

In the Senate of the United States,

April 1, 1998.

Resolved, That the bill from the House of Representatives (H.R. 629) entitled “An Act to grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Texas Low-Level Radio-*
3 *active Waste Disposal Compact Consent Act”.*

4 ***SEC. 2. CONGRESSIONAL FINDING.***

5 *Congress finds that the compact set forth in section 6*
6 *is in furtherance of the Low-Level Radioactive Waste Policy*
7 *Act (42 U.S.C. 2021b et seq.).*

8 ***SEC. 3. CONDITIONS ON CONSENT TO COMPACT.***

9 *(a) IN GENERAL.—The consent of Congress to the com-*
10 *pact set forth in section 6—*

1 (1) shall become effective on the date of enact-
2 ment of this Act;

3 (2) is granted subject to the Low-Level Radio-
4 active Waste Policy Act (42 U.S.C. 2021b et seq.);
5 and

6 (3) is granted on the conditions that—

7 (A) the Commission (as defined in the com-
8 pact) comply with all of the provisions of that
9 Act; and

10 (B) no low-level radioactive waste be
11 brought into Texas for disposal at a compact fa-
12 cility from any State other than the State of
13 Maine or Vermont.

14 (b) CONSENT TO SUIT.—By proceeding to implement
15 the compact after the date of enactment of this Act, the
16 party states and Commission shall be considered to have
17 consented to suit in a civil action under subsection (d).

18 (c) CONTINUING EFFECTIVENESS OF CONDITION.—If
19 the consent of Congress is declared to be of no further effect
20 in a civil action under subsection (d), the condition stated
21 in subsection (a)(3)(B) shall continue to apply to any sub-
22 sequent operation of the compact facility.

23 (d) ENFORCEMENT.—

24 (1) BY THE ATTORNEY GENERAL.—If the Attor-
25 ney General obtains evidence that a condition stated

1 *in subsection (a)(3) has not been complied with at*
2 *any time, the Attorney General shall bring a civil ac-*
3 *tion in United States district court for a judgment*
4 *against the party states (as defined in the compact)*
5 *and Commission—*

6 *(A) declaring that the consent of Congress to*
7 *the compact is of no further effect by reason of*
8 *the failure to meet the condition;*

9 *(B) enjoining any further failure of compli-*
10 *ance; and*

11 *(C) in any second or subsequent civil action*
12 *under this subsection in which the court finds*
13 *that a second or subsequent failure to comply*
14 *with the condition stated in subsection (a)(3)(B)*
15 *has occurred, ordering that the compact facility*
16 *be closed.*

17 *(2) BY A MEMBER OF THE COMMUNITY IN WHICH*
18 *A COMPACT FACILITY IS LOCATED.—If any person*
19 *that resides or has a principal place of business in the*
20 *community in which a compact facility is located ob-*
21 *tains evidence that the condition stated in subsection*
22 *(a)(3)(B) has not been complied with at any time, the*
23 *person may bring a civil action in United States dis-*
24 *trict court for a judgment against the party states*
25 *and Commission—*

1 *any community (through disparate treatment or disparate*
2 *impact) by reason of the composition of the community in*
3 *terms of race, color, national origin, or income level.*

4 (b) *CONSENT TO SUIT.*—*By proceeding to implement*
5 *the compact after the date of enactment of this Act, the*
6 *party states and Commission shall be considered to have*
7 *consented to suit in a civil action under subsection (d).*

8 (c) *CONTINUING EFFECTIVENESS OF CONDITION.*—*If*
9 *the consent of Congress is declared to be of no further effect*
10 *in a civil action under subsection (d), the condition stated*
11 *in subsection (a) shall continue to apply to any subsequent*
12 *operation of the compact facility.*

13 (d) *ENFORCEMENT.*—

14 (1) *BY THE ATTORNEY GENERAL.*—*If the Attor-*
15 *ney General obtains evidence that the condition stated*
16 *in subsection (a) has not been complied with at any*
17 *time, the Attorney General shall bring a civil action*
18 *in United States district court for a judgment against*
19 *the party states (as defined in the compact) and Com-*
20 *mission—*

21 (A) *declaring that the consent of Congress to*
22 *the compact is of no further effect by reason of*
23 *the failure to meet the condition; and*

24 (B) *enjoining any further failure of compli-*
25 *ance.*

1 *generated within its boundaries, pursuant to the Low-Level*
2 *Radioactive Waste Policy Act, as amended by the Low-Level*
3 *Radioactive Waste Policy Amendments Act of 1985 (42*
4 *U.S.C. 2021b–2021j). They also recognize that the United*
5 *States Congress, by enacting the Act, has authorized and*
6 *encouraged states to enter into compacts for the efficient*
7 *management and disposal of low-level radioactive waste. It*
8 *is the policy of the party states to cooperate in the protec-*
9 *tion of the health, safety, and welfare of their citizens and*
10 *the environment and to provide for and encourage the eco-*
11 *nomical management and disposal of low-level radioactive*
12 *waste. It is the purpose of this compact to provide the*
13 *framework for such a cooperative effort; to promote the*
14 *health, safety, and welfare of the citizens and the environ-*
15 *ment of the party states; to limit the number of facilities*
16 *needed to effectively, efficiently, and economically manage*
17 *low-level radioactive waste and to encourage the reduction*
18 *of the generation thereof; and to distribute the costs, benefits,*
19 *and obligations among the party states; all in accordance*
20 *with the terms of this compact.*

21 *“ARTICLE II. DEFINITIONS*

22 *“SEC. 2.01. As used in this compact, unless the context*
23 *clearly indicates otherwise, the following definitions apply:*

24 *“(1) ‘Act’ means the Low-Level Radioactive*
25 *Waste Policy Act, as amended by the Low-Level Ra-*

1 *radioactive Waste Policy Amendments Act of 1985 (42*
2 *U.S.C. 2021b–2021j).*

3 “(2) ‘Commission’ means the Texas Low-Level
4 *Radioactive Waste Disposal Compact Commission es-*
5 *tablished in Article III of this compact.*

6 “(3) ‘Compact facility’ or ‘facility’ means any
7 *site, location, structure, or property located in and*
8 *provided by the host state for the purpose of manage-*
9 *ment or disposal of low-level radioactive waste for*
10 *which the party states are responsible.*

11 “(4) ‘Disposal’ means the permanent isolation of
12 *low-level radioactive waste pursuant to requirements*
13 *established by the United States Nuclear Regulatory*
14 *Commission and the United States Environmental*
15 *Protection Agency under applicable laws, or by the*
16 *host state.*

17 “(5) ‘Generate,’ when used in relation to low-
18 *level radioactive waste, means to produce low-level ra-*
19 *dioactive waste.*

20 “(6) ‘Generator’ means a person who produces or
21 *processes low-level radioactive waste in the course of*
22 *its activities, excluding persons who arrange for the*
23 *collection, transportation, management, treatment,*
24 *storage, or disposal of waste generated outside the*
25 *party states, unless approved by the commission.*

1 “(7) ‘Host county’ means a county in the host
2 state in which a disposal facility is located or is being
3 developed.

4 “(8) ‘Host state’ means a party state in which
5 a compact facility is located or is being developed.
6 The State of Texas is the host state under this com-
7 pact.

8 “(9) ‘Institutional control period’ means that pe-
9 riod of time following closure of the facility and
10 transfer of the facility license from the operator to the
11 custodial agency in compliance with the appropriate
12 regulations for long-term observation and mainte-
13 nance.

14 “(10) ‘Low-level radioactive waste’ has the same
15 meaning as that term is defined in Section 2(9) of the
16 Act (42 U.S.C. 2021b(9)), or in the host state statute
17 so long as the waste is not incompatible with manage-
18 ment and disposal at the compact facility.

19 “(11) ‘Management’ means collection, consolida-
20 tion, storage, packaging, or treatment.

21 “(12) ‘Operator’ means a person who operates a
22 disposal facility.

23 “(13) ‘Party state’ means any state that has be-
24 come a party in accordance with Article VII of this

1 *compact. Texas, Maine, and Vermont are initial*
2 *party states under this compact.*

3 “(14) ‘Person’ means an individual, corporation,
4 *partnership or other legal entity, whether public or*
5 *private.*

6 “(15) ‘Transporter’ means a person who trans-
7 *ports low-level radioactive waste.*

8 “ARTICLE III. THE COMMISSION

9 “SEC. 3.01. *There is hereby established the Texas Low-*
10 *Level Radioactive Waste Disposal Compact Commission.*
11 *The commission shall consist of one voting member from*
12 *each party state except that the host state shall be entitled*
13 *to six voting members. Commission members shall be ap-*
14 *pointed by the party state governors, as provided by the*
15 *laws of each party state. Each party state may provide al-*
16 *ternates for each appointed member.*

17 “SEC. 3.02. *A quorum of the commission consists of*
18 *a majority of the members. Except as otherwise provided*
19 *in this compact, an official act of the commission must re-*
20 *ceive the affirmative vote of a majority of its members.*

21 “SEC. 3.03. *The commission is a legal entity separate*
22 *and distinct from the party states and has governmental*
23 *immunity to the same extent as an entity created under*
24 *the authority of Article XVI, Section 59, of the Texas Con-*
25 *stitution. Members of the commission shall not be personally*
26 *liable for actions taken in their official capacity. The liabil-*

1 *ities of the commission shall not be deemed liabilities of the*
2 *party states.*

3 “*SEC. 3.04. The commission shall:*

4 “(1) *Compensate its members according to the*
5 *host state’s law.*

6 “(2) *Conduct its business, hold meetings, and*
7 *maintain public records pursuant to laws of the host*
8 *state, except that notice of public meetings shall be*
9 *given in the non-host party states in accordance with*
10 *their respective statutes.*

11 “(3) *Be located in the capital city of the host*
12 *state.*

13 “(4) *Meet at least once a year and upon the call*
14 *of the chair, or any member. The governor of the host*
15 *state shall appoint a chair and vice-chair.*

16 “(5) *Keep an accurate account of all receipts*
17 *and disbursements. An annual audit of the books of*
18 *the commission shall be conducted by an independent*
19 *certified public accountant, and the audit report shall*
20 *be made a part of the annual report of the commis-*
21 *sion.*

22 “(6) *Approve a budget each year and establish a*
23 *fiscal year that conforms to the fiscal year of the host*
24 *state.*

1 “(7) Prepare, adopt, and implement contingency
2 plans for the disposal and management of low-level
3 radioactive waste in the event that the compact facil-
4 ity should be closed. Any plan which requires the host
5 state to store or otherwise manage the low-level radio-
6 active waste from all the party states must be ap-
7 proved by at least four host state members of the com-
8 mission. The commission, in a contingency plan or
9 otherwise, may not require a non-host party state to
10 store low-level radioactive waste generated outside of
11 the state.

12 “(8) Submit communications to the governors
13 and to the presiding officers of the legislatures of the
14 party states regarding the activities of the commis-
15 sion, including an annual report to be submitted on
16 or before January 31 of each year.

17 “(9) Assemble and make available to the party
18 states, and to the public, information concerning low-
19 level radioactive waste management needs, tech-
20 nologies, and problems.

21 “(10) Keep a current inventory of all generators
22 within the party states, based upon information pro-
23 vided by the party states.

24 “(11) By no later than 180 days after all mem-
25 bers of the commission are appointed under Section

1 3.01 of this article, establish by rule the total volume
2 of low-level radioactive waste that the host state will
3 dispose of in the compact facility in the years 1995–
4 2045, including decommissioning waste. The ship-
5 ments of low-level radioactive waste from all non-host
6 party states shall not exceed 20 percent of the volume
7 estimated to be disposed of by the host state during
8 the 50-year period. When averaged over such 50-year
9 period, the total of all shipments from non-host party
10 states shall not exceed 20,000 cubic feet a year. The
11 commission shall coordinate the volumes, timing, and
12 frequency of shipments from generators in the non-
13 host party states in order to assure that over the life
14 of this agreement shipments from the non-host party
15 states do not exceed 20 percent of the volume projected
16 by the commission under this paragraph.

17 “SEC. 3.05. The commission may:

18 “(1) Employ staff necessary to carry out its du-
19 ties and functions. The commission is authorized to
20 use to the extent practicable the services of existing
21 employees of the party states. Compensation shall be
22 as determined by the commission.

23 “(2) Accept any grants, equipment, supplies,
24 materials, or services, conditional or otherwise, from
25 the federal or state government. The nature, amount

1 *and condition, if any, of any donation, grant or other*
2 *resources accepted pursuant to this paragraph and*
3 *the identity of the donor or grantor shall be detailed*
4 *in the annual report of the commission.*

5 *“(3) Enter into contracts to carry out its duties*
6 *and authority, subject to projected resources. No con-*
7 *tract made by the commission shall bind a party*
8 *state.*

9 *“(4) Adopt, by a majority vote, bylaws and rules*
10 *necessary to carry out the terms of this compact. Any*
11 *rules promulgated by the commission shall be adopted*
12 *in accordance with the Administrative Procedure and*
13 *Texas Register Act (Article 6252–13a, Vernon’s Texas*
14 *Civil Statutes).*

15 *“(5) Sue and be sued and, when authorized by*
16 *a majority vote of the members, seek to intervene in*
17 *administrative or judicial proceedings related to this*
18 *compact.*

19 *“(6) Enter into an agreement with any person,*
20 *state, regional body, or group of states for the impor-*
21 *tation of low-level radioactive waste into the compact*
22 *for management or disposal, provided that the agree-*
23 *ment receives a majority vote of the commission. The*
24 *commission may adopt such conditions and restric-*
25 *tions in the agreement as it deems advisable.*

1 “(7) Upon petition, allow an individual genera-
2 tor, a group of generators, or the host state of the
3 compact, to export low-level waste to a low-level ra-
4 dioactive waste disposal facility located outside the
5 party states. The commission may approve the peti-
6 tion only by a majority vote of its members. The per-
7 mission to export low-level radioactive waste shall be
8 effective for that period of time and for the specified
9 amount of low-level radioactive waste, and subject to
10 any other term or condition, as is determined by the
11 commission.

12 “(8) Monitor the exportation outside of the party
13 states of material, which otherwise meets the criteria
14 of low-level radioactive waste, where the sole purpose
15 of the exportation is to manage or process the mate-
16 rial for recycling or waste reduction and return it to
17 the party states for disposal in the compact facility.

18 “SEC. 3.06. Jurisdiction and venue of any action con-
19 testing any action of the commission shall be in the United
20 States District Court in the district where the commission
21 maintains its office.

22 “ARTICLE IV. RIGHTS, RESPONSIBILITIES, AND
23 OBLIGATIONS OF PARTY STATES

24 “SEC. 4.01. The host state shall develop and have full
25 administrative control over the development, management
26 and operation of a facility for the disposal of low-level ra-

1 *radioactive waste generated within the party states. The host*
2 *state shall be entitled to unlimited use of the facility over*
3 *its operating life. Use of the facility by the non-host party*
4 *states for disposal of low-level radioactive waste, including*
5 *such waste resulting from decommissioning of any nuclear*
6 *electric generation facilities located in the party states, is*
7 *limited to the volume requirements of Section 3.04(11) of*
8 *Article III.*

9 “*SEC. 4.02. Low-level radioactive waste generated*
10 *within the party states shall be disposed of only at the com-*
11 *pact facility, except as provided in Section 3.05(7) of Arti-*
12 *cle III.*

13 “*SEC. 4.03. The initial states of this compact cannot*
14 *be members of another low-level radioactive waste compact*
15 *entered into pursuant to the Act.*

16 “*SEC. 4.04. The host state shall do the following:*

17 “(1) *Cause a facility to be developed in a timely*
18 *manner and operated and maintained through the in-*
19 *stitutional control period.*

20 “(2) *Ensure, consistent with any applicable fed-*
21 *eral and host state laws, the protection and preserva-*
22 *tion of the environment and the public health and*
23 *safety in the siting, design, development, licensing,*
24 *regulation, operation, closure, decommissioning, and*

1 *long-term care of the disposal facilities within the*
2 *host state.*

3 “(3) *Close the facility when reasonably necessary*
4 *to protect the public health and safety of its citizens*
5 *or to protect its natural resources from harm. How-*
6 *ever, the host state shall notify the commission of the*
7 *closure within three days of its action and shall,*
8 *within 30 working days of its action, provide a writ-*
9 *ten explanation to the commission of the closure, and*
10 *implement any adopted contingency plan.*

11 “(4) *Establish reasonable fees for disposal at the*
12 *facility of low-level radioactive waste generated in the*
13 *party states based on disposal fee criteria set out in*
14 *Sections 402.272 and 402.273, Texas Health and*
15 *Safety Code. The same fees shall be charged for the*
16 *disposal of low-level radioactive waste that was gen-*
17 *erated in the host state and in the non-host party*
18 *states. Fees shall also be sufficient to reasonably sup-*
19 *port the activities of the Commission.*

20 “(5) *Submit an annual report to the commission*
21 *on the status of the facility, including projections of*
22 *the facility’s anticipated future capacity, and on the*
23 *related funds.*

24 “(6) *Notify the Commission immediately upon*
25 *the occurrence of any event which could cause a pos-*

1 *sible temporary or permanent closure of the facility*
2 *and identify all reasonable options for the disposal of*
3 *low-level radioactive waste at alternate compact fa-*
4 *cilities or, by arrangement and Commission vote, at*
5 *noncompact facilities.*

6 *“(7) Promptly notify the other party states of*
7 *any legal action involving the facility.*

8 *“(8) Identify and regulate, in accordance with*
9 *federal and host state law, the means and routes of*
10 *transportation of low-level radioactive waste in the*
11 *host state.*

12 *“SEC. 4.05. Each party state shall do the following:*

13 *“(1) Develop and enforce procedures requiring*
14 *low-level radioactive waste shipments originating*
15 *within its borders and destined for the facility to con-*
16 *form to packaging, processing, and waste form speci-*
17 *fications of the host state.*

18 *“(2) Maintain a registry of all generators within*
19 *the state that may have low-level radioactive waste to*
20 *be disposed of at a facility, including, but not limited*
21 *to, the amount of low-level radioactive waste and the*
22 *class of low-level radioactive waste generated by each*
23 *generator.*

24 *“(3) Develop and enforce procedures requiring*
25 *generators within its borders to minimize the volume*

1 *of low-level radioactive waste requiring disposal.*
2 *Nothing in this compact shall prohibit the storage,*
3 *treatment, or management of waste by a generator.*

4 *“(4) Provide the commission with any data and*
5 *information necessary for the implementation of the*
6 *commission’s responsibilities, including taking those*
7 *actions necessary to obtain this data or information.*

8 *“(5) Pay for community assistance projects des-*
9 *ignated by the host county in an amount for each*
10 *non-host party state equal to 10 percent of the pay-*
11 *ment provided for in Article V for each such state.*
12 *One-half of the payment shall be due and payable to*
13 *the host county on the first day of the month follow-*
14 *ing ratification of this compact agreement by Con-*
15 *gress and one-half of the payment shall be due and*
16 *payable on the first day of the month following the*
17 *approval of a facility operating license by the host*
18 *state’s regulatory body.*

19 *“(6) Provide financial support for the commis-*
20 *sion’s activities prior to the date of facility operation*
21 *and subsequent to the date of congressional ratifica-*
22 *tion of this compact under Section 7.07 of Article VII.*
23 *Each party state will be responsible for annual pay-*
24 *ments equalling its pro-rata share of the commission’s*

1 *expenses, incurred for administrative, legal, and other*
2 *purposes of the commission.*

3 *“(7) If agreed by all parties to a dispute, submit*
4 *the dispute to arbitration or other alternate dispute*
5 *resolution process. If arbitration is agreed upon, the*
6 *governor of each party state shall appoint an arbitra-*
7 *tor. If the number of party states is an even number,*
8 *the arbitrators so chosen shall appoint an additional*
9 *arbitrator. The determination of a majority of the ar-*
10 *bitrators shall be binding on the party states. Arbitra-*
11 *tion proceedings shall be conducted in accordance*
12 *with the provisions of 9 U.S.C. Sections 1 to 16. If*
13 *all parties to a dispute do not agree to arbitration or*
14 *alternate dispute resolution process, the United States*
15 *District Court in the district where the commission*
16 *maintains its office shall have original jurisdiction*
17 *over any action between or among parties to this*
18 *compact.*

19 *“(8) Provide on a regular basis to the commis-*
20 *sion and host state—*

21 *“(A) an accounting of waste shipped and*
22 *proposed to be shipped to the compact facility,*
23 *by volume and curies;*

24 *“(B) proposed transportation methods and*
25 *routes; and*

1 “(C) proposed shipment schedules.

2 “(9) Seek to join in any legal action by or
3 against the host state to prevent nonparty states or
4 generators from disposing of low-level radioactive
5 waste at the facility.

6 “SEC. 4.06. Each party state shall act in good faith
7 and may rely on the good faith performance of the other
8 party states regarding requirements of this compact.

9 “ARTICLE V. PARTY STATE CONTRIBUTIONS

10 “SEC. 5.01. Each party state, except the host state,
11 shall contribute a total of \$25 million to the host state. Pay-
12 ments shall be deposited in the host state treasury to the
13 credit of the low-level waste fund in the following manner
14 except as otherwise provided. Not later than the 60th day
15 after the date of congressional ratification of this compact,
16 each non-host party state shall pay to the host state \$12.5
17 million. Not later than the 60th day after the date of the
18 opening of the compact facility, each non-host party state
19 shall pay to the host state an additional \$12.5 million.

20 “SEC. 5.02. As an alternative, the host state and the
21 non-host states may provide for payments in the same total
22 amount as stated above to be made to meet the principal
23 and interest expense associated with the bond indebtedness
24 or other form of indebtedness issued by the appropriate
25 agency of the host state for purposes associated with the de-
26 velopment, operation, and post-closure monitoring of the

1 compact facility. In the event the member states proceed in
2 this manner, the payment schedule shall be determined in
3 accordance with the schedule of debt repayment. This sched-
4 ule shall replace the payment schedule described in Section
5 5.01 of this article.

6 “ARTICLE VI. PROHIBITED ACTS AND PENALTIES

7 “SEC. 6.01. No person shall dispose of low-level radio-
8 active waste generated within the party states unless the
9 disposal is at the compact facility, except as otherwise pro-
10 vided in Section 3.05(7) of Article III.

11 “SEC. 6.02. No person shall manage or dispose of any
12 low-level radioactive waste within the party states unless
13 the low-level radioactive waste was generated within the
14 party states, except as provided in Section 3.05(6) of Article
15 III. Nothing herein shall be construed to prohibit the storage
16 or management of low-level radioactive waste by a genera-
17 tor, nor its disposal pursuant to 10 C.F.R. Part 20.302.

18 “SEC. 6.03. Violations of this article may result in
19 prohibiting the violator from disposing of low-level radio-
20 active waste in the compact facility, or in the imposition
21 of penalty surcharges on shipments to the facility, as deter-
22 mined by the commission.

23 “ARTICLE VII. ELIGIBILITY, ENTRY INTO EFFECT;

24 CONGRESSIONAL CONSENT; WITHDRAWAL; EXCLUSION

25 “SEC. 7.01. The states of Texas, Maine, and Vermont
26 are party states to this compact. Any other state may be

1 *made eligible for party status by a majority vote of the com-*
2 *mission and ratification by the legislature of the host state,*
3 *subject to fulfillment of the rights of the initial non-host*
4 *party states under Section 3.04(11) of Article III and Sec-*
5 *tion 4.01 of Article IV, and upon compliance with those*
6 *terms and conditions for eligibility that the host state may*
7 *establish. The host state may establish all terms and condi-*
8 *tions for the entry of any state, other than the states named*
9 *in this section, as a member of this compact; provided, how-*
10 *ever, the specific provisions of this compact, except for those*
11 *pertaining to the composition of the commission and those*
12 *pertaining to Section 7.09 of this article, may not be*
13 *changed except upon ratification by the legislatures of the*
14 *party states.*

15 “*SEC. 7.02. Upon compliance with the other provisions*
16 *of this compact, a state made eligible under Section 7.01*
17 *of this article may become a party state by legislative enact-*
18 *ment of this compact or by executive order of the governor*
19 *of the state adopting this compact. A state becoming a party*
20 *state by executive order shall cease to be a party state upon*
21 *adjournment of the first general session of its legislature*
22 *convened after the executive order is issued, unless before*
23 *the adjournment, the legislature enacts this compact.*

24 “*SEC. 7.03. Any party state may withdraw from this*
25 *compact by repealing enactment of this compact subject to*

1 *the provisions herein. In the event the host state allows an*
2 *additional state or additional states to join the compact,*
3 *the host state’s legislature, without the consent of the non-*
4 *host party states, shall have the right to modify the composi-*
5 *tion of the commission so that the host state shall have a*
6 *voting majority on the commission, provided, however, that*
7 *any modification maintains the right of each initial party*
8 *state to retain one voting member on the commission.*

9 “*SEC. 7.04. If the host state withdraws from the com-*
10 *pact, the withdrawal shall not become effective until five*
11 *years after enactment of the repealing legislation and the*
12 *non-host party states may continue to use the facility dur-*
13 *ing that time. The financial obligation of the non-host party*
14 *states under Article V shall cease immediately upon enact-*
15 *ment of the repealing legislation. If the host state withdraws*
16 *from the compact or abandons plans to operate a facility*
17 *prior to the date of any non-host party state payment under*
18 *Sections 4.05(5) and (6) of Article IV or Article V, the non-*
19 *host party states are relieved of any obligations to make*
20 *the contributions. This section sets out the exclusive rem-*
21 *edies for the non-host party states if the host state with-*
22 *draws from the compact or is unable to develop and operate*
23 *a compact facility.*

24 “*SEC. 7.05. A party state, other than the host state,*
25 *may withdraw from the compact by repealing the enact-*

1 *ment of this compact, but this withdrawal shall not become*
2 *effective until two years after the effective date of the repeal-*
3 *ing legislation. During this two-year period the party state*
4 *will continue to have access to the facility. The withdrawing*
5 *party shall remain liable for any payments under Sections*
6 *4.05(5) and (6) of Article IV that were due during the two-*
7 *year period, and shall not be entitled to any refund of pay-*
8 *ments previously made.*

9 “*SEC. 7.06. Any party state that substantially fails*
10 *to comply with the terms of the compact or to fulfill its*
11 *obligations hereunder may have its membership in the com-*
12 *pact revoked by a seven-eighths vote of the commission fol-*
13 *lowing notice that a hearing will be scheduled not less than*
14 *six months from the date of the notice. In all other respects,*
15 *revocation proceedings undertaken by the commission will*
16 *be subject to the Administrative Procedure and Texas Reg-*
17 *ister Act (Article 6252–13a, Vernon’s Texas Civil Statutes),*
18 *except that a party state may appeal the commission’s rev-*
19 *ocation decision to the United States District Court in ac-*
20 *cordance with Section 3.06 of Article III. Revocation shall*
21 *take effect one year from the date such party state receives*
22 *written notice from the commission of a final action. Writ-*
23 *ten notice of revocation shall be transmitted immediately*
24 *following the vote of the commission, by the chair, to the*

1 *governor of the affected party state, all other governors of*
2 *party states, and to the United States Congress.*

3 “*SEC. 7.07. This compact shall take effect following its*
4 *enactment under the laws of the host state and any other*
5 *party state and thereafter upon the consent of the United*
6 *States Congress and shall remain in effect until otherwise*
7 *provided by federal law. If Texas and either Maine or Ver-*
8 *mont ratify this compact, the compact shall be in full force*
9 *and effect as to Texas and the other ratifying state, and*
10 *this compact shall be interpreted as follows:*

11 “(1) *Texas and the other ratifying state are the*
12 *initial party states.*

13 “(2) *The commission shall consist of two voting*
14 *members from the other ratifying state and six from*
15 *Texas.*

16 “(3) *Each party state is responsible for its pro-*
17 *rata share of the commission’s expenses.*

18 “*SEC. 7.08. This compact is subject to review by the*
19 *United States Congress and the withdrawal of the consent*
20 *of Congress every five years after its effective date, pursuant*
21 *to federal law.*

22 “*SEC. 7.09. The host state legislature, with the ap-*
23 *proval of the governor, shall have the right and authority,*
24 *without the consent of the non-host party states, to modify*
25 *the provisions contained in Section 3.04(11) of Article III*

1 *to comply with Section 402.219(c)(1), Texas Health & Safe-*
2 *ty Code, as long as the modification does not impair the*
3 *rights of the initial non-host party states.*

4 *“ARTICLE VIII. CONSTRUCTION AND SEVERABILITY*

5 *“SEC. 8.01. The provisions of this compact shall be*
6 *broadly construed to carry out the purposes of the compact,*
7 *but the sovereign powers of a party shall not be infringed*
8 *upon unnecessarily.*

9 *“SEC. 8.02. This compact does not affect any judicial*
10 *proceeding pending on the effective date of this compact.*

11 *“SEC. 8.03. No party state acquires any liability, by*
12 *joining this compact, resulting from the siting, operation,*
13 *maintenance, long-term care or any other activity relating*
14 *to the compact facility. No non-host party state shall be*
15 *liable for any harm or damage from the siting, operation,*
16 *maintenance, or long-term care relating to the compact fa-*
17 *cility. Except as otherwise expressly provided in this com-*
18 *pact, nothing in this compact shall be construed to alter*
19 *the incidence of liability of any kind for any act or failure*
20 *to act. Generators, transporters, owners and operators of the*
21 *facility shall be liable for their acts, omissions, conduct or*
22 *relationships in accordance with applicable law. By enter-*
23 *ing into this compact and securing the ratification by Con-*
24 *gress of its terms, no party state acquires a potential liabil-*
25 *ity under section 5(d)(2)(C) of the Act (42 U.S.C. Sec.*

1 2021e(d)(2)(C)) that did not exist prior to entering into this
2 compact.

3 “SEC. 8.04. If a party state withdraws from the com-
4 pact pursuant to Section 7.03 of Article VII or has its mem-
5 bership in this compact revoked pursuant to section 7.06
6 of Article VII, the withdrawal or revocation shall not affect
7 any liability already incurred by or chargeable to the af-
8 fected state under Section 8.03 of this article.

9 “SEC. 8.05. The provisions of this compact shall be sev-
10 erable and if any phrase, clause, sentence, or provision of
11 this compact is declared by a court of competent jurisdic-
12 tion to be contrary to the constitution of any participating
13 state or of the United States or the applicability thereof to
14 any government, agency, person or circumstances is held
15 invalid, the validity of the remainder of this compact and
16 the applicability thereof to any government, agency, person,
17 or circumstance shall not be affected thereby to the extent
18 the remainder can in all fairness be given effect. If any
19 provision of this compact shall be held contrary to the con-
20 stitution of any state participating therein, the compact
21 shall remain in full force and effect as to the state affected
22 as to all severable matters.

23 “SEC. 8.06. Nothing in this compact diminishes or oth-
24 erwise impairs the jurisdiction, authority, or discretion of
25 either of the following:

1 “(1) *The United States Nuclear Regulatory Com-*
2 *mission pursuant to the Atomic Energy Act of 1954,*
3 *as amended (42 U.S.C. Sec. 2011 et seq.).*

4 “(2) *An agreement state under section 274 of the*
5 *Atomic Energy Act of 1954, as amended (42 U.S.C.*
6 *Sec. 2021).*

7 “*SEC. 8.07. Nothing in this compact confers any new*
8 *authority on the states or commission to do any of the fol-*
9 *lowing:*

10 “(1) *Regulate the packaging or transportation of*
11 *low-level radioactive waste in a manner inconsistent*
12 *with the regulations of the United States Nuclear*
13 *Regulatory Commission or the United States Depart-*
14 *ment of Transportation.*

15 “(2) *Regulate health, safety, or environmental*
16 *hazards from source, by-product, or special nuclear*
17 *material.*

18 “(3) *Inspect the activities of licensees of the*
19 *agreement states or of the United States Nuclear Reg-*
20 *ulatory Commission.”.*

Attest:

Secretary.

105TH CONGRESS
2^D SESSION

H. R. 629

AMENDMENT

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