public health and safety.

SEC. 102. BACKUP STORAGE CAPACITY.

(a) Subject to section 105(d), the Secretary shall enter into a contract under this subsection with any person generating or owning spent nuclear fuel that meets the requirements of section 135(b)(1) (A) and (B) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10155(b)(1) (A) and (B)) to—

(1) take title at the civilian nuclear power reactor site to such amounts of spent nuclear fuel from the civilian nuclear power reactor as the Commission determines cannot be stored onsite; and

(2) transport such spent nuclear fuel to, and store such spent nuclear fuel at, the repository site after the Commission has authorized construction of the repository without regard to the Secretary's Acceptance Priority Ranking report or Annual Capacity report.

SEC. 103. REPOSITORY LICENSING.

(a) ADOPTION OF STANDARDS.—Notwithstanding the time schedule in section 801(a)(1) of the Energy Policy Act of 1992 (42 U.S.C. 10141 note), the Administrator shall not publish or adopt public health and safety standards for the protection of the public from releases from radioactive materials stored or disposed of in the repository at the Yucca Mountain site—

(1) except in accordance with this section; and

(2) before June 1, 2001.

(b) CONSULTATION AND REPORTS TO CONGRESS.—(1) Not later than 30 days after the enactment of this Act, the Administrator shall provide the Commission and the National Academy of Sciences—

(A) a detailed written comparison of the provisions of the proposed Environmental Protection Standards for Yucca Mountain, Nevada, published in the Federal Register on August 27, 1999 (64 Fed. Reg. 46,975) with the recommendations made by the National Academy of Sciences in its report, Technical Bases for Yucca Mountain Standards, pursuant to section 801(a)(2) of the Energy Policy Act of 1992 (42 U.S.C. 10141 note); and

(B) the scientific basis for the proposed rule.

(2) Not later than April 1, 2001, the Commission and the National Academy of Sciences shall, based on the proposed rule and the information provided by the Administrator under paragraph (1), each submit a report to Congress on whether the proposed rule—

(A) is consistent with section 801(a)(2) of the Energy Policy Act of 1992 (42 U.S.C. 10141 note);

(B) provide a reasonably expectation that the public health and safety and the environment will be adequately protected from the hazards posed by high-level radioactive waste and spent nuclear fuel disposed of in the repository;

(C) is based on the best reasonably obtainable scientific and technical information concerning the need for, and consequences of, the rule; and

(D) imposes the least burden, consistent with obtaining the regulatory objective of protecting the public health and safety and the environment.

(3) In the event that either the Commission or the National Academy of Sciences finds that the proposed rule does not meet one or more of the criteria listed in paragraph (2), it shall notify the Administrator not later than April 1, 2001 of its finding and the basis for such finding.

(c) APPLICATION OF CONGRESSIONAL REVIEW PROCEDURES.—Any final rule promulgated under section 801(a)(1) of the Energy Policy Act of 1992 (42 U.S.C. 10141 note) shall be treated as a major rule for purposes of chapter 8 of title 5, United States Code, and shall be subject to all the requirements and procedures pertaining to a major rule in such chapter.

(d) CAPACITY.—Section 114(d) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(d)) is amended by striking ''The Commission decision approving the first such application . . .'' through the period at the end of the sentence.

SEC. 104. NUCLEAR WASTE FEE.

The last sentence of section 302(a)(4) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)(4)) is amended to read as follows: ''The adjusted fee proposed by the Secretary shall be effective upon enactment of a joint resolution or other provision of law specifically approving the adjusted fee.''.

SEC. 105. SETTLEMENT AGREEMENTS.

(a) IN GENERAL.—The Secretary may, upon the request of any person with whom he has entered into a contract under section 302(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)), enter into a settlement agreement with the contract holder to—

(1) relieve any harm caused by the Secretary's failure to meet the Department's commitment, or

(2) settle any legal claims against the United States arising out of such failure.

(b) TYPES OF RELIEF.—Pursuant to a settlement agreement entered into under this section, the Secretary may—

(1) provide spent nuclear fuel storage casks to the contract holder;

(2) compensate the contract holder for the cost of providing spent nuclear fuel storage at the contract holders' storage facility; or

(3) provide any combination of the foregoing.

(c) SCOPE OF RELIEF.—The Secretary's obligation to provide the relief under subsection (b) shall not exceed the Secretary's obligation to accept delivery of such spent fuel under the terms of the Secretary's contract with such contract holder under section 302(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)), including any otherwise permissible assignment of rights.

(d) WAIVER OF CLAIMS.—(1) The Secretary may not enter into a settlement agreement under subsection (a) or (f) or a backup contract under section 102(a) with any contract holder unless the contract holder—

(A) notifies the Secretary within 180 days after the date of enactment of this Act of its intent to enter into a settlement negotiations, and

(B) as part of such settlement agreement or backup contract, waives any claim for damages against the United States arising out of the Secretary's failure to begin disposing of such person's high-level waste or spent nuclear fuel by January 31, 1998.

(2) Nothing in this subsection shall be read to require a contract holder to waive any future claim against the United States arising out of the Secretary's failure to meet any new obligation assumed under a settlement agreement or backup storage agreement, including any obligation related to the movement of spent fuel by the Department.

(e) SOURCE OF FUNDS.—Notwithstanding section 302(d) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(d)), the Secretary may not make expenditures from the Nuclear Waste Fund for any costs that may be incurred by the Secretary pursuant to a settlement agreement or backup storage contract under this Act except—

(1) the cost of acquiring and loading spent nuclear fuel casks;

(2) the cost of transporting spent nuclear fuel from the contract holder's site to the repository; and

(3) any other cost incurred by the Secretary required to perform a settlement agreement or backup storage contract that would have been incurred by the Secretary under the contracts entered into under section 302(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)) notwithstanding their amendment pursuant to this Act.

(f) REACTOR DEMONSTRATION PROGRAM.—(1) Not later than 120 days after the date of enactment of the Nuclear Waste Policy Amendments Act of 2000, and notwithstanding Section 302(a)(5) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)(5)), the Secretary is authorized to take title to the spent nuclear fuel withdrawn from the demonstration reactor remaining from the Cooperative Power Reactor Demonstration Program (Pub. L. No. 87–315, Sec. 109, 75 Stat. 679), the Dairyland Power Cooperative La Crosse Boiling Water Reactor. Immediately upon the Secretary's taking title to the Dairyland Power Cooperative La Crosse Boiling Water Reactor spent nuclear fuel, the Secretary shall assume all responsibility and liability for the interim storage and permanent disposal thereof and is authorized to compensate Dairyland Power Cooperative for any costs related to operating and maintaining facilities necessary for such storage, from the date of taking title until the Secretary removes the spent nuclear fuel from the Dairyland Power Cooperative La Crosse Boiling Water Reactor site. The Secretary's obligation to take title or compensate the holder of the Dairyland Power Cooperative La Crosse Boiling Water Reactor spent nuclear fuel under this subsection shall include all of such fuel, regardless of the delivery commitment schedule for such fuel under the Secretary's contract with the Dairyland Power Cooperative as the contract holder under Section 302(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)) or the acceptance schedule for such fuel under section 106 of this Act.

(2) As a condition to the Secretary's taking of title to the Dairyland Power Cooperative La Crosse Boiling Water Reactor spent nuclear fuel, the contract holder for such fuel shall enter into a settlement agreement containing a waiver of claims against the United States as provided in this section.

(g) SAVINGS CLAUSE.—(1) Nothing in this section shall limit the Secretary's existing authority to enter into settlement agreements or address shutdown reactors and any associated public health and safety or environmental concerns that may arise.

(2) Nothing in this Act diminishes obligations imposed upon the Federal Government by the United States District Court of Idaho in an order entered on October 17, 1995 in United States v. Batt (No. 91–0054–S–EJL). To the extent this Act imposes obligations on the Federal Government that are greater than those imposed by the court order, the provisions of this Act shall prevail.

SEC. 106. ACCEPTANCE SCHEDULE.

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

(b) ACCEPTANCE RATE.—As soon as practicable after construction authorization, but no later than eighteen months after the year of issuance of a license to receive and possess spent nuclear fuel and high-level radioactive waste under section 101(c), the Secretary's total acceptance rate for all spent nuclear fuel and high-level waste shall be a rate no less than the following as measured in metric tons uranium (MTU), assuming that each high-level waste canister contains 0.5 MTU: 500 MTU in year 1, 700 MTU in year 2, 1,300 MTU in year 3, 2,100 MTU in year 4, 3,100 MTU in year 5, 3,300 MTU in years 6, 7, and 8, 3,400 MTU in years 9 through 24, and 3,900 MTU in year 25 and thereafter.

(c) OTHER ACCEPTANCES.—Subject to the conditions contained in the license to receive and possess spent nuclear fuel and high-level radioactive waste issued under section 101(c), of the amounts provided for in paragraph (b) for each year, not less than one-sixth shall be—

(1) spent nuclear fuel or civilian high-level radioactive waste of domestic origin from civilian nuclear power reactors that have permanently ceased operation on or before the date of enactment of the Nuclear Waste Policy Act Amendments of 2000;

(2) spent nuclear fuel from foreign research reactors, as necessary to promote nonproliferation activities; and

(3) spent nuclear fuel and high-level radioactive waste from research and atomic energy defense activities, including spent nuclear fuel from naval reactors:

Provided, however, That the Secretary shall accept not less than 7.5 percent of the total quantity of fuel and high-level radioactive waste accepted in any year from the categories of radioactive materials described in paragraphs (2) and (3) in subsection (c). If sufficient amounts of radioactive materials are not available to utilize this allocation, the Secretary shall allocate this acceptance capacity to other contract holders.

(d) EFFECT ON SCHEDULE.—The contractual acceptance schedule shall not be 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.

(e) MULTI-YEAR SHIPPING CAMPAIGNS.—Consistent with the acceptance schedule, the Secretary shall, in conjunction with contract holders, define a specified multi-year period for each shipping campaign and establish criteria under which the Secretary could accept contract holders' cumulative allocations of spent nuclear fuel during the campaign period at one time and thereby enhance the efficiency and cost-effectiveness of spent nuclear fuel and high-level waste acceptance.

SEC. 107. INITIAL LAND CONVEYANCES.

(a) CONVEYANCES OF PUBLIC LANDS.—One hundred and twenty days after enactment, all right, title and interest of the United States in the property described in subsection (b), and improvements thereon, together with all necessary easements for utilities and ingress and egress to such property, including, but not limited to, the right to improve those easements, are conveyed by operation of law to the County of Nye, County of Lincoln, or the City of Caliente, Nevada, 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 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 under this subsection that are subject to a Federal grazing permit or lease or a similar federally granted permit or lease shall be conveyed between 60 and 120 days of the earliest time the Federal agency administering or granting the permit or lease would be able to legally terminate such right under the statutes and regulations existing at the date of enactment of this Act, unless Nye County and the affected holder of the permit or lease 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 February 1, 2000, 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 Nye, Nevada, the following public lands depicted on the maps dated February 1, 2000, and on file with the Secretary:

Map 1: Beatty

Map 2: Ione/Berlin

Map 3: Manhattan

Map 4: Round Mountain/Smoky Valley

Map 5: Tonopah

Map 6: Armargosa Valley

Map 7: Pahrump.

(3) To the County of Lincoln, Nevada, the following public lands depicted on the maps dated February 1, 2000, 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.

(4) To the City of Caliente, Nevada, the following public lands depicted on the maps dated February 1, 2000, 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.

(5) To the City of Caliente, Nevada, the following public lands depicted on the maps dated February 1, 2000, and on file with the Secretary:

Map 1: City of Caliente, Industrial Park Site Expansion.

(c) CONSTRUCTION.—The maps and legal descriptions of special conveyance referred to in subsection (b) 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.

(d) EVIDENCE OF TITLE TRANSFER.—Upon the request of the County of Lincoln or the County of Nye, Nevada, the Secretary of the Interior shall provide evidence of title transfer.

(e) CONSENT.—(1) 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 implied, either under the Constitution of the State of Nevada or any law thereof, to the siting of the repository in the State of Nevada, any provision of such Constitution or laws to the contrary notwithstanding.

(2) 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 repository premised upon or related to the acceptance or use of benefits under this title.

(3) 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.

TITLE II—TRANSPORTATION

SEC. 201. TRANSPORTATION.

Section 180 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10175) is amended to read as follows:

''TRANSPORTATION

''SEC. 180. (a) IN GENERAL.—The transportation of spent nuclear fuel and high-level radioactive waste from any civilian nuclear power reactor to any other civilian nuclear power reactor or to any Department of Energy Facility, by or for the Secretary, or by or for any person who owns or generates spent nuclear fuel or high-level radioactive waste, shall be subject to licensing and regulation by the Commission and the Secretary of Transportation under all applicable provisions of existing law.

''(1) PREFERRED SHIPPING ROUTES.—The Secretary shall select and cause to be used preferred shipping routes for the transportation of spent nuclear fuel and high level radioactive waste from each shipping origin to the repository in accordance with the regulations promulgated by the Secretary of Transportation under authority of the Hazardous Materials Transportation Act (chapter 51 of title 49, United State Code) and by the Nuclear Regulatory Commission under authority of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.).

''(2) STATE REROUTING.—For purposes of this section, a preferred route shall be an Interstate System highway for which an alternative route is not designated by a State routing agency, or a State-designated route designated by a State routing agency pursuant to section 397.103 of title 49, Code of Federal Regulations.

''(b) SHIPPING CONTAINERS.—No spent nuclear fuel or high-level radioactive waste may be transported by or for the Secretary under this Act except in packages—

''(1) the design of which has been certified by the Commission; and

''(2) that have been determined by the Commission to satisfy its quality assurance requirements.

''(c) NOTIFICATION.—The Secretary shall provide advance notification to States and Indian tribes through whose jurisdiction the Secretary plans to transport spent nuclear fuel or high-level radioactive waste.

''(d) TECHNICAL ASSISTANCE.—

''(1) IN GENERAL.—

''(A) STATES AND INDIAN TRIBES.—As provided in paragraph (3), the Secretary shall provide technical assistance and funds to States and Indian tribes for training of public safety officials or appropriate units of State, local, and tribal government. A State shall allocate to local governments within the State a portion of any funds that the Secretary provides to the State for technical assistance and funding.

''(B) EMPLOYEE ORGANIZATIONS.—The Secretary shall provide technical assistance and funds for training directly to nonprofit employee organizations, voluntary emergency response 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.

''(C) TRAINING.—Training under this section—

''(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 under subsection (h); 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.

''(2) NO SHIPMENTS IF NO TRAINING.—

''(A) There shall be no shipments by the Secretary of spent nuclear fuel and high-level radioactive waste through the jurisdiction of any State or the reservation lands of any Indian tribe eligible for grants under paragraph (3)(B) to the repository until the Secretary has made a determination that personnel in all State, local, and tribal jurisdictions on primary and alternative shipping

routes have met acceptable standards of training for emergency responses to accidents involving spent nuclear fuel and high-level radioactive waste, as established by the Secretary, and unless technical assistance and funds to implement procedures for the safe routine transportation and for dealing with emergency response situations under paragraph (1)(A) have been available to a State or Indian tribe for at least 3 years prior to any shipment: *Provided, however,* That the Secretary may ship spent nuclear fuel and high-level radioactive waste if technical assistance or funds have not been made available because of—

''(i) an emergency, including the sudden and unforeseen closure of a highway or rail line or the sudden and unforeseen need to remove spent fuel from a reactor because of an accident, or

''(ii) the refusal to accept technical assistance by a State or Indian tribe, or

''(iii) fraudulent actions which violate Federal law governing the expenditure of Federal funds.

''(B) In the event the Secretary is required to transport spent fuel or high-level radioactive waste through a jurisdiction prior to 3 years after the provision of technical assistance or funds to such jurisdiction, the Secretary shall, prior to such shipment, hold meetings in each State and Indian reservation through which the shipping route passes in order to present initial shipment plans and receive comments. Department of Energy personnel trained in emergency response shall escort each shipment. Funds and all Department of Energy training resources shall be made available to States and Indian tribes along the shipping route no later than three months prior to the commencement of shipments: *Provided, however,* That in no event shall such shipments exceed 1,000 metric tons per year: *Provided further,* That no such shipments shall be conducted more than four years after the effective date of the Nuclear Waste Policy Amendments Act of 2000.

''(3) GRANTS.—

''(A) IN GENERAL.—To implement this section, the Secretary may make expenditures from the Nuclear Waste Fund to the extent provided for in appropriation Acts.

''(B) GRANTS FOR DEVELOPMENT OF PLANS.—

''(i) IN GENERAL.—The Secretary shall make a grant of at least $150,000 to each State through the jurisdiction of which and each federally recognized Indian tribe through the reservation lands of which one or more shipments of spent nuclear fuel or high-level radioactive waste will be made under this Act for the purpose of developing a plan to prepare for such shipments.

''(ii) LIMITATION.—A grant shall be made under clause (i) only to a State or a federally recognized Indian tribe that has the authority to respond to incidents involving shipments of hazardous material.

''(C) GRANTS FOR IMPLEMENTATION OF PLANS.—

''(i) IN GENERAL.—Annual implementation grants shall be made to States and Indian tribes that have developed a plan to prepare for shipments under this Act under subparagraph (B). The Secretary, in submitting the annual departmental budget to Congress for funding of implementation grants under this section, shall be guided by the State and tribal plans developed under subparagraph (B). As part of the Department of Energy's annual budget request, the Secretary shall report to Congress on—

''(I) the funds requested by States and federally recognized Indian tribes to implement this subsection;

''(II) the amount requested by the President for implementation; and

''(III) the rationale for any discrepancies between the amounts requested by States and federally recognized Indian tribes and the amounts requested by the President.

''(ii) ALLOCATION.—Of funds available for grants under this subparagraph for any fiscal year—

''(I) 25 percent shall be allocated by the Secretary to ensure minimum funding and program capability levels in all States and Indian tribes based on plans developed under subparagraph (B); and

''(II) 75 percent shall be allocated to States and Indian tribes in proportion to the number of shipment miles that are projected to be made in total shipments under this Act through each jurisdiction.

''(4) AVAILABILITY OF FUNDS FOR SHIPMENTS.—Funds under paragraph (1) shall be provided for shipments to a repository, regardless of whether the repository is operated by a private entity or by the Department of Energy.

''(5) 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.

''(e) PUBLIC INFORMATION.—The Secretary shall conduct a program, in cooperation with corridor States and tribes, to inform the public regarding the transportation of spent nuclear fuel and high-level radioactive waste, with an emphasis on those States, 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.

''(f) USE OF PRIVATE CARRIERS.—The Secretary, in providing for the transportation of spent nuclear fuel and high-level radioactive waste under this Act, shall contract with 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.

''(g) COMPLIANCE WITH TRANSPORTATION REGULATIONS.—Any person that transports spent nuclear fuel or high-level radioactive waste under the Nuclear Waste Policy Amendments Act of 2000, pursuant to a contract with the Secretary, shall comply with all requirements governing such transportation issued by the Federal, State and local governments, and Indian tribes, in the same way and to the same extent that any person engaging in that transportation that is in or affects interstate commerce must comply with such requirements, as required by section 5126 of title 49, United States Code.

''(h) 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).

''(i) TRAINING STANDARD.—

''(1) REGULATION.—No later than 12 months after the date of enactment of the Nuclear Waste Policy Amendments Act of 2000, 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 existing Federal regulations 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, by Memorandum of Understanding, ensure coordination of worker training standards and to avoid duplicative regulation.

''(3) TRAINING STANDARDS CONTENT.—(A) If training standards are required to be promulgated under paragraph (1), such standards shall, among other things deemed necessary and appropriate by the Secretary of Transportation, provide for—

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

''(ii) 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

(iii) 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.

''(B) The Secretary of Transportation may specify an appropriate combination of knowledge, skills, and prior training to fulfill the minimum number of hours requirements of clauses (i) and (ii).

''(4) 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.

''(5) 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.''.

TITLE III—DEVELOPMENT OF NATIONAL SPENT NUCLEAR FUEL STRATEGY

SEC. 301. FINDINGS.

(a) Prior to permanent closure of the geologic repository in Yucca Mountain, Congress must determine whether the spent fuel in the repository should be treated as waste subject to permanent burial or should be

considered an energy resource that is needed to meet future energy requirements.

(b) Future use of nuclear energy may require construction of a second geologic repository unless Yucca Mountain can safely accommodate additional spent fuel. Improved spent fuel strategies may increase the capacity of Yucca Mountain.

(c) Prior to construction of any second permanent geologic repository, the nation's current plans for permanent burial of spent fuel should be re-evaluated.

SEC. 302. OFFICE OF SPENT NUCLEAR FUEL RESEARCH.

(a) ESTABLISHMENT.—There is hereby established an Office of Spent Nuclear Fuel Research within the Office of Nuclear Energy Science and Technology of the Department of Energy. The Office shall be headed by the Associate Director, who shall be a member of the Senior Executive Service appointed by the Director of the Office of Nuclear Energy Science and Technology, and compensated at a rate determined by applicable law.

(b) ASSOCIATE DIRECTOR.—The Associate Director of the Office of Spent Nuclear Fuel Research shall be responsible for carrying out an integrated research, development, and demonstration program on technologies for treatment, recycling, and disposal of high-level nuclear radioactive waste and spent nuclear fuel, subject to the general supervision of the Secretary. The Associate Director of the Office shall report to the Director of the Office of Nuclear Energy Science and Technology. The first such Associate Director shall be appointed within 90 days of the enactment of the Nuclear Waste Policy Amendments Act of 2000.

(c) GRANT AND CONTRACT AUTHORITY.—In carrying out his responsibilities under this section, the Secretary may make grants, or enter into contracts, for the purposes of the research projects and activities described in (d)(2).

(d) DUTIES.—(1) The Associate Director of the Office shall involve national laboratories, universities, the commercial nuclear industry, and other organizations to investigate technologies for the treatment, recycling, and disposal of spent nuclear fuel and high-level radioactive waste.

(2) The Associate Director of the Office shall—

(A) develop a research plan to provide recommendations by 2015;

(B) identify promising technologies for the treatment, recycling, and disposal of spent nuclear fuel and high-level radioactive waste;

(C) conduct research and development activities for promising technologies;

(D) ensure that all activities include as key objectives minimization of proliferation concerns and risk to the health of the general public or site workers, as well as development of cost-effective technologies;

(E) require research on both reactor- and accelerator-based transmutation systems;

(F) require research on advanced processing and separations;

(G) ensure that research efforts with this Office are coordinated with research on advanced fuel cycles and reactors conducted within the Office of Nuclear Energy Science and Technology.

(e) REPORT.—The Associate Director of the Office of Spent Nuclear Fuel Research shall annually prepare and submit a report to the Congress on the activities and expenditures of the Office that discusses progress being made in achieving the objectives of subsection (b).

TITLE IV—GENERAL AND MISCELLANEOUS

SEC. 401. DECOMMISSIONING PILOT PROGRAM.

(a) AUTHORIZATION.—The Secretary is authorized to establish a Decommissioning Pilot Program to decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas.

(b) FUNDING.—No funds from the Nuclear Waste Fund may be used for the Decommissioning Pilot Program.

SEC. 402. REPORTS.

(a) The Secretary is directed to report within 90 days from enactment of this Act regarding all alternatives available to Northern States Power Company and the Federal Government which would allow Northern States Power Company to operate the Prairie Island Nuclear Generating Plant until the end of the term of its current Nuclear Regulatory Commission licenses, assuming existing State and Federal laws remain unchanged.

(b) Within six months of enactment of this Act, the General Accounting Office is directed to report back to the Senate Committee on Energy and Natural Resources and the House Committee on Commerce on the potential economic impacts to Minnesota, North Dakota, South Dakota, Wisconsin, and Michigan ratepayers should the Prairie Island Nuclear Generating Plant cease operations once it has met its State-imposed storage limitation, including the costs of new generation, decommissioning costs, and the costs of continued operation of onsite storage of spent nuclear fuel storage.

SEC. 403. 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.

SEC. 404. FAST FLUX TEST FACILITY.

Any spent nuclear fuel associated with the Fast Flux Test Facility at the Hanford Reservation shall be transported and stored at the repository site as soon as practicable after the Commission has authorized the construction of the repository.

Mr. MURKOWSKI. I move to reconsider the vote.

Mr. SANTORUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SANTORUM. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ENZI). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I certainly want to accommodate the Senator from Massachusetts. I would like to take a moment to thank some of the people who have worked on this legislation.

I take this opportunity to, first of all, compliment the professional staff who prepared a good deal of the material for the debate we just concluded. Andrew Lundquist, who is pretty much the general on the Energy Committee as the chief of staff of the Energy Committee, worked very hard. He had a little difficulty because his wife had a baby in the middle of the debate—a little girl, who joins three young brothers. But I do thank Andrew.

Colleen Deegan, who is on my right, we would not have been able to get as far as we had without her. Other committee staff who helped or others who did not create too many problems are Kelly Johnson, Kristin Phillips, Bryan Hannigan, David Dye, Betty Nevitt, Jim Beirne—who sat here an extended period of time—and Bob Simon and Sam Fowler from the minority. The departed staff member who worked on this for about 5 years is Karen Hunsicker, who worked on it until the end of last year.

While Senator BINGAMAN and I could not agree to resolve all the issues, I compliment him and his staff for working to try to reach an accord on the issue.

I think it is unfortunate we could not bring the administration aboard in a responsible manner, either taking title or without taking title. It is clear this matter will not be resolved on the watch of the Clinton administration. I suspect the Vice President's attitude on this should be known by the public as the campaign progresses.

But nevertheless, I thank my two colleagues from Nevada for the manner in which they nobly represented the interests of their State. That is very important around here. As they know, Senator STEVENS and I have often tried to convince this body that those of us who are elected from an individual State really have the best interests of that State at heart. For the most part, the Members I think should be very sensitive of that fact. That was evidenced in the vote today.

I would like to make one assumption, that where we ended up is where we ended up the last time on this. Although Senator MCCAIN was not here, we can assume he would have voted with us.

Mr. REID. Senator KENNEDY was not here.

Mr. MURKOWSKI. Of course, Senator KENNEDY was not here.

While there were a few changes, we ended up just about where we were the last time. As far as I am concerned, this matter has to rest with the administration for a solution. The Senator from Alaska will not be banging his head against the door to try to solve this Nation's nuclear waste problem until we get from the administration a program that suggests they are going to address the problem with a resolve.

Again, I thank all of those who were involved in the debate. I wish you all a good day as we lament on the reality of this last vote.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts.

Mr. KERRY. Mr. President, I appreciate the recognition, but I do not want to deprive the Senator from Nevada speaking if he wants a brief moment to follow up.

How much time does the Senator wish?

Mr. BRYAN. If the good Senator would yield for a minute?

Mr. KERRY. I ask unanimous consent that I be permitted to yield for 1 minute to the Senator and that then the floor would be returned to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. I thank the distinguished Senator from Massachusetts.

I wish to respond to the gracious statement by the chairman of the Energy Committee. Although we have had strong differences on this issue, the differences have been professional, not personal. He has been very professional in the way in which he has handled this matter. He has extended us every courtesy. I appreciate that. I think his conduct and deportment reflect the highest traditions of the Senate. I publicly acknowledge that. Even though, in combat, we were forceful in our advocacy, as was he, this is something that is intensely personal to us. The Senator understands that. But I do thank him very much for his graciousness and professionalism.

I yield the floor and thank the Senator from Massachusetts.

Mr. KERRY. Mr. President, I ask unanimous consent that I may proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET

Mr. KERRY. Mr. President, as we approach the budget debate this year, I think it is important for us to take a moment ahead of time to think about the broad outline of what we spend money on and also what we do not spend money on—how we allocate the priorities of this budget—because the budget is, after all, the most concrete, clearest expression of the priorities and intentions of the Congress.

I would like to walk through that for a moment, if I can, and then make a proposal to my colleagues, which I hope might, in the context of this year's surplus and the choices we face, be attractive.

The reality is, of the $1.8 trillion we will spend this year, the largest single expense, as we all know, goes to Social Security. The Federal Government is going to spend $400 billion or 22 percent of the Federal budget on monthly retirement and disability payments for about 45 million Americans who are either senior citizens or disabled.

The second largest commitment will be made to Medicare, nearly $220 billion or 12 percent of the Federal budget, ensuring that virtually every individual over the age of 65 receives health insurance benefits covering hospitalization, physician services, home health care, limited nursing home care, and laboratory tests, and providing health benefits to roughly 5 million disabled people.

In those two expenditures alone, we have spent a little over one-third of our budget on Social Security and Medicare. Of the remaining $1.2 trillion of that budget, we will spend $115 billion or about 6.5 percent of the budget on Medicaid. Those are, obviously, the health care benefits we provide to the least able to afford health insurance. In addition, we will spend about $110 billion or a little over 6 percent of the budget on Federal, civilian, and military retirement and disability benefits as well as veterans benefits.

When you throw in the other mandatory entitlement programs—such as foster care, unemployment compensation, farm price supports, food stamps, and supplemental security income, which is, as everybody knows, an income safety net for the poorest people in America—we then reach over $1 trillion in Federal spending.

This year, of the $1.8 trillion Federal budget, over $1 trillion will go towards the mandatory entitlement programs that, while vitally important, are on autopilot. We are not going to make individual judgments about them except to the degree we decide we need to shore up the Medicare program or shore up the Social Security program. They are basically on autopilot in terms of their existence. The consensus of the Congress wants them; the country wants them. We support them. They don't need to be renewed, and they don't need to be reauthorized. They obviously are not appropriated on an annual basis.

When we talk about the budget that we, as Members of Congress, are going to be dealing with in terms of discretionary spending, where we will make long-term investments, where we have some flexibility, we are dealing with about $800 billion.

All of us understand what happens very quickly to that remaining portion of the budget, to those $800 billion. Two hundred twenty-four billion or 12 percent of the Federal budget will go almost immediately to interest payments on the national debt. We are grateful that having reached the point of having a surplus, and with the President's proposal, we can see an end to the payments of interest on the national debt by the year 2013. But for the moment, 12 percent of the Federal budget this year is going to go to pay interest on the national debt. Those payments are not optional.

Putting that spending aside, we are now left with about one-third of the overall Federal budget or $600 billion which we now can use to cover all other Government functions. But that disappears very quickly. Two hundred eighty-three billion of that budget will be spent on national defense this year, nearly 16 percent of the Federal budget. Another 2.5 percent of the budget will be spent building highways, channeling harbors, financing mass transit, all to a cost of about $45 billion this year. Then you factor in housing assistance, nutrition programs, at a cost of about $42 billion, that is another 12 plus percent of the budget. And less than 2 percent of all the budget will go to health research, public health programs, searching for a cure to cancer, for HIV–AIDS, licensing new drugs for the marketplace, programs to attack teen smoking, services for the mentally ill.

One and a half percent of the budget will go to crime control, putting cops on the street, fighting drug trafficking, and barely 1 percent of the budget will go to foreign aid. Many Americans labor under the perception that somehow foreign aid is this vast proportion of the Federal budget. In fact, foreign aid is a significantly less percentage and real expenditure than it was under Ronald Reagan. I think we spent two or three times as much under Ronald Reagan in foreign affairs than we are spending today, which, I might add, is particularly ironic when you measure the changes in the world and the need for the United States to be more involved, not less involved, in a world that is increasingly globalizing and where we are all feeling the impact and forces of technology.

The point I make to my colleagues today: For what most people agree is the single most important investment we can make in America, there is precious little money remaining. How many of my colleagues in the last years, recognizing the impact of the technology revolution, have come to the floor emphasizing the importance of education in America? We reap the benefits and the deficits of our attention to education in a thousand different ways. When Senators come to the floor and talk about the increasing problem of children having children, babies being born out of wedlock, the number of kids in America who are at risk, we should be directly examining how many of our schools stay open into the evening, how many of our schools have afterschool programs. How many of our schools don't even have an ability to be able to track children who are truant?

It used to be that in the United States of America there was an ethic that when children were not showing up in school, the truant officer went out and found the kids. We did something about it. Today, you can be a kid in school and not show up and nobody even stops to wonder what happened. In too many schools in America they may not even contact what is too often a single parent and find out whether that single parent might have had time to be able to be aware that their kid might not be in school or what they might have time or ability to be able to do about it.

I don't raise this issue of spending to try to disparage the other budget priorities. I think they are all priorities. I vote for them. I support them. I think everybody in the Senate understands the importance of all of the things I listed. We have built up a very real bipartisan consensus on the importance of most of these investments.