

One Hundred Sixth Congress
of the
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday,
the twenty-fourth day of January, two thousand*

An Act

To provide for the storage of spent nuclear fuel pending completion of the nuclear waste repository, and for other purposes.

*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 18 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: Amargosa 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 States 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 3 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 4 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 fuel 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.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*