(b) DEFINITIONS.—

(1) ''just compensation''—

(A) means compensation equal to the full extent of a property owner's loss, including the fair market value of the private property taken and business losses arising from a taking, whether the taking is by physical occupation or through regulation, exaction, other means; and

(B) shall include compounded interest calculated from the date of the taking until the date the United States tenders payment;

(2) ''owner'' means the owner or possessor of property or rights in property at the time the taking occurs, including when—

(A) the statute, regulation, rule, order, guideline, policy, or action is passed or promulgated; or

(B) the permit, license, authorization, or governmental permission is denied or suspended;

(3) ''private property'' or ''property'' means all property protected under the fifth amendment to the Constitution of the United States, any applicable Federal or State law, or this Act, and includes—

(A) real property, whether vested or unvested, including—

(i) estates in fee, life estates, estates for years, or otherwise;

(ii) inchoate interests in real property such as remainders and future interests;

(iii) personalty that is affixed to or appurtenant to real property;

(iv) easements;

(v) leaseholds;

(vi) recorded liens; and

(vii) contracts or other security interests in, or related to, real property;

(B) the right to use water or the right to receive water, including any recorded lines on such water right;

(C) rents, issues, and profits of land, including minerals, timber, fodder, crops, oil and gas, coal, or geothermal energy;

(D) property rights provided by, or memorialized in, a contract, except that such rights shall not be construed under this title to prevent the United States from prohibiting the formation of contracts deemed to harm the public welfare or to prevent the execution of contracts for—

(i) national security reasons; or

(ii) exigencies that present immediate or reasonably foreseeable threats or injuries to life or property;

(E) any interest defined as property under State law; or

(F) any interest understood to be property based on custom, usage, common law, or mutually reinforcing understandings sufficiently well-grounded in law to back a claim of interest;

(4) ''taking of private property'', ''taking'', or ''take''—

(A) means any action whereby private property is directly taken as to require compensation under the fifth amendment to the United States Constitution or under this Act, including by physical invasion, regulation, exaction, condition, or other means.

(c) LIMITATION.—

(1) Notwithstanding any other provision of this Act, the Secretary shall take no actions related to the transportation of spent nuclear fuel or high-level radioactive waste until publishing in the Federal Register a determination that the owners of all property likely to be subject to a taking as a result of such transportation, as defined by this Act, have received just compensation for such taking out of the Nuclear Waste Fund.

(2) Notwithstanding any other provision of this Act, the Secretary shall take no actions related to the interim storage of spent nuclear fuel or high-level radioactive waste until publishing in the Federal Register a determination that the owners of all property likely to be subject to a taking as a result of such storage, as defined by this Act, have received just compensation for such taking out of the Nuclear Waste Fund.''

AMENDMENT NO. 4661

On page 27, line 8, strike ''1999'' and insert ''2011''.

AMENDMENT NO. 4662

At the appropriate place, add:

''SEC. . INDEPENDENT REVIEW.

(a) ESTABLISHMENT OF COMMISSION.

(1) IN GENERAL.—The President, in consultation with the Science Advisor to the President and the Council on Environmental Quality, shall establish a commission to be known as the ''Nuclear Waste Policy Review Commission'' (referred to in this act as the ''Commission'').

(2) REPRESENTATION OF INTEREST GROUPS.—The membership and structure of the Commission shall be determined by the President with a view towards providing representation from—

(A) Environmental groups;

(B) Consumer groups;

(C) Taxpayer groups;

(D) The scientific community, including nuclear-oriented and other fields such as biology and medicine;

(E) State and local governments;

(F) Indian tribes;

(G) Transportation experts;

(H) Management experts;

(I) Federal, state, and local regulatory agencies;

(J) Utilities; and

(K) Other affected industries.

(3) INDEPENDENT STATUS.—The Commission shall be independent of the Department of Energy and other Federal agencies.

(4) PARTICIPATION BY THE PUBLIC.—The Commission shall hold public meetings and provide full opportunities for participation by all interested parties.

(b) ISSUES TO BE CONSIDERED.

The Commission shall consider all issues related to United States policy concerning high-level, transuranic, low-level waste, and other radioactive wastes including—

(1) various options for high-level radioactive waste storage and disposal, including deep geologic disposal, on-site dry storage, monitored retrievable storage, centralized interim storage, or any other options;

(2) evaluation of the experiences of other countries in storing and disposing of radioactive waste;

(3) an analysis of funding through the Nuclear Waste Fund established by section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222), including fee sufficiency and strategies for providing equity for ratepayer contributions to the Nuclear Waste Fund;

(4) the siting and characterization process for nuclear waste programs currently in effect and alternatives to those programs;

(5) technical, managerial, economic, and policy analyses of the nuclear waste inventory of the United States; and

(6) an examination of the classification system for nuclear waste currently in effect, and options for reclassification.

(c) REPORT.

Not later than 2 years after the date of enactment of this Act, the Commission shall submit to Congress a report on its review under this Act, including recommendations for legislative or other action.

(d) TERMINATION OF COMMISSION.

The Commission shall terminate 30 days after the date on which the Commission submits its report under section 6.

(e) AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.''

AMENDMENT NO. 4663

On page 39, strike line 3 through line 8.

AMENDMENT NO. 4664

On page 37, strike line 13 through line 24.

AMENDMENT NO. 4665

On page 37, strike line 5 through line 12.

THE NUCLEAR WASTE POLICY ACT OF 1982 AMENDMENT ACT OF 1996

COCHRAN (AND LOTT) AMENDMENT NO. 4666

Mr. STEVENS (for Mr. COCHRAN, for himself and Mr. LOTT) proposed an amendment to the bill, S. 1894, supra; as follows:

At the end of the bill, insert:

SEC. . LEASE TO FACILITATE CONSTRUCTION OF RESERVE CENTER, NAVAL AIR STATION, MERIDIAN, MISSISSIPPI.

(a) LEASE OF PROPERTY FOR CONSTRUCTION OF RESERVE CENTER.—(1) The Secretary of the Navy may lease, without reimbursement, to the State of Mississippi (in this section referred to as the ''State''), approximately five acres of real property located at Naval Air Station, Meridian, Mississippi, only for use by the State to construct a reserve center of approximately 22,000 square feet and ancillary supporting facilities.

(2) The term of the lease under this subsection shall expire on the same date that the lease authorized by subsection (b) expires.

(b) LEASEBACK OF RESERVE CENTER.—(1) The Secretary may lease from the State the property and improvements constructed pursuant to subsection (a) for a five-year period. The term of the lease shall begin on the date on which the improvements are available for occupancy, as determined by the Secretary.

(2) Rental payments under the lease under paragraph (1) may not exceed $200,000 per year, and the total amount of the rental payments for the entire period may not exceed 20 percent of the total cost of constructing the reserve center and ancillary supporting facilities.

(3) Subject to the availability of appropriations for this purpose, the Secretary may use funds appropriated pursuant to an authorization of appropriations for the operation and maintenance of the Naval Reserve to make rental payments required under this subsection.

(c) EFFECT OF TERMINATION OF LEASES.—At the end of the lease term under subsection (b), the State shall convey, without reimbursement, to the United States all right, title, and interest of the State in the reserve center and ancillary supporting facilities subject to the lease.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the leases under this section as the Secretary considers appropriate to protect the interests of the United States.

THE NUCLEAR WASTE POLICY ACT OF 1982 AMENDMENT ACT OF 1996

BRYAN AMENDMENTS NOS. 4667–4824

(Ordered to lie on the table.)

Mr. BRYAN submitted 158 amendments intended to be proposed by him to the bill S. 1936, supra; as follows:

AMENDMENT NO. 4667

On page 36, strike line 24 through page 37, line 4.

AMENDMENT NO. 4668

On page 36, strike lines 14 through 26.

AMENDMENT NO. 4669

On page 36, strike lines 9 through 11.

AMENDMENT NO. 4670

On page 36, line 8, strike ''not''.

AMENDMENT NO. 4671

At the appropriate place, add the following:

''Notwithstanding any other provision of this Act, federal interim storage of commercial spent nuclear fuel shall only be available as follows:

Interim Storage Program

Findings and Purposes

Sec. 131. (a) Findings.—The Congress finds that—

(1) the persons owning and operating civilian nuclear power reactors have the primary responsibility for providing interim storage of spent nuclear fuel from such reactors, by maximizing, to the extent practical, the effective use of existing storage facilities at the site of each civilian nuclear power reactor, and by adding new onsite storage capacity in a timely manner where practical;

(2) the Federal Government has the responsibility to encourage and expedite the effective use of existing storage facilities and the addition of needed new storage capacity at the site of each civilian nuclear power reactor; and

(3) the Federal Government has the responsibility to provide, in accordance with the provisions of this subtitle, not more than 1,900 metric tons of capacity for interim storage of spent nuclear fuel for civilian nuclear power reactors that cannot reasonably provide adequate storage capacity at the sites of such reactors when needed to assure the continued, orderly operation of such reactors.

(b) Purposes.—The purposes of this subtitle are—

(1) to provide for the utilization of available spent nuclear fuel pools at the site of each civilian nuclear power reactor to the extent practical and the addition of new spent nuclear fuel storage capacity where practical at the site of such reactor; and

(2) to provide, in accordance with the provisions of this subtitle, for the establishment of a federally owned and operated system for the interim storage of spent nuclear fuel at one or more facilities owned by the Federal Government with not more than 1,900 metric tons of capacity to prevent disruptions in the orderly operation of any civilian nuclear power reactor that cannot reasonably provide adequate spent nuclear fuel storage capacity at the site of such reactor when needed.

Sec. 132

Available Capacity for Interim Storage of Spent Nuclear Fuel

Sec. 132. The Secretary, the Commission, and other authorized Federal officials shall each take such actions as such official considers necessary to encourage and expedite the effective use of available storage, and necessary additional storage, at the site of each civilian nuclear power reactor consistent with—

(1) the protection of the public health and safety, and the environment;

(2) economic considerations;

(3) continued operation of such reactor;

(4) any applicable provisions of law; and

(5) the views of the population surrounding such reactor.

SEC. 133

INTERIM AT REACTOR STORAGE

Sec. 133. The Commission shall, by rule, established procedures for the licensing of any technology approved by the Commission under section 219(a)1 for use at the site of any civilian nuclear power reactor. The establishment of such procedures shall not preclude the licensing, under any applicable procedures or rules of the Commission in effect prior to such establishment, of any technology for the storage of civilian spent nuclear fuel at the site of any civilian nuclear power reactor.

LICENSING OF FACILITY EXPANSIONS AND TRANSSHIPMENTS

Sec. 134. (a) Oral Argument.—In any Commission hearing under section 189 of the Atomic Energy Act of 1954 on an application for a license, or for an amendment to an existing license, filed after the date of the enactment of this Act, to expand the spent nuclear fuel storage capacity at the site of a Civilian nuclear power reactor, through the use of high-density fuel storage racks, fuel rod compaction, the transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, the construction of additional spent nuclear fuel pool capacity or dry storage capacity, or by other means, the Commission shall, at the request of any party, provide an opportunity for oral argument with respect to any matter which the Commission determines to be in controversy among the parties. The oral argument shall be preceded by such discovery procedures as the rules of the Commission shall provide. The Commission shall require each party, including the Commission staff, to submit in written form, at the time of the oral argument, a summary of the facts, data, and arguments upon which such party proposes to rely that are known at such time to such party. Only facts and data in the form of sworn testimony or written submission may be relied upon by the parties during oral argument. Of the materials that may be submitted by the parties during oral argument, the Commission shall only consider those facts and data that are submitted in the form of sworn testimony or written submission.

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

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

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

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

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

(B) shall not consider—

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

(ii) any siting or design issue fully considered and decided by the Commission in connection with the issuance of a construction permit or operating license for a civilian nuclear power reactor at such site, unless (I) such issue results from any revision of siting or design criteria by the Commission following such decision; and (II) the Commission determines that such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered.

(3) The provisions of paragraph (2)(B) shall apply only with respect to licenses, authorizations, or amendments to licenses or authorizations, applied for under the Atomic Energy Act of 1954 before December 31, 2005.

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

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

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

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

STORAGE OF SPENT NUCLEAR FUEL

Sec. 135. (a) Storage Capacity.—(1) Subject to section 8, the Secretary shall provide, in accordance with paragraph (5), not more than 1,900 metric tons of capacity for the storage of spent nuclear fuel from civilian nuclear power reactors. Such storage capacity shall be provided through any one or more of the following methods, used in any combination determined by the Secretary to be appropriate:

(A) use of available capacity at one or more facilities owned by the Federal Government on the date of the enactment of this Act, including the modification and expansion of any such facilities, if the Commission determines that such use will adequately protect the public health and safety, except that such use shall not—

(i) render such facilities subject to licensing under the Atomic Energy Act of 1954 or the Energy Reorganization Act of 1974; or

(ii) except as provided in subsection (c) require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969, such facility is already being used, or has previously been used, for such storage or for any similar purpose.

(B) acquisition of any modular or mobile spent nuclear fuel storage equipment, including spent nuclear fuel storage casks, and provision of such equipment, to any person generating or holding title to spent nuclear fuel, at the site of any civilian nuclear power reactor operated by such person or at any site owned by the Federal Government on the date of enactment of this Act;

(C) construction of storage capacity at any site of a civilian nuclear power reactor.

(2) Storage capacity authorized by paragraph (1) shall not be provided at any Federal or non-Federal site within which there is a candidate site for a repository. The restriction in the preceding sentence shall only apply until such time as the Secretary decides that such candidate site is no longer a

candidate site under consideration for development as a repository.

(3) In selecting methods of providing storage capacity under paragraph (1), the Secretary shall consider the timeliness of the availability of each such method and shall seek to minimize the transportation of spent nuclear fuel, the public health and safety impacts, and the costs of providing such storage capacity.

(4) In providing storage capacity through any method described in paragraph (1), the Secretary shall comply with any applicable requirements for licensing or authorization of such method, except as provided in paragraph (1)(A)(i).

(5) The Secretary shall ensure that storage capacity is made available under paragraph (1) when needed, as determined on the basis of the storage needs specified in contracts entered into under section 136(a), and shall accept upon request any spent nuclear fuel as covered under such contracts.

(6) For purposes of paragraph (1)(A), the term ''facility'' means any building or structure.

(b) Contracts.—(1) Subject to the capacity limitation established in subsections (a) (1)3 and (d)4 the Secretary shall offer to enter into, and may enter into, contracts under section 136(a) with any person generating or owning spent nuclear fuel for purposes of providing storage capacity for such spent fuel under this section only if the Commission determines that—

(A) adequate storage capacity to ensure the continued orderly operation of the civilian nuclear power reactor at which such spent nuclear fuel is generated cannot reasonably be provided by the person owning and operating such reactor at such site, or at the site of any other civilian nuclear power reactor operated by such person, and such capacity cannot be made available in a timely manner through any method described in subparagraph (B); and

(B) such person is diligently pursuing licensed alternatives to the use of Federal storage capacity for the storage of spent nuclear fuel expected to be generated by such person in the future, including—

(i) expansion of storage facilities at the site of any civilian nuclear power reactor operated by such person;

(ii) construction of new or additional storage facilities at the site of any civilian nuclear power reactor operated by such person;

(iii) acquisition of modular or mobile spent nuclear fuel storage equipment, including spent nuclear fuel storage casks, for use at the site of any civilian nuclear power reactor operated by such person; and

(iv) transshipment to another civilian nuclear power reactor owned by such person.

(2) In making the determination described in paragraph (1)(A), the Commission shall ensure maintenance of a full core reserve storage capacity at the site of the civilian nuclear power reactor involved unless the Commission determines that maintenance of such capability is not necessary for the continued orderly operation of such reactor.

(3) The Commission shall complete the determination required in paragraph (1) with respect to any request for storage capacity not later than 6 months after receipt of such request by the Commission.

(c) ENVIRONMENTAL REVIEW—(1) The provision of 300 or more metric tons of storage capacity at any one Federal site under subsection (a)(1)(A) shall be considered to be a major Federal action requiring preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969.

(2)(A) The Secretary shall prepare, and make available to the public, an environmental assessment of the probable impacts of any provision of less than 300 metric tons of storage capacity at any one Federal site under subsection (a)(1)(A) that requires the modification or expansion of any facility at the site, and a discussion of alternative activities that may be undertaken to avoid such impacts. Such environmental assessment shall include—

(i) an estimate of the amount of storage capacity to be made available at such site;

(ii) an evaluation as to whether the facilities to be used at such site are suitable for the provision of such storage capacity;

(iii) a description of activities planned by the Secretary with respect to the modification or expansion of the facilities to be used at such site;

(iv) an evaluation of the effects of the provision of such storage capacity at such site on the public health and safety, and the environment;

(v) a reasonable comparative evaluation of current information with respect to such site and facilities and other sites and facilities available for the provision of such storage capacity;

(vi) a description of any other sites and facilities that have been considered by the Secretary for the provision of such storage capacity; and

(vii) an assessment of the regional and local impacts of providing such storage capacity at such site, including the impacts on transportation.

(B) The issuance of any environmental assessment under this paragraph shall be considered to be a final agency action subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code. Such judicial review shall be limited to the sufficiency of such assessment with respect to the items described in clauses (i) through (vii) of subparagraph (A).

(3) Judicial review of any environmental impact statement or environmental assessment prepared pursuant to this subsection shall be conducted in accordance with the provisions of section 119.

(d) REVIEW OF SITES AND STATE PARTICIPATION—(1) In carrying out the provisions of this subtitle with regard to any interim storage of spent fuel from civilian nuclear power reactors which the Secretary is authorized by section 135 to provide, the Secretary shall, as soon as practicable, notify, in writing, the Governor and the State legislature of any State and the Tribal Council of any affected Indian tribe in such State in which is located a potentially acceptable site or facility for such interim storage of spent fuel of his intention to investigate that site or facility.

(2) During the course of investigation of such site or facility, the Secretary shall keep the Governor, State legislature, and affected Tribal Council currently informed of the progress of the work, and results of the investigations. At the time of selection by the Secretary of any site or existing facility, but prior to undertaking any site-specific work or alterations, the Secretary shall promptly notify the Governor, the legislature, and any affected Tribal Council in writing of such selection, and subject to the provisions of paragraph (6) of this subsection, shall promptly enter into negotiations with such State and affected Tribal Council to establish a cooperative agreement under which such State and Council shall have the right to participate in a process of consultation and cooperation, based on public health and safety and environmental concerns, in all stages of the planning, development, modification, expansion, operation, and closure of storage capacity at a site or facility within such State for the interim storage of spent fuel from civilian nuclear power reactors. Public participation in the negotiation of such an agreement shall be provided for and encouraged by the Secretary, the State, and the affected Tribal Council. The Secretary, in cooperation with the States and Indian tribes, shall develop and publish minimum guidelines for public participation in such negotiations, but the adequacy of such guidelines or any failure to comply with such guidelines shall not be a basis for judicial review.

(3) The cooperative agreement shall include, but need not be limited to, the sharing in accordance with applicable law of all technical and licensing information, the utilization of available expertise, the facilitating of permitting procedures, joint project review, and the formulation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws. The cooperative agreement also shall include a detailed plan or schedule of milestones, decision points and opportunities for State or eligible Tribal Council review and objection. Such cooperative agreement shall provide procedures for negotiating and resolving objections of the State and affected Tribal Council in any stage of planning, development, modification, expansion, operation, or closure of storage capacity at a site or facility within such State. The terms of any cooperative agreement shall not affect the authority of the Nuclear Regulatory Commission under existing law.

(4) For the purpose of this subsection, ''process of consultation and cooperation'' means a methodology by which the Secretary (A) keeps the State and eligible Tribal Council fully and currently informed about the aspects of the project related to any potential impact on the public health and safety and environment; (B) solicits, receives, and evaluates concerns and objections of such State and Council with regard to such aspects of the project on an ongoing basis; and (C) works diligently and cooperatively to resolve, through arbitration or other appropriate mechanisms, such concerns and objections. The process of consultation and cooperation shall not include the grant of a right, to any State or Tribal Council to exercise an absolute veto of any aspect of the planning, development, modification, expansion, or operation of the project.

(5) The Secretary and the State and affected Tribal Council shall seek to conclude the agreement required by paragraph (2) as soon as practicable, but not later than 180 days following the date of notification of the selection under paragraph (2). The Secretary shall periodically report to the Congress thereafter on the status of the agreements approved under paragraph (3). Any report to the Congress on the status of negotiations of such agreement by the Secretary shall be accompanied by comments solicited by the Secretary from the State and eligible Tribal Council.

(6)(A) Upon deciding to provide an aggregate of 300 or more metric tons of storage capacity under subsection (a)(1) at any one site, the Secretary shall notify the Governor and legislature of the State where such site is located, or the governing body of the Indian tribe in whose reservation such site is located, as the case may be, of such decision. During the 60-day period following receipt of notification by the Secretary of this decision to provide an aggregate of 300 or more metric tons of storage capacity at any one site, the Governor or legislature of the State in which such site is located, or the governing body of the affected Indian where such site is located, as the case may be, may disapprove the provision of 300 or more metric tons of storage capacity at the site involved and submit to the Congress a notice of such disapproval. A notice of disapproval shall be

considered to be submitted to the Congress on the date of the transmittal of such notice of disapproval to the Speaker of the House and the President pro tempore of the Senate. Such notice of disapproval shall be accompanied by a statement of reasons explaining why the provision of such storage capacity at such site was disapproved by such Governor or legislature or the governing body of such Indian tribe.

(B) Unless otherwise provided by State law, the Governor or legislature of each State shall have authority to submit a notice of disapproval to the Congress under subparagraph (A). In any case in which State law provides for submissions of any such notice of disapproval by any other person or entity, any reference in this subtitle to the Governor or legislature of such State shall be considered to refer instead of such other person or entity.

(C) The authority of the Governor and legislature of each State under this paragraph shall not be applicable with respect to any site located on a reservation.

(D) If any notice of disapproval is submitted to the Congress under subparagraph (A), the proposed provision of 300 or more metric tons of storage capacity at the site involved shall be disapproved unless, during the first period of 90 calendar days of continuous session of the Congress following the date of the receipt by the Congress of such notice of disapproval, the Congress passes a resolution approving such proposed provision of storage capacity in accordance with the procedures established in this paragraph and subsections (d) through (f) of section 115 and such resolution thereafter becomes law. For purposes of this paragraph, the term ''resolution'' means a joint resolution of either House of the Congress, the matter after the resolving clause of which is as follows: ''That there hereby is approved the provision of 300 or more metric tons of spent nuclear fuel storage capacity a the site located at _____, with respect to which a notice of disapproval was submitted by _____ on _____.''. The first blank space in such resolution shall be filled with the geographic location of the site involved; the second blank space in such resolution shall be filled with the designation of the State Governor and, legislature or affected Indian tribe governing body submitting the notice of disapproval involved; and the last blank space in such resolution shall be filled with the date of submission of such notice of disapproval.

(E) For purposes of such consideration of any resolution described in subparagraph (D), each reference in subsections (d) and (e) of section 115 to a resolution of repository siting approval shall be considered to refer to the resolution described in such subparagraph.

(7) As used in this section, the term ''affected Tribal Council'' means the governing body of any Indian tribe within whose reservation boundaries there is located a potentially acceptable site for interim storage capacity of spent nuclear fuel from civilian nuclear power reactors, or within whose boundaries a site of such capacity is selected by the Secretary, or whose federally defined possessory or usage rights to other lands outside of the reservation's boundaries arising out of congressionally ratified treaties, as determined by the Secretary of the Interior pursuant to a petition filed with him by the appropriate governmental officials of such tribe, may be substantially and adversely affected by the establishment of any such storage capacity.

(e) LIMITATIONS.—Any spent nuclear fuel stored under this section shall be removed from the storage site or facility involved as soon as practicable, but in any event not later than 3 years following the date on which a repository or monitored retrievable storage facility developed under this Act is available for disposal of such spent nuclear fuel.

(f) REPORT.—The Secretary shall annually prepare and submit to the Congress a report on any plans of the Secretary for providing storage capacity under this section. Such report shall include a description of the specific manner of providing such storage selected by the Secretary, if any. The Secretary shall prepare and submit the first such report not later than 1 year after the date of the enactment of this Act.

(g) CRITERIA FOR DETERMINING ADEQUACY OF AVAILABLE STORAGE CAPACITY.—Not later than 90 days after the date of the enactment of this Act, the Commission pursuant to section 553 of the Administrative Procedures Act, shall propose, by rule, procedures and criteria for making the determination required by subsection (b) that a person owning and operating a civilian nuclear power reactor cannot reasonably provide adequate spent nuclear fuel storage capacity at the civilian nuclear power reactor site when needed to ensure the continued orderly operations of such reactor. Such criteria shall ensure the maintenance of a full core reserve storage capability at the site of such reactor unless the Commission determines that maintenance of such capacity is not necessary for the continued orderly operation of such reactor. Such criteria shall identify the feasibility of reasonably providing such adequate spent nuclear fuel storage capacity, taking into account economic, technical, regulatory, and public health and safety factors, through the use of high-density fuel storage racks, fuel rod compaction, transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, construction of addition spent nuclear fuel poor capacity, or such other technologies as may be approved by the Commission.

(h) APPLICATION.—Notwithstanding any other provision of law, nothing in this Act shall be construed to encourage, authorize, or require the private or Federal use, purchase, lease, or other acquisition of any storage facility located away from the site of any civilian nuclear power reactor and not owned by the Federal Government on the date of the enactment of this Act.

(i) COORDINATION WITH RESEARCH AND DEVELOPMENT PROGRAM.—To the extent available, and consistent with the provisions of this section, the Secretary shall provide spent nuclear fuel for the research and development program authorized in section 2172 from spent nuclear fuel received by the Secretary for storage under this section. Such spent nuclear fuel shall not be subject to the provisions of subsection (e).

INTERIM STORAGE FUND

SEC. 136. CONTRACTS.—(1) During the period following the date of the enactment of this Act, but not later than January 1, 2010, the Secretary is authorized to enter into contracts with persons who generate or own spent nuclear fuel resulting from civilian nuclear activities for the storage of such spent nuclear fuel in any storage capacity provided under this subtitle: *Provided, however,* That the Secretary shall not enter into contracts for spent nuclear fuel in amounts in excess of the available storage capacity specified in section 135(a). Those contracts shall provide that the Federal Government will take (1) 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, (2) transport the spent nuclear fuel to a federally owned and operated interim away-from-reactor storage facility, and (3) store such fuel in the facility pending further processing, storage, or disposal. Each such contract shall (A) provide for payment to the Secretary of fees determined in accordance with the provisions of this section; and (B) specify the amount of storage capacity to be provided for the person involved.

(2) The Secretary shall undertake a study and, not later then 180 days after the date of the enactment of this Act, submit to the Congress a report, establishing payment charges that shall be calculated on an annual basis, commencing on or before January 1, 1996. Such payment charges and the calculation thereof shall be published in the Federal Register, and shall become effective not less than 30 days after publication. Each payment charge published in the Federal Register under this paragraph shall remain effective for a period of 12 months from the effective date as the charge for the cost of the interim storage of any spent nuclear fuel. The report of the Secretary shall specify the method and manner of collection (including the rates and manner of payment) and any legislative recommendations determined by the Secretary to be appropriate.

(3) Fees for storage under this subtitle shall be established on a nondiscriminatory basis. The fees to be paid by each person entering into a contract with the Secretary under this subsection shall be based upon an estimate of the pro rata costs of storage and related activities under this subtitle with respect to such person, including the acquisition, construction, operation, and maintenance of any facilities under this subtitle.

(4) The Secretary shall establish in writing criteria setting forth the terms and conditions under which such storage services shall be made available.

(5) Except as provided in section 137, nothing in this or any other Act requires the Secretary, in carrying out the responsibilities of this section, to obtain a license or permit to possess or own spent nuclear fuel.

(b) LIMITATION.—No spent nuclear fuel generated or owned by any department of the United States referred to in section 101 or 102 of title 5, United States Code, may be stored by the Secretary in any storage capacity provided under this subtitle unless such department transfers to the Secretary, for deposit in the Interim Storage Fund, amounts equivalent to the fees that would be paid to the Secretary under the contracts referred to in this section if such spent nuclear fuel were generated by any other person.

(c) ESTABLISHMENT OF INTERIM STORAGE FUND.—There hereby is established in the Treasury of the United States a separate fund, to be known as the Interim Storage Fund. The Storage Fund shall consist of—

(1) All receipts, proceeds, and recoveries realized by the Secretary under subsections (a), (b), and (e), 1 which shall be deposited in the Storage Fund immediately upon their realization;

(2) any appropriations made by the Congress to the Storage Fund; and

(3) any unexpended balances available on the date of the enactment of this Act for functions or activities necessary or incident to the interim storage of civilian spent nuclear fuel, which shall automatically be transferred to the Storage Fund on such date.

(d) USE OF STORAGE FUND.—The Secretary may make expenditures from the Storage Fund, subject to subsection (e),2 for any purpose necessary or appropriate to the conduct of the functions and activities of the Secretary, or the provision or anticipated provision of services, under this subtitle, including—

(1) the identification, development, licensing, construction, operation, decommissioning, and post-decommissioning maintenance

and monitoring of any interim storage facility provided under this subtitle;

(2) the administrative cost of the interim storage program;

(3) the costs associated with acquisition, design, modification, replacement, operation, and construction of facilities at an interim storage site, consistent with the restrictions in section 135;

(4) the cost of transportation of spent nuclear fuel; and

(5) impact assistance as described in subsection (e).

(e) IMPACT ASSISTANCE.—(1) Beginning the first fiscal year which commences after the date of the enactment of this Act, the Secretary shall make annual impact assistance payments to a State or appropriate unit of local government, or both, in order to mitigate social or economic impacts occasioned by the establishment and subsequent operation of any interim storage capacity within the jurisdictional boundaries of such government or governments and authorized under this subtitle: Provided, however, That such impact assistance payments shall not exceed (A) ten per centum of the costs incurred in paragraphs (1) and (2), or (B) $15 per kilogram of spent fuel, whichever is less;

(2) Payments made available to States and units of local government pursuant to this section shall be—

(A) allocated in a fair and equitable manner with a priority to those States or units of local government suffering the most severe impacts; and

(B) utilized by States or units of local governments only for (i) planning, (ii) construction and maintenance of public services, (iii) provision of public services related to the providing of such interim storage authorized under this title, and (iv) compensation for loss of taxable property equivalent to that if the storage had been provided under private ownership.

(3) Such payments shall be subject to such terms and conditions as the Secretary determines necessary to ensure that the purposes of this subsection shall be achieved. The Secretary shall issue such regulations as may be necessary to carry out the provisions of this subsection.

(4) Payments under this subsection shall be made available solely from the fees determined under subsection (a).

(5) The Secretary is authorized to consult with States and appropriate units of local government in advance of commencement of establishment of storage capacity authorized under this subtitle in an effort to determine the level of the payment such government would be eligible to receive pursuant to this subsection.

(6) As used in this subsection, the term ''unit of local government'' means a county, parish, township, municipality, and shall include a borough existing in the State of Alaska on the date of the enactment of this subsection, and any other unit of government below the State level which is a unit of general government as determined by the Secretary.

(f) ADMINISTRATION OF STORAGE FUND.—(1) The Secretary of the Treasury shall hold the Storage Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Storage Fund during the preceding fiscal year.

(2) The Secretary shall submit the budget of the Storage Fund to the Office of Management and Budget triennially along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget of the Storage Fund shall consist of estimates made by the Secretary of expenditures from the Storage Fund and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the Budget of the United States Government. The Secretary may make expenditures from the Storage Fund, subject to appropriations which shall remain available until expended. Appropriations shall be subject to triennial authorization.

(3) If the Secretary determines that the Storage Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

(A) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Storage Fund; and

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

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

(5) If at any time the moneys available in the Storage Fund are insufficient to enable the Secretary to discharge his responsibilities under this subtitle, the Secretary shall issue to the Secretary of the Treasury obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be agreed to by the Secretary and the Secretary of the Treasury. The total of such obligations shall not exceed amounts provided in appropriation Acts. Redemption of such obligations shall be made by the Secretary from moneys available in the Storage Fund. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligations under this paragraph. The Secretary of the Treasury shall purchase any issued obligations, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such Act are extended to include any purchase of such obligations. The Secretary of the Treasury may at any time sell any of the obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of obligations under this paragraph shall be treated as public debt transactions of the United States.

(6) Any appropriations made available to the Storage Fund for any purpose described in subsection (d) shall be repaid into the general fund of the Treasury, together with interest from the date of availability of the appropriations until the date of repayment. Such interest shall be paid on the cumulative amount of appropriations available to the Storage Fund, less the average undisbursed cash balance in the Storage Fund account during the fiscal year involved. The rate of such interest shall be determined by the Secretary of the Treasury taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States of comparable maturity. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest.

SECTION 137

Sec. 137.2 (a) Transportation.—(1) Transportation of spent nuclear fuel under section 136(a) shall be subject to licensing and regulation by the Commission and by the Secretary of Transportation as provided for transportation of commercial spent nuclear fuel under existing law.

(2) The Secretary, in providing for the transportation of spent nuclear fuel under this Act, shall utilize by contract 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 of the Secretary of Transportation, in consultation with the Secretary, that private industry is unable or unwilling to provide such transportation services at reasonable cost.''

AMENDMENT NO. 4672

On page 96, line 7, strike all after ''Service.'' through the end of line 12.

AMENDMENT NO. 4673

Strike all after the enacting clause, and insert:

''TITLE I. INDEPENDENT REVIEW

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Nuclear Waste Independent Review Act''.

SEC. 2. FINDINGS.

Congress find that—

(1) despite the enactment of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.), ratepayer contributions to the Nuclear Waste Fund established by section 302 of the Act (42 U.S.C. 10222) of over $6,000,000,000, and expenditures of over $4,000,000,000, the high-level radioactive waste program is behind schedule and is the subject of numerous fundamental controversies, including the very concept of deep geologic storage;

(2) the Federal Government's only proposed transuranic waste disposal facility, the Waste Isolation Pilot Plant (WIPP), is beset with unresolved engineering, geologic, and certification problems and suffers from cost overruns;

(3) Federal and State efforts to site low-level radioactive waste disposal sites have failed in many instances because of technical problems and public opposition; and

(4) there has never been a comprehensive independent review of Federal nuclear waste policies.

SEC. 3. PURPOSE.

The purpose of this Act is to establish a commission to conduct a full independent review of United States nuclear waste policy.

SEC. 4. ESTABLISHMENT OF COMMISSION.

(a) IN GENERAL.—The President, in consultation with the Science Advisor to the President and the Council on Environmental Quality, shall establish a commission to be known as the ''Nuclear Waste Policy Review Commission'' (referred to in this act as the ''Commission'').

(b) REPRESENTATION OF INTEREST GROUPS.—The membership and structure of the Commission shall be determined by the President with a view toward providing representation from—

(1) Environmental groups;

(2) Consumer groups;

(3) Taxpayer groups;

(4) The scientific community, including nuclear-oriented and other fields such as biology and medicine;

(5) State and local governments;
(6) Indian tribes;
(7) Transportation experts;
(8) Management experts;
(9) Federal, State, and local regulatory agencies;
(10) Utilities; and
(11) Other affected industries.

(c) INDEPENDENT STATUS.—The Commission shall be independent of the Department of Energy and other Federal agencies.

(d) PARTICIPATION BY THE PUBLIC.—The Commission shall hold public meetings and provide full opportunities for participation by all interested parties.

SEC. 5. ISSUES TO BE CONSIDERED.

The Commission shall consider all issues related to United States policy concerning high-level, transuranic, low-level waste, and other radioactive wastes including—

(1) various options for high-level radioactive waste storage and disposal, including deep geologic disposal, on-site dry storage, monitored retrievable storage, centralized interim storage, or any other options;

(2) evaluation of the experiences of other countries in storing and disposing of radioactive waste;

(3) an analysis of funding through the Nuclear Waste Fund established by section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222), including fee sufficiency and strategies for providing equity for ratepayer contributions to the Nuclear Waste Fund;

(4) the siting and characterization process for nuclear waste programs currently in effect and alternatives to those programs;

(5) technical, managerial, economic, and policy analyses of the nuclear waste inventory of the United States; and

(6) an examination of the classification system for nuclear waste currently in effect, and options for reclassification.

SEC. 6. REPORT.

Not later than 2 years after the date of enactment of this Act, the Commission shall submit to Congress a report on its review under this Act, including recommendations for legislative or other action.

SEC. 7. MORATORIUM ON ISSUANCE OF LICENSES.

No Federal agency may issue a license for a facility for the storage or disposal of radioactive waste (except a license for temporary on-site storage) until the date on which the Commission submits its report under section 6.

SEC. 8. TERMINATION OF COMMISSION.

The Commission shall terminate 30 days after the date on which the Commission submits its report under section 6.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

TITLE II. RATEPAYER EQUITY.

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Independent Spend Nuclear Fuel Storage Act of 1995''.

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. table of contents.
Sec. 3. Definitions.
Sec. 4. Findings.
Sec. 5. Amendments to the Nuclear Waste Policy Act of 1982.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term ''Commission'' means the Nuclear Regulatory Commission; and

(2) the term ''Secretary'' means the Secretary of the Department of Energy.

SEC. 4. FINDINGS.

The Congress finds that—

(1) By 1998, approximately 45,000 tons of spend nuclear fuel will be stored at commercial nuclear reactors across the nation;

(2) the deep geologic high level radioactive waste and spent nuclear fuel repository envisioned by the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et. seq.) will not be constructed in time to permit the Secretary to receive and accept high level radioactive waste or spent nuclear fuel as contemplated by sections 123 and 302 of that Act (42 U.S.C. 10143, 10222), with the result that the Secretary will be unable to perform contracts executed pursuant to section 302(a) of that Act with persons who generate or hold title to high level radioactive waste or spend nuclear fuel;

(3) there have been no orders for the development or construction of civilian nuclear power generating facilities since the enactment of the Nuclear Waste Policy Act of 1982; several such facilities that were anticipated when the Act was enacted are not operating now;

(4) it does not now appear that a deep geologic high level radioactive waste and spend nuclear fuel repository will be available before the year 2010 or later;

(5) by the time a deep geologic repository is available many currently operating commercial nuclear reactors will need spend fuel storage capacity beyond the maximum now available in at-reactor spent fuel storage pools; nuclear utilities have spent and will spend major sums to construct facilities, including dry cask spend fuel storage facilities, for use in the interim before a deep geologic repository is available;

(6) the sums spent for the purposes described in paragraph (5) are the same funds that commercial nuclear utilities intended to contribute to the Nuclear Waste Fund established by section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222 (c));

(7) the technology for long term storage of spent nuclear fuel, including the technology of dry cask storage, has improved dramatically since the enactment of the Nuclear Waste Policy Act of 1982;

(8) the existing statutory jurisdiction of the Commission, under the Atomic Energy Act of 1954 (42 U.S.C. 2001 et. seq.), the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et. seq.), Executive Order 11834 (42 U.S.C. 5801 note), the Nuclear Regulatory Commission Reorganization Plan No. 1 of 1980, and the Commission's various authorization Acts includes the jurisdiction to review and evaluate the spent fuel storage capability of commercial nuclear utilities that hold or seek licenses to receive and possess nuclear materials from the Commission;

(9) commercial nuclear utilities that hold licenses to receive and possess nuclear materials are generally well suited to maintain the institutional capability necessary to become stewards of spent nuclear fuel during a period of interim storage;

(10) the increased radioactive decay that will occur in spent nuclear fuel that has been stored for interim period prior to the delivery to the Secretary pursuant to section 123 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10143) will ease and facilitate its subsequent handling, transportation, and final disposal.

SEC. 5. AMENDMENTS TO THE NUCLEAR WASTE POLICY ACT OF 1982.

Section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)) is amended by inserting at the end thereof the following new subsection:

''(f)(1) After January 31, 1998, if the Secretary does not have a facility available to accept spent fuel from persons holding contracts under this section, those persons may, through credits on fee payments under subsection (a)(2), offset the expense of providing storage of spent fuel generated after that date (including expenses reasonably incurred before that date in anticipation of the necessity of providing such storage) and until the date of the Secretary's first acceptance of that person's spent fuel at a storage or disposal facility authorized by this Act.

''(2) The credits described in paragraph (1)—

''(A) shall be deducted from each remittance of a person's fee payments to the Nuclear Waste Fund from the time that the person meets the conditions of paragraph (1) until the time that the Secretary first accepts that person's spent fuel at a storage or disposal facility authorized by this Act; and

''(B) shall be in an amount determined by the Secretary to reflect the cost of storage qualifying under subsection (f)(1).''

AMENDMENT NO. 4674

Strike all after the enacting clause, and insert

"SECTION 1. SHORT TITLE.

This Act may be cited as the ''Independent Spent Nuclear Fuel Storage Act of 1995''.

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definitions.
Sec. 4. Findings.
Sec. 5. Amendments to the Nuclear Waste Policy Act of 1982.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term ''Commission'' means the Nuclear Regulatory Commission; and

(2) the term ''Secretary'' means the Secretary of the Department of Energy.

SEC. 4. FINDINGS.

The Congress finds that—

(1) By 1998, approximately 45,000 tons of spent nuclear fuel will be stored at commercial nuclear reactors across the nation;

(2) the deep geologic high level radioactive waste and spent nuclear fuel repository envisioned by the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et. seq.) will not be constructed in time to permit the Secretary to receive and accept high level radioactive waste or spent nuclear fuel as contemplated by sections 123 and 302 of that Act (42 U.S.C. 10143, 10222), with the result that the Secretary will be unable to perform contracts executed pursuant to section 302(a) of that Act with persons who generate or hold title to high level radioactive waste or spent nuclear fuel;

(3) there have been no orders for the development or construction of civilian nuclear power generating facilities since the enactment of the Nuclear Waste Policy Act of 1982; several such facilities that were anticipated when the Act was enacted are not operating now;

(4) it does not now appear that a deep geologic high level radioactive waste and spent nuclear fuel repository will be available before the year 2010 or later;

(5) by the time a deep geologic repository is available many currently operating commercial nuclear reactors will need spent fuel storage capacity beyond the maximum now available in at-reactor spent fuel storage pools; nuclear utilities have spent and will spend major sums to construct facilities, including dry cask spent fuel storage facilities, for use in the interim before a deep geologic repository is available;

(6) the sums spent for the purposes described in paragraph (5) are the same funds that commercial nuclear utilities intended to contribute to the Nuclear Waste Fund established by section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222 (c));

(7) the technology for long term storage of spent nuclear fuel, including the technology of dry cask storage, has improved dramatically since the enactment of the Nuclear Waste Policy Act of 1982;

(8) the existing statutory jurisdiction of the Commission, under the Atomic Energy Act of 1954 (42 U.S.C. 2001 et. seq.), the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et. seq.), Executive Order 11834 (42 U.S.C. 5801 note), the Nuclear Regulatory Commission Reorganization Plan No. 1 of 1980, and the Commission's various authorization Acts includes the jurisdiction to review and evaluate the spent fuel storage capability of commercial nuclear utilities that hold or seek licenses to receive and possess nuclear materials from the Commission;

(9) commercial nuclear utilities that hold licenses to receive and possess nuclear materials are generally well suited to maintain the institutional capability necessary to become stewards of spent nuclear fuel during a period of interim storage;

(10) the increased radioactive decay that will occur in spent nuclear fuel that has been stored for interim periods prior to delivery to the Secretary pursuant to section 123 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10143) will ease and facilitate its subsequent handling, transportation, and final disposal.

SEC. 5. AMENDMENTS TO THE NUCLEAR WASTE POLICY ACT OF 1982.

Section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222 (a)) is amended by inserting at the end thereof the following new subsection:

''(f)(1) After January 31, 1998, if the Secretary does not have a facility available to accept spent fuel from persons holding contracts under this section, those persons may, through credits on fee payments under subsection (a)(2), offset the expense of providing storage of spent fuel generated after that that (including expenses reasonably incurred before that date in anticipation of the necessary of providing such storage) and until the date of the Secretary's first acceptance of that person's spent fuel at a storage or disposal facility authorized by this Act.

''(2) The credits described in paragraph (1)—

''(A) shall be deducted from each remittance of a person's fee payments to the Nuclear Waste Fund from the time that the person meets the conditions of paragraph (1) until the time that the Secretary first accepts that person's spent fuel at a storage or disposal facility authorized by this Act; and

''(B) shall be in an amount determined by the Secretary to reflect the cost of storage qualifying under subsection (f)(1).''

AMENDMENT NO. 4675

On page 73, strike line 1 though line 13.

AMENDMENT NO. 4676

On page 40, strike line 9 through line 13.

AMENDMENT NO. 4677

On page 72, strike line 18 through line 25.

AMENDMENT NO. 4678

On page 41, line 6, strike ''unreasonable''.

AMENDMENT NO. 4679

On page 51, strike line 5 through page 54 line 15, and insert

''(a) ESTABLISHMENT OF COMMISSION.

(1) IN GENERAL.—The President, in consultation with the science advisor to the President and the council on environmental quality, shall establish a commission to be known as the ''Nuclear Waste Policy Review Commission'' (referred to in this act as the ''Commission'').

(2) REPRESENTATION OF INTEREST GROUPS.—The membership and structure of the Commission shall be determined by the President with a view toward providing representation from—

(A) Environmental groups;

(B) Consumer groups;

(C) Taxpayer groups;

(D) The scientific community, including nuclear-oriented and other fields such as biology and medicine;

(E) State and local governments;

(F) Indian tribes;

(G) Transportation experts;

(H) Management experts;

(I) Federal, State, and local regulatory agencies;

(J) Utilities; and

(K) Other affected industries.

(3) INDEPENDENT STATUS.—The Commission shall be independent of the Department of Energy and other Federal agencies.

(4) PARTICIPATION BY THE PUBLIC.—The Commission shall hold public meetings and provide full opportunities for participation by all interested parties.

(b) ISSUES TO BE CONSIDERED.

The Commission shall consider all issues related to United States policy concerning high-level, transuranic, low level waste, and other radioactive wastes including—

(1) various options for high-level radioactive waste storage and disposal, including deep geologic disposal, on-site dry storage, monitored retrievable storage, centralized interim storage, or any other options;

(2) evaluation of the experiences of other countries in storing and disposing of radioactive waste;

(3) an analysis of funding through the Nuclear Waste Fund established by section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222), including fee sufficiency and strategies for providing equity for ratepayer contributions to the Nuclear Waste Fund;

(4) the siting and characterization process for nuclear waste programs currently in effect and alternatives to those programs;

(5) technical, managerial, economic, and policy analyses of the nuclear waste inventory of the United States; and

(6) an examination of the classification system for nuclear waste currently in effect, and options for reclassification.

(c) REPORT.

Not later than 2 years after the date of enactment of this Act, the Commission shall submit to Congress a report on its review under this Act, including recommendations for legislative or other action.

(d) MORATORIUM ON ISSUANCE OF LICENSES.

No Federal agency may issue a license for a facility for the storage or disposal or radioactive waste (except a license for temporary on-site storage) until the date on which the Commission submits its report under section 6.

(e) TERMINATION OF COMMISSION.

The Commission shall terminate 30 days after the date on which the Commission submits its report under section 6.

(f) AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.''

AMENDMENT NO. 4680

On page 51, strike line 5 through page 54 line 15, and insert

''(a) ESTABLISHMENT OF COMMISSION.

(1) IN GENERAL.—The President, in consultation with the science advisor to the President and the Council on Environmental quality, shall establish a commission to be known as the ''Nuclear Waste Policy Review Commission'' (referred to in this Act as the ''Commission'').

(2) REPRESENTATION OF INTEREST GROUPS.—The Membership and structure of the Commission shall be determined by the President with a view toward providing representation from—

(A) Environmental Groups,

(B) Consumer groups;

(C) Taxpayer groups;

(D) The scientific community, including nuclear-oriented and other fields such as biology and medicine;

(E) State and local governments;

(F) Indian tribes;

(G) Transportation experts;

(H) Management experts;

(I) Federal, State, and local regulatory agencies;

(J) Utilities; and

(K) Other affected industries.

(3) INDEPENDENT STATUS.—The Commission shall be independent of the Department of Energy and other Federal agencies.

(4) PARTICIPATION BY THE PUBLIC.—The Commission shall hold public meetings and provide full opportunities for participation by all interested parties.

(b) ISSUES TO BE CONSIDERED.

The Commission shall consider all issues related to United States policy concerning high-level, traumatic, low-level waste, and other radioactive wastes including—

(1) various options for high-level radioactive waste storage and disposal, including deep geologic disposal, on-site dry storage, monitored retrievable storage, centralized interim storage, or any other options;

(2) evaluation of the experience of other countries in storing and disposing of radioactive waste;

(3) an analysis of funding through the Nuclear Waste Fund established by section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222), including fee sufficiency and strategies for providing equity for ratepayer contributions to the Nuclear Waste Fund;

(4) the siting and characterization process for nuclear waste programs currently in effect and alternatives to those programs;

(5) technical, managerial, economic, and policy analyses of the nuclear waste inventory of the United States; and

(6) an examination of the classification system for nuclear waste currently in effect, and options for reclassification.

(c). REPORT.

Not later than 2 years after the date of enactment of this Act, the Commission shall submit to Congress a report on its review under this Act, including recommendations for legislative or other action.

(d) TERMINATION OF COMMISSION.

The Commission shall terminate 30 days after the date on which the Commission submits its report under section 6.

(e) AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.''

AMENDMENT NO. 4681

On page 45, line 2, strike ''1,000'' and insert ''20,000''.

AMENDMENT NO. 4682

On page 45, line 2, strike ''1,000'' and insert ''15,000''.

AMENDMENT NO. 4683

On page 44, line 15, strike all after ''releases'' through the end of line 23.

AMENDMENT NO. 4684

On page 44, line 19, strike ''unreasonable''.

AMENDMENT NO. 4685

On page 44, line 1, strike ''not''.

AMENDMENT NO. 4686

On page 43, line 21, strike ''not''.

AMENDMENT NO. 4687

At the appropriate place, insert:

SEC. . TENTH AMENDMENT PROTECTION.

(a) FINDINGS.—The Congress finds that—

(1) in most areas of governmental concern, State governments possess both the Constitutional authority and the competence to discern the needs and the desires of the People and to govern accordingly;

(2) Federal laws and agency regulations, which have interfered with State powers in areas of State jurisdiction, should be restricted to powers delegated to the Federal Government by the Constitution;

(3) the framers of the Constitution intended to bestow upon the Federal Government only limited authority over the States and the People;

(4) under the Tenth Amendment to the Constitution, the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people; and

(5) the courts, which have in general construed the Tenth Amendment not to restrain the Federal Government's power to act in areas of State jurisdiction, should be directed to strictly construe Federal laws and regulations which interfere with State powers with a presumption in favor of State authority and against Federal preemption.

(b) LIMITATION.—No preemption of State law under this Act shall be effective until the Secretary has published in the Federal Register a determination demonstrating the Constitutional basis for the preemption. Such determination shall be subject to challenge through the federal court system.

AMENDMENT NO. 4688

On page 71, strike line 12 through line 21.

AMENDMENT NO. 4689

At the appropriate place, add:

SEC. . SAFE TRANSPORTATION ASSURANCE.

Notwithstanding any other provision of this Act, no transportation of spent nuclear fuel and high-level nuclear waste shall take place under this Act unless the Secretary has determined through rulemaking that all States, units of local governments, and Indian tribes through whose jurisdiction the Secretary plans to transport spent fuel or high-level radioactive waste have developed and implemented plans to ensure the public safety. Such plans shall include emergency response training, evacuation plans, and any other requirements the Secretary deems necessary. The Secretary shall include in such determination an analysis of the sources of funding for such plans.

AMENDMENT NO. 4690

Strike section 501.

AMENDMENT NO. 4691

On page 27, line 17, strike ''1998'' and insert ''2019''.

AMENDMENT NO. 4692

On page 27, line 17, strike ''1998'' and insert ''2018''.

AMENDMENT NO. 4693

On page 27, line 17, strike ''1998'' and insert ''2017''.

AMENDMENT NO. 4694

On page 27, line 17, strike ''1998'' and insert ''2016''.

AMENDMENT NO. 4695

On page 27, line 17, strike ''1998'' and insert ''2015''.

AMENDMENT NO. 4696

On page 27, line 17, strike ''1998'' and insert ''2014''.

AMENDMENT NO. 4697

On page 27, line 17, strike ''1998'' and insert ''2013''.

AMENDMENT NO. 4698

On page 27, line 17, strike ''1998'' and insert ''2012''.

AMENDMENT NO. 4699

On page 27, line 17, strike ''1998'' and insert ''2011''.

AMENDMENT NO. 4700

On page 27, line 17, strike ''1998'' and insert ''2010''.

AMENDMENT NO. 4701

Strike all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Nuclear Waste Independent Review Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) despite the enactment of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.), ratepayer contributions to the Nuclear Waste Fund established by section 302 of the Act (42 U.S.C. 10222) of over $6,000,000,000, and expenditures of over $4,000,000,000, the high-level radioactive waste program is behind scheduled and is the subject of numerous fundamental controversies, including the very concept of deep geologic storage;

(2) the Federal Government's only proposed transuranic waste disposal facility, the Waste Isolation Pilot Plant (WIPP), is beset with unresolved engineering, geologic, and certification problems and suffers from cost overruns;

(3) Federal and State efforts to site low-level radioactive waste disposal sites have failed in many instances because of technical problems and public opposition; and

(4) there has never been a comprehensive independent review of Federal nuclear waste policies.

SEC. 3. PURPOSE.

The purpose of this Act is to establish a commission to conduct a full independent review of United States nuclear waste policy.

SEC. 4. ESTABLISHMENT OF COMMISSION.

(a) IN GENERAL.—The President, in consultation with the science advisor to the President and the Council on Environmental Quality, shall establish a commission to be known as the ''Nuclear Waste Policy Review Commission'' (referred to in this act as the ''Commission'').

(b) REPRESENTATION OF INTEREST GROUPS.—The membership and structure of the Commission shall be determined by the President with a view towards providing representation from—

(1) environmental groups;

(2) consumer groups;

(3) taxpayer groups;

(4) the scientific community, including nuclear-oriented and other fields such as biology and medicine;

(5) State and local governments;

(6) Indian tribes;

(7) transportation experts;

(8) management experts;

(9) Federal, State, and local regulatory agencies;

(10) utilities; and

(11) other affected industries.

(c) INDEPENDENT STATUS.—The Commission shall be independent of the Department of Energy and other Federal agencies.

(d) PARTICIPATION BY THE PUBLIC.—The Commission shall hold public meetings and provide full opportunities for participation by all interested parties.

SEC. 5. ISSUES TO BE CONSIDERED.

The Commission shall consider all issues related to United States policy concerning high-level, transuranic, low-level waste, and other radioactive wastes including—

(1) various options for high-level radioactive waste storage and disposal, including deep geologic disposal, on-site dry storage, monitored retrievable storage, centralized interim storage, or any other options;

(2) evaluation of the experiences of other countries in storing and disposing of radioactive waste;

(3) an analysis of funding through the Nuclear Waste Fund established by section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222), including fee sufficiency and strategies for providing equity for ratepayer contributions to the Nuclear Waste Fund;

(4) the siting and characterization process for nuclear waste programs currently in effect and alternatives to those programs;

(5) technical, managerial, economic, and policy analyses of the nuclear waste inventory of the United States; and

(6) an examination of the classification system for nuclear waste currently in effect, and options for reclassification.

SEC. 6. REPORT.

Not later than 2 years after the date of enactment of this Act, the Commission shall submit to Congress a report on its review under this Act, including recommendations for legislative or other action.

SEC. 7 MORATORIUM ON ISSUANCE OF LICENSES.

No Federal agency may issue a license for a facility for the storage or disposal of radioactive waste (except a license for temporary on-site storage) until the date on which the Commission submits its report under section 6.

SEC. 8. TERMINATION OF COMMISSION.

The commission shall terminate 30 days after the date on which the Commission submits its report under section 6.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

AMENDMENT NO. 4702

At the appropriate place, insert:

SEC. . FISCAL RESPONSIBILITY LIMITATION.

Nothwithstanding any other provision of this Act, no funds authorized under this Act shall be expended in any fiscal year during which the Secretary does not publish in the Federal Register a fee sufficiency report which demonstrates that contract holders will pay the full cost of the storage and disposal of all spent nuclear fuel and high-level radioactive waste produced in relation to civilian nuclear power reactors. Such report shall include the estimated total life cycle cost of all expenditures authorized by this Act, the estimated total payments of contract holders to the Nuclear Waste Fund, the estimated proportionate share of the total life cycle cost attributable to disposal, storage, and transportation of spent nuclear fuel and high-level radioactive waste produced by contract holders, and the surplus or shortfall of contract holders' payments versus proportionate share of the costs.

AMENDMENT NO. 4703

SEC. . LIMITATION.

Notwithstanding any other provisions of this Act, no facility for the interim storage of spent nuclear fuel or high-level radioactive waste shall be sited in a State under consideration as a site for a permanent repository.

AMENDMENT NO. 4704

Strike section 502.

AMENDMENT NO. 4705

On page 74, strike line 1 through line 3.

AMENDMENT NO. 4706

On page 73, line 21, strike all after ''system.'' through page 74, line 3.

AMENDMENT NO. 4707

On page 73, strike line 17 through the word ''system.'' on line 21.

AMENDMENT NO. 4708

On page 72, strike section 404.

AMENDMENT NO. 4709

On page 27, line 8, strike ''1999'' and insert ''2025''.

AMENDMENT NO. 4710

On page 27, line 8, strike ''1999'' and insert ''2024''.

AMENDMENT NO. 4711

On page 27, line 8, strike ''1999'' and insert ''2023''.

AMENDMENT NO. 4712

On page 27, line 8, strike ''1999'' and insert ''2022''.

AMENDMENT NO. 4713

On page 27, line 8, strike ''1999'' and insert ''2021''.

AMENDMENT NO. 4714

On page 27, line 8, strike ''1999'' and insert ''2020''.

AMENDMENT NO. 4715

On page 27, line 8, strike ''1999'' and insert ''2019''.

AMENDMENT NO. 4716

On page 27, line 8, strike ''1999'' and insert ''2018''.

AMENDMENT NO. 4717

On page 27, line 8, strike ''1999'' and insert ''2017''.

AMENDMENT NO. 4718

On page 27, line 8, strike ''1999'' and insert ''2016''.

AMENDMENT NO. 4719

On page 31, line 5, strike ''1999'' and insert ''2021''.

AMENDMENT NO. 4720

On page 45, line 21, strike ''the average for''.

AMENDMENT NO. 4721

On page 45, line 22, strike all after ''site.'' through the end of line 25.

AMENDMENT NO. 4722

On page 34, strike from line 21 through page 35, line 12.

AMENDMENT NO. 4723

On page 45, line 1, strike ''reasonable''.

AMENDMENT NO. 4724

On page 45, line 10, strike ''not''.

AMENDMENT NO. 4725

On page 27, line 17, strike ''1998'' and insert ''2022''.

AMENDMENT NO. 4726

On page 31, line 5, strike ''1999'' and insert ''2017''.

AMENDMENT NO. 4727

On page 26, line 25, strike ''of spent nuclear fuel and''.

AMENDMENT NO. 4728

On page 27, line 7, strike all after ''Act.'' through page 32, line 18.

AMENDMENT NO. 4729

On page 34, strike line 15 through line 18.

AMENDMENT NO. 4730

On page 33, strike line 10 through line 19.

AMENDMENT NO. 4731

On page 31, line 5, strike ''1999'' and insert ''2025''.

AMENDMENT NO. 4732

On page 46, strike from line 1 through line 14.

AMENDMENT NO. 4733

On page 31, line 5, strike ''1999'' and insert ''2016''.

AMENDMENT NO. 4734

On page 27, line 17, strike ''1998'' and insert ''2020''.

AMENDMENT NO. 4735

On page 47, line 23, strike all after ''(b)(3).'' through page 48, line 10.

AMENDMENT NO. 4736

On page 47, line 12, strike ''not.''

AMENDMENT NO. 4737

On page 45, strike line 10 through 15.

AMENDMENT NO. 4738

On page 56, line 1, strike ''local''.

AMENDMENT NO. 4739

On page 55, line 23, strike ''local''.

AMENDMENT NO. 4740

On page 31, line 18, strike ''15,000'' and insert ''400''.

AMENDMENT NO. 4741

On page 63, strike line 7 through line 25.

AMENDMENT NO. 4742

On page 62, line 15, strike all after ''shall be'' through the word ''exceed'' on page 63, line 5.

AMENDMENT NO. 4743

On page 62, line 8, strike ''and sold between January 7, 1983, and September 30, 2002,''.

AMENDMENT NO. 4744

On page 60, line 9, strike ''the County of Nye,''.

AMENDMENT NO. 4745

On page 59, line 15, strike ''the County of Nye''.

AMENDMENT NO. 4746

On page 31, line 5, strike ''1999'' and insert ''2019''.

AMENDMENT NO. 4747

On page 27, line 17, strike ''1998'' and insert ''2021''.

AMENDMENT NO. 4748

On page 31, line 18, strike ''15,000'' and insert ''900''.

AMENDMENT NO. 4749

On page 57, line 19, strike ''local''.

AMENDMENT NO. 4750

On page 31, line 5, strike ''1999'' and insert ''2018''.

AMENDMENT NO. 4751

On page 31, line 18, strike ''15,000'' and insert ''750''.

AMENDMENT NO. 4752

On page 58, line 22, strike ''None of the''.

AMENDMENT NO. 4753

On page 58, strike line 1 through line 20.

AMENDMENT NO. 4754

On page 55, line 16, strike ''local''.

AMENDMENT NO. 4755

On page 56, line 22, strike ''local''.

AMENDMENT NO. 4756

On page 56, line 19, strike ''local''.

AMENDMENT NO. 4757

On page 56, line 14, strike ''local''.

AMENDMENT NO. 4758

On page 56, line 4, strike ''local''.

AMENDMENT NO. 4759

On page 31, line 5, strike ''1999'' and insert ''2020''.

AMENDMENT NO. 4760

On page 31, line 5, strike ''1999'' and insert ''2022''.

AMENDMENT NO. 4761

On page 31, line 18, strike ''15,000'' and insert ''320''.

AMENDMENT NO. 4762

On page 31, line 18, strike ''15,000'' and insert ''200''.

AMENDMENT NO. 4763

On page 31, line 18, strike ''15,000'' and insert ''100''.

AMENDMENT NO. 4764

On page 31, line 5, strike ''1999'' and insert ''2024''.

AMENDMENT NO. 4765

On page 31, line 5, strike ''1999'' and insert ''2023''.

AMENDMENT NO. 4766

On page 31, line 18, strike ''15,000'' and insert ''300''.

AMENDMENT NO. 4767

On page 65, line 1, strike ''long-term storage and''.

AMENDMENT NO. 4768

Strike from page 62, line 6 through page 63, page 22.

AMENDMENT NO. 4769

On page 63, strike line 7 through line 22.

AMENDMENT NO. 4770

On page 63, line 5, strike ''1.0'' and insert ''5.0''.

AMENDMENT NO. 4771

On page 64, line 21, strike ''2002'' and insert ''1996''.

AMENDMENT NO. 4772

On page 31, line 18, strike ''15,000'' and insert ''830''.

AMENDMENT NO. 4773

On page 31, line 18, strike ''15,000'' and insert ''240''.

AMENDMENT NO. 4774

On page 31, line 18, strike ''15,000'' and insert ''500''.

AMENDMENT NO. 4775

On page 27, line 8, strike ''1999'' and insert ''2015''.

AMENDMENT NO. 4776

On page 27, line 8, strike ''1999'' and insert ''2014''.

AMENDMENT NO. 4777

On page 27, line 8, strike ''1999'' and insert ''2013''.

AMENDMENT NO. 4778

On page 27, line 8, strike ''1999'' and insert ''2012''.

AMENDMENT NO. 4779

At the appropriate place, add

''SEC. . RATEPAYER EQUITY.

(a) After January 31, 1998, if the Secretary does not have a facility available to accept spent fuel from persons holding contracts under this section, those persons may, through credits on fee payments under subsection (b), offset the expenses of providing storage of spent fuel generated after that date (including expenses reasonably incurred before that date in anticipation of the necessity of providing such storage) and until the date of the Secretary's first acceptance of that person's spent fuel at a storage or disposal facility authorized by this Act.

(b) The credits described in paragraph (1)—

''(A) shall be deducted from each remittance of a person's fee payments to the Nuclear Waste Fund from the time that the person meets the conditions of paragraph (1) until the time that the Secretary first accepts that person's spent fuel at a storage or disposal facility authorized by this Act; and

''(B) shall be in an amount determined by the Secretary to reflect the cost of storage qualifying under subsection (a).''

AMENDMENT NO. 4780

At the appropriate place, add

''SEC. . INDEPENDENT REVIEW.

(a) ESTABLISHMENT OF COMMISSION.

(1) IN GENERAL.—The President, in consultation with the Science Advisor to the President and the Council on Environmental Quality, shall establish a commission to be known as the ''Nuclear Waste Policy Review Commission'' (Referred to in this act as the ''Commission'').

(2) REPRESENTATION OF INTEREST GROUPS.—The membership and structure of the Commission shall be determined by the President with a view towards providing representation from—

(A) Environmental groups;

(B) Consumer groups;

(C) Taxpayer groups;

(D) The scientific community, including nuclear-oriented and other fields such as biology and medicine;

(E) State and local governments;

(F) Indian tribes;

(G) Transportation experts;

(H) Management experts;

(I) Federal, state, and local regulatory agencies;

(J) Utilities; and

AMENDMENT NO. 4781

On page 31, line 5, strike ''1999'' and insert ''2015''.

AMENDMENT NO. 4782

On page 31, line 5, strike ''1999'' and insert ''2014''.

AMENDMENT NO. 4783

On page 31, line 5, strike ''1999'' and insert ''2013''.

AMENDMENT NO. 4784

On page 27, line 17, strike ''1998'' and insert ''2024''.

AMENDMENT NO. 4785

On page 31, line 18, strike all after ''MTU.'' through line 22.

AMENDMENT NO. 4786

On page 32, line 15, strike after ''2002.'' though the end of line 18.

AMENDMENT NO. 4787

On page 23, line 13, strike all after ''(g).'' though the end of line 15.

AMENDMENT NO. 4788

On page 44, line 17, strike ''100'' and insert ''15''.

AMENDMENT NO. 4789

On page 44, line 17, strike ''100'' and insert ''25''.

AMENDMENT NO. 4790

On page 44, strike line 11 through line 23, and insert ''(1) Notwithstanding any other provision of this Act, the Environmental Protection Agency, though its normal rule making process, shall develop standards for protection of the public from release of radioactive material or radioactivity from the repository or any other federal high-level waste facility, including the transportation of high-level waste, which protect, with a high level of confidence, the health and safety of all individuals potentially exposed to such radiation or radioactive materials. The Nuclear Regulatory Commission shall require compliance with such standard as a condition of approving any license for a high-level nuclear waste facility.''

AMENDMENT NO. 4791

On page 13, strike from line 22 through page 21, line 2.

AMENDMENT NO. 4792

Strike section 204.

AMENDMENT NO. 4793

On page 48, strike line 11 through line 14.

AMENDMENT NO. 4794

On page 48, strike section 206.

AMENDMENT NO. 4795

On page 31, line 18, strike ''15,000'' and insert ''800''.

AMENDMENT NO. 4796

On page 27, line 17, strike ''1998'' and insert ''2025''.

AMENDMENT NO. 4797

At the appropriate place, add the following: ''Notwithstanding any other provision of this Act, the Secretary shall not provide storage or disposal of spent fuel or high-level radioactive waste resulting from operation of civilian nuclear power reactors to any contract holder unless the provisions of this Act provide for full cost recovery to the Treasury of such storage or disposal.''

AMENDMENT NO. 4798

On page 65, at the end of line 4, add ''No provisions of Title II of this Act shall take effect until all such one-time fees have been paid to the Treasury.''

AMENDMENT NO. 4799

At the appropriate place, add ''No provision of Title II of this Act shall take effect until all fees under Title IV of this Act have been paid to the Treasury.''

AMENDMENT NO. 4800

On page 64, line 23, strike all after the ''paid.'' through page 65, line 4.

AMENDMENT NO. 4801

On page 65, strike line 21 through page 66, line 20.

AMENDMENT NO. 4802

On page 64, line 6, strike ''average''.

AMENDMENT NO. 4803

On page 11, line 16, strike ''storage and''.

AMENDMENT NO. 4804

On page 45, line 2, strike ''1,000'' and insert ''35,000''.

AMENDMENT NO. 4805

On page 45, line 2, strike ''1,000'' and insert ''50,000''.

AMENDMENT NO. 4806

On page 45, line 2, strike ''1,000'' and insert ''100,000''.

AMENDMENT NO. 4807

On page 45, line 2, strike ''1,000'' and insert ''15,000''.

AMENDMENT NO. 4808

On page 45, line 2, strike ''1,000'' and insert ''1,000,000''.

AMENDMENT NO. 4809

On page 41, line 10, strike ''substantial''.

AMENDMENT NO. 4810

On page 41, line 21, strike ''unreasonable''.

AMENDMENT NO. 4811

On page 42, line 18, strike ''unreasonable''.

AMENDMENT NO. 4812

On page 43, line 2, strike ''unreasonable''.

AMENDMENT NO. 4813

At the appropriate place, insert the following: ''No provision of this Act shall take effect until the Secretary has determined that contract holders will pay the full cost of the storage and disposal of spent fuel and high-level radioactive waste derived from spent nuclear fuel used to generate electricity in civilian power reactors.''

AMENDMENT NO. 4814

On page 45, line 2, strike ''1,000'' and insert ''10,000''.

AMENDMENT NO. 4815

On page 65, line 16, strike ''shall propose an adjustment to'' and insert ''shall adjust''.

AMENDMENT NO. 4816

On page 31, line 5, strike ''1999'' and insert ''2011''.

AMENDMENT NO. 4817

On page 31, line 18, strike ''15,000'' and insert ''600''.

AMENDMENT NO. 4818

On page 49, line 10, strike line 4 through line 9.

AMENDMENT NO. 4819

On page 50, strike line 21 through page 51, line 3.

AMENDMENT NO. 4820

Strike section 207.

AMENDMENT NO. 4821

On page 54, line 19, strike ''local''.

AMENDMENT NO. 4822

On page 54, line 21, strike ''local''.

AMENDMENT NO. 4823

On page 45, line 2, strike ''1,000'' and insert ''25,000''.

AMENDMENT NO. 4824

On page 45, line 2, strike ''1,000'' and insert ''30,000''.

WELLSTONE AMENDMENTS NOS. 4825–4828

(Ordered to lie on the table.)

Mr. WELLSTONE submitted four amendments intended to be proposed by him to the bill, S. 1936, supra; as follows:

AMENDMENT NO. 4825

On page 68, line 5 of the amendment, strike ''years.'' and insert the following: ''years.

''SEC. 800.—REQUIREMENT OF DISPOSAL FACILITY.

''(a)(1) Notwithstanding any other provision of law, no new civilian nuclear power reactor shall be built until such time as—

''(A) there is a facility licensed by the Federal Government for the permanent emplacement of spent nuclear fuel and high-level radioactive waste from the civilian nuclear power reactor; and

''(B) there is adequate volume of capacity within the emplacement facility to accept all of the spent nuclear fuel and high-level radioactive waste that will be generated by the civilian nuclear power reactor during the reasonably foreseeable operational lifetime of the civilian nuclear power reactor.

''(2) At no time shall the volume of spent fuel and high-level radioactive waste generated, or reasonably expected to be generated, by all civilian nuclear power reactors on which construction was begun after the date of enactment of this Act, exceed the volume of capacity available in facilities licensed by the Federal Government for the permanent emplacement of spent nuclear fuel and high-level radioactive waste.

''(b) Any affected citizen may enforce the provision in (a) by filing a claim in federal district court in the district in which they reside or in the U.S. District Court for the District of Columbia.''

AMENDMENT NO. 4826

On page 44 of the amendment, at the end of line 24, insert the following: ''The adjusted fee proposed by the Secretary shall be effective after a period of 90 days of continuous session have elapsed following the receipt of such transmittal unless during such 90-day period a law is enacted disapproving the Secretary's proposed adjustment.''

AMENDMENT NO. 4827

On page 57 of the amendment, strike lines 16 and 17 and insert in lieu thereof the following: ''Notwithstanding any other provision of this Act or other law or agreement, the Secretary shall not accept title to spent nuclear fuel or high-level nuclear waste generated by a commercial nuclear power reactor unless the Secretary determines that accepting title to the fuel or waste is necessary to enable the Secretary to protect adequately the public health or safety, or the environment. To the extent that the federal government is responsible for personal or property damages arising from such fuel or waste while in the federal government's possession, such liability shall be born by the federal government.''

AMENDMENT NO. 4828

On page 57 of the amendment, strike lines 16 and 17 and insert in lieu thereof the following: ''Notwithstanding any other provision of this Act (except subsection (b) of this section) or other law or agreement, the Secretary shall not accept title to spent nuclear fuel or high-level nuclear waste generated by a commercial nuclear power reactor unless the Secretary determines that accepting title to the fuel or waste is necessary to enable the Secretary to protect adequately the public health or safety, or the environment. To the extent that the federal government is responsible for personal or property damages arising from such fuel or waste while in the federal government's possession, such liability shall be born by the federal government.''

MOSELEY-BRAUN AMENDMENTS NOS. 4829–4830

(Ordered to lie on the table.)

Ms. MOSELEY-BRAUN submitted two amendments intended to be proposed by her to the bill, S. 1936, supra; as follows:

AMENDMENT NO. 4829

On page 21, beginning on line 6, strike ''transport'' and all that follows through the period on line 9 and insert ''transport safely spent nuclear fuel and high-level radioactive waste from sites designated by the contract holders to mainline transportation facilities, using routes that minimize, to the maximum practicable extent, transportation of spent nuclear fuel and high-level radioactive waste through populated areas or sensitive environmental areas, beginning not later than November 30, 1999, and, by that date, shall, in consultation with the Secretary of Transportation, develop and implement a comprehensive management plan that ensures the safe transportation of spent nuclear fuel and high-level radioactive waste from the sites designated by the contract holders to the interim storage facility site beginning not later than November 30, 1999.''.

AMENDMENT NO. 4830

On page 21, line 6, after ''transport'' insert ''safely''.

CHAFEE AMENDMENTS NOS. 4831–4835

(Ordered to lie on the table.)

Mr. CHAFEE submitted five amendments intended to be proposed by him to the bill, S. 1936, supra; as follows:

AMENDMENT NO. 4831

On page 35, lines 4 and 5, strike ''and facility use pursuant to paragraph (d)(2) of this section.''

AMENDMENT NO. 4832

Beginning on page 43, lines 19 and 20, strike ''Notwithstanding'' all that follows through the period on page 44, line 2.

AMENDMENT NO. 4833

On page 44, line 4, strike ''solely''.

AMENDMENT NO. 4834

Beginning on page 73, strike line 16 and all that follows through page 74, line 3, and insert the following:

''SEC. 501. COMPLIANCE WITH OTHER LAWS.

''If the requirements of any Federal, State, or local law (including a requirement imposed by regulation or by any other means under such a law) are inconsistent with or duplicative of the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) or of this Act, the Secretary shall comply only with the requirements of the Atomic Energy Act of 1954 and of this Act in implementing the integrated management system.

AMENDMENT NO. 4835

On page 35, line 3, strike ''the construction and operation of any facility,''.

MURKOWSKI AMENDMENTS NOS. 4836–4845

(Ordered to lie on the table.)

Mr. MURKOWSKI submitted 10 amendments intended to be proposed by him to the bill, S. 1936, supra; as follows:

AMENDMENT NO. 4836

On page 24, beginning on line 8, strike ''(f) EMPLOYEE PROTECTION—'' and all that follows through ''and 232.'' on line 19, and insert:

''(f) EMPLOYEE PROTECTION.—Any person engaged in the interstate commerce of spent nuclear fuel or high-level radioactive waste under contract to the Secretary pursuant to this act shall be subject to and comply fully with employee protection provisions of 49 U.S.C. 20109 and 49 U.S.C. 31105; and qualified persons shall be designated to perform the inspection and testing of trains under the provisions of 49 CFR 215 and 232 and shall be trained pursuant to the standard required by section 203(g).''.

AMENDMENT NO. 4837

On page 3, lines 15–16, strike ''such a facility'' and insert ''an interim storage facility or a repository''.

AMENDMENT NO. 4838

On page 5, line 21, strike ''permit'' and insert ''permits''.

AMENDMENT NO. 4839

On page 11, line 12, strike ''respository'' and insert ''repository''.

AMENDMENT NO. 4840

On page 11, line 21, strike ''for storage''.

AMENDMENT NO. 4841

At page 68, beginning on line 2, strike ''subsection (d)'' and insert ''subsections (d) and (e)''.

AMENDMENT NO. 4842

On page 14, line 12, after ''Secretary,'' insert ''or along such other route designate by the Secretary,''.

AMENDMENT NO. 4843

On page 12, line 24, strike ''Spent Nuclear Fuel''.

AMENDMENT NO. 4844

On page 14, line 12, after ''Secretary,'' insert ''or along such other route designated by the Secretary,''.

——

AMENDMENT NO. 4845

Strike all after the enacting clause and insert in lieu thereof the following:
That the Nuclear Waste Policy Act of 1982 is amended to read as follows:

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

''(a) SHORT TITLE.—This Act may be cited as the 'Nuclear Waste Policy Act of 1996'.

''(b) TABLE OF CONTENTS.—

''SECTION 2. DEFINITIONS.

''For purposes of this Act:

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

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

''(A) whose reservation is surrounded by or borders an affected unit of local government, or

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

''(3) AFFECTED UNIT OF LOCAL GOVERNMENT.—The term 'affected unit of local government' means the unit of local government with jurisdiction over the site of a repository or interim storage facility. Such term may, at the discretion of the Secretary, include other units of local government that are contiguous with such unit.

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

''(A) Naval reactors development.

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

''(C) Verification and control technology.

''(D) Defense nuclear materials production.

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

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

''(G) Defense research and development.

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

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

''(7) CONTRACTS.—The term 'contracts' means the contracts, executed prior to the date of enactment of the Nuclear Waste Policy Act of 1996, under section 302(a) of the Nuclear Waste Policy Act of 1982, by the Secretary and any person who generates or holds title to spent nuclear fuel or high-level radioactive waste of domestic origin for acceptance of such waste or fuel by the Secretary and the payment of fees to offset the Secretary's expenditures, and any subsequent contracts executed by the Secretary pursuant to section 401(a) of this Act.

''(8) CONTRACT HOLDERS.—The term 'contract holders' means parties (other than the Secretary) to contracts.

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

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

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

''(12) EMPLACEMENT SCHEDULE.—The term 'emplacement schedule' means the schedule established by the Secretary in accordance with section 507(a) for emplacement of spent nuclear fuel and high-level radioactive waste at the interim storage facility.

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

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

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

''(B) other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation, which includes any low-level radioactive waste with concentrations of radionuclides that exceed the limits established by the Commission for class C radioactive waste, as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983.

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

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

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

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

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

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

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

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

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

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

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

''(24) PROGRAM APPROACH.—The term 'program approach' means the Civilian Radioactive Waste Management Program Plan, dated May 6, 1996, as modified by this Act, and as amended from time to time by the Secretary in accordance with this Act.

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

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

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

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

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

''(30) WITHDRAWAL.—The term 'withdrawal' has the same definition as that set forth in section 103(j) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(j)).

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

''TITLE I—OBLIGATIONS

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

''(a) DISPOSAL.—The Secretary shall develop and operate an integrated management system for the storage and permanent disposal of spent nuclear fuel and high-level radioactive waste.

''(b) INTERIM STORAGE.—The Secretary shall store spent nuclear fuel and high-level radioactive waste from facilities designated by contract holders for storage at an interim storage facility pursuant to section 204 in accordance with the emplacement schedule, beginning not later than November 30, 1999.

''(c) TRANSPORTATION.—The Secretary shall provide for the transportation of spent nuclear fuel and high-level radioactive waste accepted by the Secretary. The Secretary shall procure all systems and components necessary to transport spent nuclear fuel and high-level radioactive waste from facilities designated by contract holders to and among facilities comprising the Integrated Management System. Consistent with the Buy American Act (41 U.S.C. 10a–10c), unless the Secretary shall determine it to be inconsistent with the public interest, or the cost to be unreasonable, all such systems and components procured by the Secretary shall be manufactured in the United States, with the exception of any transportable storage systems purchased by contract holders prior to the effective date of the Nuclear Waste Policy Act of 1996 and procured by the Secretary from such contract holders for use in the integrated management system.

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

''(e) PRIVATE SECTOR PARTICIPATION.—In administering the Integrated Spent Nuclear Fuel Management System, the Secretary shall, to the maximum extent possible, utilize, employ, procure and contract with, the private sector to fulfill the Secretary's obligations and requirements under this Act.

''(f) PRE-EXISTING RIGHTS.—Nothing in this Act is intended to or shall be construed to modify—

''(1) any right of a contract holder under section 302(a) of the Nuclear Waste Policy Act of 1982, or under a contract executed prior to the date of enactment of this Act under that section; or

''(2) 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).

''(g) LIABILITY.—Subject to any valid existing right under subsection (f), nothing in this Act shall be construed to subject the United States to financial liability for the Secretary's failure to meet any deadline for the acceptance or emplacement of spent nuclear fuel or high-level radioactive waste for storage or disposal under this Act.

''TITLE II—INTEGRATED MANAGEMENT SYSTEM

''SEC. 201. INTERMODAL TRANSFER.

''(a) ACCESS.—The Secretary shall utilize heavy-haul truck transport to move spent nuclear fuel and high-level radioactive waste from the mainline rail line at Caliente, Nevada, to the interim storage facility site.

''(b) CAPABILITY DATE.—The Secretary shall develop the capability to commence rail to truck intermodal transfer at Caliente, Nevada, no later than November 30, 1999. Intermodal transfer and related activities are incidental to the interstate transportation of spent nuclear fuel and high-level radioactive waste.

''(c) ACQUISITIONS.—The Secretary shall acquire lands and rights-of-way along the 'Chalk Mountain Heavy Haul Route' depicted on the map dated March 13, 1996, and on file with the Secretary, necessary to commence intermodal transfer at Caliente, Nevada.

''(d) REPLACEMENTS.—The Secretary shall acquire and develop on behalf of, and dedicate to, the City of Caliente, Nevada, parcels of land and right-of-way within Lincoln County, Nevada, as required to facilitate replacement of land and city wastewater disposal facilities necessary to commence intermodal transfer pursuant to this Act. Replacement of land and city wastewater disposal activities shall occur no later than November 30, 1999.

''(e) NOTICE AND MAP.—Within 6 months of the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall—

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

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

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

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

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

''(h) BENEFITS AGREEMENT.—

''(1) IN GENERAL.—The Secretary shall offer to enter into an agreement with Lincoln County, Nevada, concerning the integrated management system.

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

''(3) AMENDMENT.—An agreement entered into under this subsection may be amended only with the mutual consent of the parties to the amendment and terminated only in accordance with paragraph (4).

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

''(5) LIMITATION.—Only one agreement may be in effect at any one time.

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

''(i) CONTENT OF AGREEMENT.—

''(1) SCHEDULE.—In addition to the benefits to which Lincoln County is entitled to under this title, the Secretary shall make payments under the benefits agreement in accordance with the following schedule:

''BENEFITS SCHEDULE

''(Amounts in millions)

''Event	Payment
''(A) Annual payments prior to first receipt of spent fuel	$2.5
''(B) Annual payments beginning upon first spent fuel receipt	5
''(C) Payment upon closure of the intermodal transfer facility	5

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

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

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

''(3) ANNUAL PAYMENTS.—Annual payments prior to first spent fuel receipt under paragraph (1)(A) shall be made on the date of execution of the benefits agreement and thereafter on the anniversary date of such execution. Annual payments after the first spent fuel receipt until closure of the facility under paragraph (1)(C) shall be made on the anniversary date of such first spent fuel receipt.

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

''(5) RESTRICTIONS.—The Secretary may not restrict the purposes for which the payments under this section may be used.

''(6) DISPUTE.—In the event of a dispute concerning such agreement, the Secretary shall resolve such dispute, consistent with this Act and applicable State law.

''(7) CONSTRUCTION.—The signature of the Secretary on a valid benefits agreement under this section shall constitute a commitment by the United States to make payments in accordance with such agreement under section 401(c)(2).

''(j) INITIAL LAND CONVEYANCES.—

''(1) CONVEYANCES OF PUBLIC LANDS.—One hundred and twenty days after enactment of this Act, all right, title and interest of the United States in the property described in paragraph (2), 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 Lincoln, 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 of enactment that it elects not to take title to all or any part of the property, except that any lands conveyed to the County of Lincoln 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 Lincoln County and the affected holder of the permit or lease negotiate an agreement that allows for an earlier conveyance.

''(2) SPECIAL CONVEYANCES.—Notwithstanding any other law, the following public lands depicted on the maps and legal descriptions dated October 11, 1995, shall be conveyed under paragraph (1) to the County of Lincoln, Nevada:

Map 10; Lincoln County, parcel M, industrial park site.

Map 11; Lincoln County, parcel F, mixed use industrial site.

Map 13; Lincoln County, parcel J, mixed use, Alamo Community Expansion Area.

Map 14; Lincoln County, parcel E, mixed use, Pioche Community Expansion Area.

Map 15; Lincoln County, parcel B, landfill expansion site.

''(3) CONSTRUCTION.—The maps and legal descriptions of special conveyances referred to in paragraph (2) 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.

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

''SEC. 202. TRANSPORTATION PLANNING.

''(a) TRANSPORTATION READINESS.—The Secretary shall take those actions that are necessary and appropriate to ensure that the Secretary is able to transport spent nuclear fuel and high-level radioactive waste from sites designated by the contract holders to mainline transportation facilities beginning not later than November 30, 1999. As soon as is practicable following enactment of this Act, the Secretary shall analyze each specific reactor facility designated by contract holders in the order of priority established in the emplacement schedule, and develop a logistical plan to assure the Secretary's ability to transport spent nuclear fuel and high-level radioactive waste.

''(b) TRANSPORTATION PLANNING.—In conjunction with the development of the logistical plan in accordance with subsection (a), the Secretary shall update and modify, as necessary, the Secretary's transportation institutional plans to ensure that institutional issues are addressed and resolved on a schedule to support the commencement of transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility no later than November 30, 1999. Among other things, such planning shall provide a schedule and process for addressing and implementing as necessary, transportation routing plans, transportation contracting plans, transportation training in accordance with section 203, and public education regarding transportation of spent nuclear fuel and high level radioactive waste; and transportation tracking programs.

''SEC. 203. TRANSPORTATION REQUIREMENTS.

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

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

''(c) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance and funds to 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 for training for public safety officials of appropriate units of local government. The Secretary shall also provide technical assistance and funds for training directly to national nonprofit employee organizations which 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. Training shall cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations, and shall be consistent with any training standards established by the Secretary of Transportation in accordance with subsection (g). The Secretary's duty to provide technical and financial assistance under this subsection shall be limited to amounts specified in annual appropriations.

''(d) PUBLIC EDUCATION.—The Secretary shall conduct a program to educate the public regarding the transportation of spent nuclear fuel and high-level radioactive waste, with an emphasis upon 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.

''(e) COMPLIANCE WITH TRANSPORTATION REGULATIONS.—Any person that transports spent nuclear fuel or high-level radioactive waste under the Nuclear Waste Policy Act of 1986, 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 49 U.S.C. sec. 5126.

''(f) EMPLOYEE PROTECTION.—Any person engaged in the interstate commerce of spent nuclear fuel or high-level radioactive waste under contract to the Secretary pursuant to this Act shall be subject to and comply fully with the employee protection provisions of 49 U.S.C. 20109 and 49 U.S.C. 31105. Carmen shall be designated to perform the inspection and testing of trains under the provisions of 49 CFR 215 and 232 at all initial terminals and intermediate inspection points. Members of an operating crew shall be trained to perform the cursory inspection and testing required on cars picked up at outlying points under the provisions of 49 CFR 215 appendix D and 232.

''(g) TRAINING STANDARD.—(1) No later than 12 months after the date of enactment of the Nuclear Waste Policy Act of 1996, 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 evidence of satisfaction of the applicable training standard, through certification or other means, be provided to an employer before any individual may be employed in the removal and transportation of spent nuclear fuel and high-level radioactive waste.

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

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

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

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

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

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

''SEC. 204. INTERIM STORAGE.

''(a) AUTHORIZATION.—The Secretary shall design, construct, and operate a facility for the interim storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility site. The interim storage facility shall be subject to licensing pursuant to the Atomic Energy Act of 1954 in accordance with the Commission's regulations governing the licensing of independent spent fuel storage installations, which regulations shall be amended by the Commission as necessary to implement the provisions of this Act. The interim storage facility shall commence operation in phases in accordance with subsection (b).

''(b) SCHEDULE.—(1) The Secretary shall proceed forthwith and without further delay with all activities necessary to begin storing spent nuclear fuel and high-level radioactive waste at the interim storage facility at the interim storage facility site by November 30, 1999, except that:

''(A) The Secretary shall not begin any construction activities at the interim storage facility site before December 31, 1998.

''(B) The Secretary shall cease all activities (except necessary termination activities) at the Yucca Mountain site if the President determines, in his discretion, on or before December 31, 1998, based on a preponderance of the information available at such time, that the Yucca Mountain site is unsuitable for development as a repository, including geologic and engineered barriers, because of a substantial likelihood that a repository of useful size cannot be designed, licensed, and constructed at the Yucca Mountain site.

''(C) No later than June 30, 1998, the Secretary shall provide to the President and to the Congress a viability assessment of the Yucca Mountain site. The viability assessment shall include—

''(i) the preliminary design concept for the critical elements of the repository and waste package,

''(ii) a total system performance assessment, based upon the design concept and the scientific data and analysis available by June 30, 1998, describing the probable behavior of the respository in the Yucca Mountain geologic setting relative to the overall system performance standard set forth in section 205(d) of this Act.

''(iii) a plan and cost estimate for the remaining work required to complete a license application, and

''(iv) an estimate of the costs to construct and operate the repository in accordance with the design concept.

''(D) Within 18 months of a determination by the President that the Yucca Mountain site is unsuitable for development as a repository under paragraph (B), the President shall designate a site for the construction of an interim storage facility. If the President does not designate a site for the construction of an interim storage facility, or the construction of an interim storage facility at the designated site is not approved by law within 24 months of the President's determination that the Yucca Mountain site is not suitable for development as a repository, the Secretary shall begin construction of an interim storage facility at the interim storage facility site as defined in section 2(19) of this Act. The interim storage facility site as defined in section 2(19) of this Act shall be deemed to be approved by law for purposes of this section.

''(2) Upon the designation of an interim storage facility site by the President under paragraph (1)(D), the Secretary shall proceed forthwith and without further delay with all activities necessary to begin storing spent nuclear fuel and high-level radioactive waste at an interim storage facility at the designated site, except that the Secretary shall not begin any construction activities at the designated interim storage facility site before the designated interim storage facility site is approved by law.

''(c) DESIGN.—

''(1) The interim storage facility shall be designed in two phases in order to commence operations no later than November 30, 1999. The design of the interim storage facility shall provide for the use of storage technologies, licensed, approved, or certified by the Commission for use at the interim storage facility as necessary to ensure compatibility between the interim storage facility and contract holders' spent nuclear fuel and facilities, and to facilitate the Secretary's ability to meet the Secretary's obligations under this Act.

''(2) The Secretary shall consent to an amendment to the contracts to provide for reimbursement to contract holders for transportable storage systems purchased by contract holders if the Secretary determines that it is cost effective to use such transportable storage systems as part of the integrated management system, provided that the Secretary shall not be required to expend any funds to modify contract holders' storage or transport systems or to seek additional regulatory approvals in order to use such systems.

''(d) LICENSING.—

''(1) PHASES.—The interim storage facility shall be licensed by the Commission in two phases in order to commence operations no later than November 30, 1999.

''(2) FIRST PHASE.—No later than 12 months after the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall submit to the Commission an application for a license for the first phase of the interim storage facility. The Environmental Report and Safety Analysis Report submitted in support of such license application shall be consistent with the scope of authority requested in the license application. The license issued for the first phase of the interim storage facility shall have a term of 20 years. The interim storage facility licensed in the first phase shall have a capacity of not more than 15,000 MTU. The Commission shall issue a final decision granting or denying the application for the first phase license no later than 16 months from the date of the submittal of the application for such license.

''(3) SECOND PHASE.—No later than 30 months after the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall submit to the Commission an application for a license for the second phase interim storage facility. The license for the second phase facility shall authorize a storage capacity of 40,000 MTU. If the Secretary does not complete the viability assessment of the Yucca Mountain site by June 30, 1998, or submit the license application for construction of a respository by February 1, 2002, or does not begin full spent nuclear fuel receipt operations at a repository by January 17, 2010, the license shall authorize a storage capacity of 60,000 MTU. The license application shall be submitted such that the license can be issued to permit the second phase facility to begin full spent nuclear fuel receipt operations no later than December 31, 2002. The license for the second phase shall have an initial term of up to 100 years, and shall be renewable for additional terms upon application of the Secretary.

''(e) ADDITIONAL AUTHORITY.—

''(1) CONSTRUCTION.—For purposes of complying with this section, the Secretary may commence site preparation for the interim storage facility as soon as practicable after the date of enactment of the Nuclear Waste Policy Act of 1996 and shall commence construction of each phase of the interim storage facility subsequent to submittal of the license application for such phase except that the Commission shall issue an order suspending such construction at any time if the Commission determines that such construction poses an unreasonable risk to public health and safety or the environment. The Commission shall terminate all or part of such order upon a determination that the Secretary has taken appropriate action to eliminate such risk.

''(2) FACILITY USE.—Notwithstanding any otherwise applicable licensing requirement, the Secretary may utilize any facility owned by the Federal Government on the date of enactment of the Nuclear Waste Policy Act of 1996 within the boundaries of the interim storage facility site, in connection with an imminent and substantial endangerment to public health and safety at the interim storage facility prior to commencement of operations during the second phase.

''(3) EMPLACEMENT OF FUEL AND WASTE.—Subject to paragraph (i), once the Secretary has achieved the annual acceptance rate for spent nuclear fuel from civilian nuclear power reactors established pursuant to the contracts executed prior to the date of enactment of the Nuclear Waste Policy Act of 1996, as set forth in the Secretary's annual capacity report dated Mar. 1995 (DOE/RW–0457), the Secretary shall accept, in an amount not less than 25 percent of the difference between the contractual acceptance rate and the annual emplacement rate for spent nuclear fuel from civilian nuclear power reactors established under section 507(a), the following radioactive materials:

''(A) spent nuclear fuel or 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 of 1996;

''(B) spent nuclear fuel from foreign research reactors, as necessary to promote non-proliferation objectives; and

''(C) spent nuclear fuel, including spent nuclear fuel from naval reactors, and high-level radioactive waste from atomic energy defense activities.

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

''(1) PRELIMINARY DECISIONMAKING ACTIVITIES.—The Secretary's and President's activities under this section, including, but not limited to, the selection of a site for the interim storage facility, assessments, determinations and designations made under section 204(b), the preparation and submittal of a license application and supporting documentation, the construction and operation of any facility, and facility use pursuant to paragraph (d)(2) of this section shall be considered preliminary decisionmaking activities for purposes of judicial review. The Secretary shall not prepare an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or any environmental review under subparagraph (E) or (F) of such Act before conducting these activities.

''(2) ENVIRONMENTAL IMPACT STATEMENT.—

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

''(i) shall ensure that the scope of the Environmental Impact Statement is consistent with the scope of the licensing action; and

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

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

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

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

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

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

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

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

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

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

''(i) STORAGE OF OTHER SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE.—No later than 18 months following the date of enactment of the Nuclear Waste Policy Act of 1996, the Commission shall, by rule, establish criteria for the storage in the interim storage facility of fuel and waste listed in paragraph (e)(3)(A) through (C), to the extent such criteria are not included in regulations issued by the Commission and existing on the date of enactment of the Nuclear Waste Policy Act of 1996. Following establishment of such criteria, the Secretary shall seek authority, as necessary, to store fuel and waste listed in paragraph (e)(3) (A) through (C) at the interim storage facility. None of the activities carried out pursuant to this paragraph shall delay, or otherwise affect, the development, construction, licensing, or operation of the interim storage facility.

''(j) SAVINGS CLAUSE.—The Commission shall, by rule, establish procedures for the licensing of any technology for the dry storage of spent nuclear fuel by rule and without, to the maximum extent possible, the need for site-specific approvals by the Commission. Nothing in this Act shall affect any such procedures, or any licenses or approvals issued pursuant to such procedures in effect on the date of enactment.

''SEC. 205. PERMANENT REPOSITORY.

''(a) REPOSITORY CHARACTERIZATION.—

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

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

''(3) SCHEDULE DATE.—Consistent with the schedule set forth in the program approach, as modified to be consistent with the Nuclear Waste Policy Act of 1996. No later than February 1, 2002, the Secretary shall apply to the Commission for authorization to construct a repository. If, at any time prior to the filing of such application, the Secretary determines that the Yucca Mountain site cannot satisfy the Commission's regulations applicable to the licensing of a geologic repository, the Secretary shall terminate site characterization activities at the site, notify Congress and the State of Nevada of the Secretary's determination and the reasons therefor, and recommend to Congress not later than 6 months after such determination further actions, including the enactment of legislation, that may be needed to manage the Nation's spent nuclear fuel and high-level radioactive waste.

''(4) MAXIMIZING CAPACITY.—In developing an application for authorization to construct the repository, the Secretary shall seek to maximize the capacity of the repository, in the most cost-effective manner, consistent with the need for disposal capacity.

''(b) REPOSITORY LICENSING.—Upon the completion of any licensing proceeding for the first phase of the interim storage facility, the Commission shall amend its regulations governing the disposal of spent nuclear fuel and high-level radioactive waste in geologic repositories to the extent necessary to comply with this Act. Subject to subsection (c), such regulations shall provide for the licensing of the repository according to the following procedures:

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

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

''(B) without unreasonable risk to the health and safety of the public; and

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

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

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

''(B) without unreasonable risk to the health and safety of the public; and

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

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

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

''(B) without unreasonable risk to the health and safety of the public; and

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

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

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

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

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

''(d) REPOSITORY LICENSING STANDARDS.—Notwithstanding any other provision of law, the Administrator of the Environmental Protection Agency shall not promulgate, by rule or otherwise, standards for protection of the public from releases of radioactive materials or radioactivity from the repository and any such standards existing on the date of enactment of the Nuclear Waste Policy Act of 1996 shall not be incorporated in the Commission's licensing regulations. The Commission's repository licensing determinations for the protection of the public shall be based solely on a finding whether the repository can be operated in conformance with the overall system performance standard established in paragraph (1), applied in accordance with the provisions of paragraph (2). The Commission shall amend its regulations in accordance with subsection (b) to incorporate each of the following licensing standards:

''(1) ESTABLISHMENT OF OVERALL SYSTEM PERFORMANCE STANDARD.—The standard for protection of the public from release of radioactive material or radioactivity from the repository shall prohibit releases that would expose an average member of the general population in the vicinity of the Yucca Mountain site to an annual dose in excess of 100 millirems unless the Commission determines by rule that such standard would constitute an unreasonable risk to health and safety and establishes by rule another standard which will protect health and safety. Such standard shall constitute an overall system performance standard.

''(2) APPLICATION OF OVERALL SYSTEM PERFORMANCE STANDARD.—The Commission shall issue the license if it finds reasonable assurance that for the first 1,000 years following the commencement of repository operations, the overall system performance standard will be met based on a probabilistic evaluation, as appropriate, of compliance with the overall system performance standard in paragraph (1).

''(3) FACTORS.—For purposes of making the finding in paragraph (2)—

''(A) the Commission shall not consider catastrophic events where the health consequences of individual events themselves can be reasonably assumed to exceed the health consequences due to the impact of the events on repository performance;

''(B) for the purpose of this section, an average member of the general population in the vicinity of the Yucca Mountain site

means a person whose physiology, age, general health, agricultural practices, eating habits, and social behavior represent the average for persons living in the vicinity of the site. Extremes in social behavior, eating habits, or other relevant practices or characteristics shall not be considered; and

''(C) the Commission shall assume that, following repository closure, the inclusion of engineered barriers and the Secretary's post-closure actions at the Yucca Mountain site; in accordance with subsection (b)(4), shall be sufficient to—

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

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

''(4) ADDITIONAL ANALYSIS.—The Commission shall analyze the overall system performance through the use of probabilistic evaluations that use best estimate assumptions, data, and methods for the period commencing after the first 1,000 years of operation of the repository and terminating at 10,000 years after the commencement of operation of the repository.

''(e) NATIONAL ENVIRONMENTAL POLICY ACT.—

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

''(2) CONSIDERATIONS.—For purposes of complying with the requirements of the National Environmental Policy Act of 1969 and this section, the Secretary shall not consider in the environmental impact statement the need for the repository, or alternative sites or designs for the repository.

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

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

''SEC. 206. LAND WITHDRAWAL.

''(a) WITHDRAWAL AND RESERVATION.—

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

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

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

''(b) LAND DESCRIPTION.—

''(1) BOUNDARIES.—The boundaries depicted on the map entitled 'Interim Storage Facility Site Withdrawal Map,' dated March 13, 1996, and on file with the Secretary, are established as the boundaries of the Interim Storage Facility site.

''(2) BOUNDARIES.—The boundaries depicted on the map entitled 'Yucca Mountain Site Withdrawal Map,' dated July 9, 1996, and on file with the Secretary, are established as the boundaries of the Yucca Mountain site.

''(3) NOTICE AND MAPS.—Within 6 months of the date of the enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall—

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

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

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

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

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

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

''SEC. 207. PERMANENT DISPOSAL ALTERNATIVES.

''(a) STUDY.—Within 270 days after the date of the enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall report to Congress on alternatives for the permanent disposal of spent nuclear fuel and high-level radioactive waste. The report under this section shall include—

''(1) an assessment of the current state of knowledge of alternative technologies for the treatment and disposal of spent nuclear fuel and high-level radioactive waste;

''(2) an estimate of the costs of research and development of alternative technologies;

''(3) an analysis of institutional factors associated with alternative technologies, including international aspects of a decision of the United States to proceed with the development of alternative technologies (including nuclear proliferation concerns) as an option for nuclear waste management and disposal;

''(4) a full discussion of environmental and public health and safety aspects of alternative technologies;

''(5) recommendations on alternative ways to structure an effort in research, development, and demonstration with respect to alternative technologies; and

''(6) the recommendations of the Secretary with respect to research, development, and demonstration of the most promising alternative technologies for the treatment and disposal of spent nuclear fuel and high-level radioactive waste.

''(b) OFFICE OF NUCLEAR WASTE DISPOSAL RESEARCH.—(1) There is hereby established an Office of Nuclear Waste Disposal Research within the Office of Energy Research of the Department of Energy. The Office shall be headed by the Director, who shall be a member of the Senior Executive Service appointed by the Director of the Office of Energy Research, and compensated at a rate determined by applicable law.

''(2) The Director of the Office of Nuclear Waste Research shall be responsible for carrying out research, development, and demonstration activities on alternative technologies for the treatment and disposal of high-level nuclear radioactive waste and spent nuclear fuel, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Director of the Office of Energy Research, and the first such Director shall be appointed within 30 days of the date of enactment of the Nuclear Waste Policy Act of 1996.

''(3) In carrying out his responsibilities under this Section, the Secretary may make grants to, or enter into contracts with, the Nuclear Waste Research Consortium described in paragraph (4) of this section and other persons.

''(4)(A) Within 60 days of the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall establish a university-based Nuclear Waste Disposal Consortium involving leading universities and institutions, national laboratories, the commercial nuclear industry, and other organizations to investigate technical and institutional feasibility of alternative technologies for the treatment and disposal of spent nuclear fuel and high-level radioactive waste.

''(B) The Nuclear Waste Disposal Consortium shall develop a research plan and budget to achieve the following objectives by 2005:

''(i) identify promising alternative technologies for the treatment and disposal of spent nuclear fuel and high-level radioactive waste.

''(ii) conduct research and develop conceptual designs for promising alternative technologies, including estimated costs and institutional requirements for continued research and development; and

''(iii) identify and assess potential impacts of promising alternative technologies on the environment.

''(C) In 2000, and again in 2005, the Nuclear Waste Disposal Consortium shall report to Congress on the progress being made in achieving the objectives of paragraph (2).

''(5) The Director of the Office of Nuclear Waste Disposal Research shall annually prepare and submit a report to the Congress on the activities and expenditures of the Office.

''TITLE III—LOCAL RELATIONS

''SEC. 301. FINANCIAL ASSISTANCE.

''(a) GRANTS.—The Secretary is authorized to make grants to any affected Indian tribe or affected unit of local government for purposes of enabling the affected Indian tribe or affected unit of local government—

''(1) to review activities taken with respect to the Yucca Mountain site for purposes of determining any potential economic, social, public health and safety, and environmental

impacts of the integrated management system on the affected Indian tribe or the affected unit of local government and its residents;

''(2) to develop a request for impact assistance under subsection (c);

''(3) to engage in any monitoring, testing, or evaluation activities with regard to such site;

''(4) to provide information to residents regarding any activities of the Secretary, or the Commission with respect to such site; and

''(5) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken with respect to such site.

''(b) SALARY AND TRAVEL EXPENSES.—Any salary or travel expense that would ordinarily be incurred by any affected Indian tribe or affected unit of local government may not be considered eligible for funding under this section.

''(c) FINANCIAL AND TECHNICAL ASSISTANCE.—

''(1) ASSISTANCE REQUESTS.—The Secretary is authorized to offer to provide financial and technical assistance to any affected Indian tribe or affected unit of local government requesting such assistance. Such assistance shall be designed to mitigate the impact on the affected Indian tribe or affected unit of local government of the development of the integrated management system.

''(2) REPORT.—Any affected Indian tribe or affected unit of local government may request assistance under this section by preparing and submitting to the Secretary a report on the economic, social, public health and safety, and environmental impacts that are likely to result from activities of the integrated management system.

''(d) OTHER ASSISTANCE.—

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

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

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

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

''(B) ACTIVITIES.—Any affected Indian tribe or affected unit of local government may not receive any further assistance under this section if the integrated management system activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

''SEC. 302. ON-SITE REPRESENTATIVE.

''The Secretary shall offer to the unit of local government within whose jurisdiction a site for an interim storage facility or repository is located under this Act an opportunity to designate a representative to conduct on-site oversight activities at such site. The Secretary is authorized to pay the reasonable expenses of such representative.

''SEC. 303. ACCEPTANCE OF BENEFITS.

''(a) CONSENT.—The acceptance or use of any of the benefits provided under this title by any affected Indian tribe or 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 or any law thereof, to the siting of an interim storage facility or repository in the State of Nevada, any provision of such Constitution or laws to the contrary notwithstanding.

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

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

''SEC. 304. RESTRICTIONS ON USE OF FUNDS.

''None of the funding provided under this title may be used—

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

''(2) for litigation purposes; and

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

''SEC. 305 LAND CONVEYANCES.

''(a) CONVEYANCES OF PUBLIC LANDS.—One hundred and twenty days after enactment of this Act, 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, Nevada, unless the county notifies the Secretary of Interior or the head of such other appropriate agency in writing within 60 days of such date of enactment that it elects not to take title to all or any part of the property, except that any lands conveyed to the County of Nye 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.—Notwithstanding any other law, the following public lands depicted on the maps and legal descriptions dated October 11, 1995, and on file with the Secretary shall be conveyed under paragraph (1) to the County of Nye, Nevada:

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.

''(c) CONSTRUCTION.—The maps and legal descriptions of special conveyances referred to in subsection (l) 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 Nye, Nevada, the Secretary of the Interior shall provide evidence of title transfer.

''TITLE IV—FUNDING AND ORGANIZATION

''SEC. 401. PROGRAM FUNDING.

''(a) CONTRACTS.—

''(1) AUTHORITY OF SECRETARY.—In the performance of the Secretary's functions under this Act, the Secretary is authorized to enter into contracts with any person who generates or holds title to spent nuclear fuel or high-level radioactive waste of domestic origin for the acceptance of title and possession, transportation, interim storage, and disposal of such waste or spent fuel. Such contracts shall provide for payment of annual fees to the Secretary in the amounts set by the Secretary pursuant to paragraphs (2) and (3). Except as provided in paragraph (3), fees assessed pursuant to this paragraph shall be paid to the Treasury of the United States and shall be available for use by the Secretary pursuant to this section until expended. Subsequent to the date of enactment of the Nuclear Waste Policy Act of 1996, the contracts executed under section 302(a) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act, provided that the Secretary shall consent to an amendment to such contracts as necessary to implement the provisions of this Act.

''(2) ANNUAL FEES.—

''(A) for electricity generated by civilian nuclear power reactors and sold between January 7, 1983, and September 30, 2002, the fee under paragraph (1) shall be equal to 1.0 mill per kilowatt-hour generated and sold. For electricity generated by civilian nuclear power reactors and sold on or after October 1, 2002, the aggregate amount of fees collected during each fiscal year shall be no greater than the annual level of appropriations for expenditures on those activities consistent with subsection (d) for that fiscal year, minus—

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

''(ii) the percentage of such appropriation required to be funded by the Federal Government pursuant to section 403.

The Secretary shall determine the level of the annual fee for each civilian nuclear power reactor based on the amount of electricity generated and sold, except that the annual fee collected under this subparagraph shall not exceed 1.0 mill per kilowatthour generated and sold.

''(B) EXPENDITURES IF SHORTFALL.—If, during any fiscal year on or after October 1, 2002, the aggregate amount of fees assessed pursuant to subparagraph (A) is less than the annual level of appropriations for expenditures on those activities specified in subsection (d) for that fiscal year, minus—

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

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

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

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

''(3) ONE-TIME FEE.—For spent nuclear fuel or solidified high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor prior to January 7, 1983, the fee shall be in an amount equivalent to an average charge of 1.0 mill per kilowatthour for electricity generated by such spent nuclear fuel, or such solidified high-level waste derived therefrom. Payment of such one-time fee prior to the date of enactment of the Nuclear Waste Policy Act of 1996 shall satisfy the obligation imposed under this paragraph. Any one-time fee paid and collected subsequent to the date of enactment of the Nuclear Waste Policy Act of 1996 pursuant to the contracts, including any interest due pursuant to such contracts, shall be paid to the Nuclear Waste Fund no later than September 30, 2002. The Commission shall suspend the license of any licensee who fails or refuses to pay the full amount of the fee referred to in this paragraph on or before September 30, 2002, and the license shall remain suspended until the full amount of the fee referred to in this paragraph is paid. The person paying the fee under this paragraph to the Secretary shall have no further financial obligation to the Federal Government for the long-term storage and permanent disposal of spent fuel or high-level radioactive waste derived from spent nuclear fuel used to generate electricity in a civilian power reactor prior to January 7, 1983.

''(4) ADJUSTMENTS TO FEE.—The Secretary shall annually review the amount of the fees established by paragraphs (2) and (3), together with the existing balance of the Nuclear Waste Fund on the date of enactment of the Nuclear Waste Policy Act of 1996, to evaluate whether collection of the fee will provide sufficient revenues to offset the costs as defined in subsection (c)(2). In the event the Secretary determines that the revenues being collected are either insufficient or excessive to recover the costs incurred by the Federal Government that are specified in subsection (c)(2), the Secretary shall propose an adjustment to the fee in subsection (c)(2) to ensure full cost recovery. The Secretary shall immediately transmit the proposal for such an adjustment to both houses of Congress.

''(b) ADVANCE CONTRACTING REQUIREMENT.

''(1) IN GENERAL.—

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

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

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

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

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

''(3) ASSIGNMENT.—The rights and duties of contract holders are assignable.

''(c) NUCLEAR WASTE FUND.—

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

''(A) the existing balance in the Nuclear Waste Fund on the date of enactment of the Nuclear Waste Policy Act of 1996; and

''(B) all receipts, proceeds, and recoveries realized under subsections (a), and (c)(3) subsequent to the date of enactment of the Nuclear Waste Policy Act of 1996, which shall be deposited in the Nuclear Waste Fund immediately upon their realization.

''(2) USE.—The Secretary may make expenditures from the Nuclear Waste Fund, subject to subsection (d) and (e), only for purposes of the integrated management system.

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

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

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

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

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

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

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

''(e) APPROPRIATIONS.—The Secretary may make expenditures from the Nuclear Waste Fund, subject to appropriations, which shall remain available until expended.

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

''(a) CONTINUATION OF THE OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT.—The Office of Civilian Radioactive Waste Management established under section 304(a) of the Nuclear Waste Policy Act of 1982 as constituted prior to the date of enactment of the Nuclear Waste Policy Act of 1996, shall continue in effect subsequent to the date of enactment of the Nuclear Waste Policy Act of 1996.

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

''SEC. 403. FEDERAL CONTRIBUTION.

''(a) ALLOCATION.—No later than one year from the date of enactment of the Nuclear Waste Policy Act of 1996, acting pursuant to section 553 of title 5, United States Code, the Secretary shall issue a final rule establishing the appropriate portion of the costs of managing spent nuclear fuel and high-level radioactive waste under this Act allocable to the interim storage or permanent disposal of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors. The share of costs allocable to the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors shall include,

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

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

''(b) APPROPRIATION REQUEST.—In addition to any request for an appropriation from the Nuclear Waste Fund, the Secretary shall request annual appropriations from general revenues in amounts sufficient to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors as established under subsection (a).

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

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

SEC. 404. BUDGET PRIORITIES.

''(a) THE SECRETARY.—For purposes of preparing annual requests for appropriations for the integrated management system and allocating funds among competing requirements, the Secretary shall give funding for the licensing, construction, and operation of the interim storage facility under section 204 and development of the transportation capability under sections 201, 202, and 203 the highest priority.

''(b) THE COMMISSION.—For purposes of preparing annual requests for appropriations for the integrated management system and allocating annual appropriations among competing requirements, the Commission shall allocate funds in accordance with the following prioritization:

''(1) The issuance of regulations for and the licensing of an interim storage facility under

section 204 and any associated storage and/or transport systems to be used in the integrated management system shall be accorded the highest priority; and

''(2) the licensing of the repository under section 205 shall be accorded the next highest priority.

''TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

''SEC. 501. COMPLIANCE WITH OTHER LAWS.

''If the requirements of any law are inconsistent with or duplicative of the requirements of the Atomic Energy Act and this Act, the Secretary shall comply only with the requirements of the Atomic Energy Act and this Act in implementing the integrated management system. Any requirement of a State or political subdivision of a State is preempted if—

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

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

''SEC. 502. JUDICIAL REVIEW OF AGENCY ACTIONS.

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

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

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

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

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

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

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

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

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

''SEC. 503. LICENSING OF FACILITY EXPANSIONS AND TRANSSHIPMENTS.

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

''(b) ADJUDICATORY HEARING.—

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

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

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

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

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

''(B) shall not consider—

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

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

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

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

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

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

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

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

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

''SEC. 504. SITING A SECOND REPOSITORY.

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

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

''SEC. 505. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL RADIOACTIVE WASTE SITE CLOSURE.

''(a) FINANCIAL ARRANGEMENTS.—

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

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

''(b) TITLE AND CUSTODY.—

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

''(A) the requirements of the Commission for site closure, decommissioning, and decontamination have been met by the licensee

involved and that such licensee is in compliance with the provisions of subsection (a);

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

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

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

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

''SEC. 506. NUCLEAR REGULATORY COMMISSION TRAINING AUTHORIZATION.

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

''SEC. 507. EMPLACEMENT SCHEDULE.

''(a) The emplacement schedule shall be implemented in accordance with the following:

''(1) Emplacement priority ranking shall be determined by the Department's annual 'Acceptance Priority Ranking' report.

''(2) The Secretary's spent fuel emplacement rate shall be no less than the following: 1,200 MTU in fiscal year 2000 and 1,200 MTU in fiscal year 2001; 2,000 MTU in fiscal year 2002 and 2,000 MTU in fiscal year 2003; 2,700 MTU in fiscal year 2004; and 3,000 MTU annually thereafter.

''(b) If the Secretary is unable to begin emplacement by November 30, 1999 at the rates specified in subsection (a), or if the cumulative amount emplaced in any year thereafter is less than that which would have been accepted under the emplacement rate specified in paragraph (a), the Secretary shall, as a mitigation measure, adjust the emplacement schedule upward such that within 5 years of the start of emplacement by the Secretary,

''(1) the total quantity accepted by the Secretary is consistent with the total quantity that the Secretary would have accepted if the Secretary had began emplacement in fiscal year 2000, and

''(2) thereafter the emplacement rate is equivalent to the rate that would be in place pursuant to paragraph (a) above if the Secretary had commenced emplacement in fiscal year 2000.

''SEC. 508. TRANSFER OF TITLE.

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

''(b) No later than 6 months following the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary is authorized to accept all spent nuclear fuel withdrawn from Dairyland Power Cooperative's La Crosse Reactor and, upon acceptance, shall provide Dairyland Power Cooperative with evidence of the title transfer. Immediately upon the Secretary's acceptance of such 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 acceptance until the Secretary removes the spent nuclear fuel from the La Crosse Reactor site.

''SEC. 509. 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. 501. WATER RIGHTS.

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

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

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

''TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

''SEC. 601. DEFINITIONS.

''For purposes of this title—

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

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

''SEC. 602. NUCLEAR WASTE TECHNICAL REVIEW BOARD.

''(a) CONTINUATION OF THE NUCLEAR WASTE TECHNICAL REVIEW BOARD.—The Nuclear Waste Technical Review Board, established under section 502(a) of the Nuclear Waste Policy Act of 1982 as constituted prior to the date of enactment of the Nuclear Waste Policy Act of 1996, shall continue in effect subsequent to the date of enactment of the Nuclear Waste Policy Act of 1996.

''(b) MEMBERS.—

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

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

''(3) NATIONAL ACADEMY OF SCIENCES.—

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

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

''(C) NOMINEES.—

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

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

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

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

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

''(I) the Department of Energy;

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

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

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

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

''SEC. 603. FUNCTIONS.

''The Board shall limit its evaluations to the technical and scientific validity solely of the following activities undertaken directly by the Secretary after December 22, 1987—

''(1) site characterization activities; and

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

''SEC. 604. INVESTIGATORY POWERS.

''(a) HEARINGS.—Upon request of the Chairman or a majority of the members of the Board, the Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Board considers appropriate. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board. The Secretary or the Secretary's designee or designees shall not be required to appear before the Board or any element of the Board for more than twelve working days per calendar year.

''(b) PRODUCTION OF DOCUMENTS.—

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

''(2) EXTENT.—Subject to existing law, information obtainable under paragraph (1) shall be limited to final work products of the secretary, but may include drafts of such products and documentation of work in progress.

''SEC. 605. COMPENSATION OF MEMBERS.

''(a) IN GENERAL.—Each member of the Board shall be paid at the rate of pay payable for level III of the Executive Schedule

for each day (including travel time) such member is engaged in the work of the Board.

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

''SEC. 606. STAFF.

''(a) CLERICAL STAFF.—

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

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

''(b) PROFESSIONAL STAFF.—

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

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

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

''SEC. 607. SUPPORT SERVICES.

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

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

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

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

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

''SEC. 608. REPORT.

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

''SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

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

''SEC. 610. TERMINATION OF THE BOARD.

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

''TITLE VII—MANAGEMENT REFORM

''SEC. 701. MANAGEMENT REFORM INITIATIVES.

''(a) IN GENERAL.—The Secretary is directed to take actions as necessary to improve the management of the civilian radioactive waste management program to ensure that the program is operated, to the maximum extent practicable, in like manner as a private business. Notwithstanding any other provision of law, the civilian radioactive waste management program is not subject to laws or regulations concerning the civil service as described in this title.

''(b) OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT EMPLOYEES.—

''(1) COMPENSATION.—The Secretary shall, without regard to section 5301 of title 5, United States Code, fix the compensation of the Director and the Deputy Director of Office of Civilian Radioactive Waste Management. The Director shall, without regard to section 5301 of title 5, United States Code, fix the compensation for all other Federal employees assigned to the Office of Civilian Radioactive Waste Management, define their duties, and provide for a system of organization to fix responsibility and promote efficiency. The Deputy Director may be removed at the Director's discretion without regard to any laws, rules, or regulations concerning personnel actions in the Civil Service System or Senior Executive Service. Any other Federal employee assigned to the Office of Civilian Radioactive Waste Management may be removed at the discretion of the Secretary or Director without regard to any laws, rules, or regulations concerning personnel actions in the Civil Service System or Senior Executive Service. The Secretary shall ensure that Federal employees assigned to the Office of Civilian Radioactive Waste Management are appointed, promoted, and assigned on the basis of merit and fitness. Other personnel actions shall be consistent with the principles of fairness and due process specified in title 5 of the United States Code, but without regard to those provisions of said title governing appointments and other personnel actions in the competitive service.

''(2) APPLICATION.—The provisions of paragraph (1) shall not apply to Federal employees who may be, from time to time, temporarily assigned to the Office of Civilian Radioactive Waste Management. The use of temporary assignment of Federal employees to the Office of Civilian Radioactive Waste Management shall not be used in any manner to circumvent the full application of the provisions in paragraph (1).

''(3) TRANSITION.—The Secretary shall transition the Federal employees assigned to the Office of Civilian Radioactive Waste Management to the provisions of this section in an orderly manner allowing for the development of the needed procedures. Under no circumstances shall this transition take longer than 6 months from the date of enactment of this Section.

''(4) RETENTION OF BENEFITS.—Federal employees assigned to the Office of Civilian Radioactive Waste Management and transitioned to the provisions of this section shall retain employment benefits in effect immediately prior to the transition date. Transitioned employees will continue in the Civil Service System's retirement system.

''(c) AUDITS.—

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

''(2) TIME.—The management practices and performances of the Office of Civilian Radioactive Waste Management shall be audited every 5 years by an independent management consulting firm with significant experience in similar audits of private corporation engaged in large nuclear construction projects. The first such audit shall be conducted 5 years after the enactment of the Nuclear Waste Policy Act of 1995.

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

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

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

''(d) VALUE ENGINEERING.—The Secretary shall create a value engineering function within the Office of Civilian Radioactive Waste Management that reports directly to the Director, which shall carry out value engineering functions in accordance with the usual and customary practices of private corporations engaged in large nuclear construction projects.

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

''SEC. 702. REPORTING.

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

''(1) an analysis of the Secretary's progress in meeting its statutory and contractual obligation to accept title to, possession of, and delivery of spent nuclear fuel and high-level radioactive waste beginning no later than November 30, 1999, and in accordance with the emplacement schedule;

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

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

''(4) an analysis by the Secretary of its funding needs for fiscal years 1997 through 2001.

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

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

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

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

LEVIN AMENDMENTS NOS. 4846–4847

(Ordered to lie on the table.)

Mr. LEVIN submitted two amendments intended to be proposed by him to the bill, S. 1936, supra; as follows:

AMENDMENT NO. 4846

On page 19, at the end of line 19, add the following: ''This subsection shall not apply to bar any action seeking declaratory or equitable relief or any other remedy or for a determination of financial liability limited to the total amount of the existing balance of the Nuclear Waste Fund on the date of enactment of the Nuclear Waste Policy Act of 1996, in addition to prospective fee collections and interest, that remain unexpended for storage and disposal activities under the Nuclear Waste Policy Act of 1982 and this Act, in the case of a material failure by the Secretary in meeting the deadlines established by this Act.''.

AMENDMENT NO. 4847

On page 13, strike lines 14 through 19.

INHOFE AMENDMENTS NOS. 4848–4849

(Ordered to lie on the table.)

Mr. INHOFE submitted two amendments intended to be proposed by him to the bill, S. 1936, supra; as follows:

AMENDMENT NO. 4848

At the appropriate place in the bill insert the following new section:

SEC. . LIMITATION ON PARTICIPATION BY MEMBERS OF CONGRESS IN FEDERAL RETIREMENT SYSTEMS.

(a) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—

(1) LIMITATION.—Chapter 84 of title 5, United States Code, is amended by inserting after section 8410 the following:

''§ 8410a. Limitation relating to Members

''(a)(1) This section shall apply with respect to any Member serving as—

''(A) a Member of the House of Representatives after completing 12 years of service as a Member of the House of Representatives; or

''(B) a Senator after completing 12 years of service as a Senator.

''(2) For purposes of this subsection—

''(A) only service performed after the 104th Congress shall be taken into account; and

''(B) service performed while subject to subchapter III of chapter 83 (if any) shall be treated in the same way as if it had been performed while subject to this chapter.

''(b) A Member to whom this section applies remains subject to this chapter, except as follows:

''(1)(A) Deductions under section 8422 shall not be made from any pay for service performed as such a Member.

''(B) Government contributions under section 8423 shall not be made with respect to any such Member.

''(C) Service performed as such a Member shall not be taken into account for purposes of any computation under section 8415.

''(2) Government contributions under section 8432(c) shall not be made with respect to any period of service performed as such a Member.

''(c) Nothing in subsection (b) shall be considered to prevent any period of service from being taken into account for purposes of determining whether any age and service requirements for entitlement to an annuity have been met.

''(d) For purposes of this section, the term 'Member of the House of Representatives' includes a Delegate to the House of Representatives and the Resident Commissioner from Puerto Rico.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 84 of title 5, United States Code, is amended by inserting after the item relating to section 8410 the following:

''8410a. Limitation relating to Members.''.

(b) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) LIMITATION.—Chapter 83 of title 5, United States Code, is amended by inserting after section 8333 the following:

''§ 8333a. Limitation relating to Members

''(a)(1) This section shall apply with respect to any Member serving as—

''(A) a Member of the House of Representatives after completing 12 years of service as a Member of the House of Representatives; or

''(B) a Senator after completing 12 years of service as a Senator.

''(2) For purposes of subsection (a), only service performed after the 104th Congress shall be taken into account.

''(b)(1) A Member to whom this section applies remains subject to this subchapter, except as follows:

''(A) Deductions under the first sentence of section 8334(a) shall not be made from any pay for service performed as such a Member.

''(B) Government contributions under the second sentence of section 8334(a) shall not be made with respect to any such Member.

''(C) Service performed as such a Member shall not be taken into account for purposes of any computation under section 8339, except in the case of a disability annuity.

''(2) Nothing in this subsection shall be considered to prevent any period of service from being taken into account for purposes of determining whether any age and service requirements for entitlement to an annuity have been met.

''(c) Nothing in subsection (b) or (c) of section 8333 shall apply with respect to a Member who, at the time of separation, is a Member to whom this section applies.

''(d) For purposes of this section, the term 'Member of the House of Representatives' includes a delegate to the House of Representatives and the Resident Commissioner from Puerto Rico.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 83 of title 5, United States Code, is amended by inserting after the item relating to section 8333 the following:

''8333a. Limitation relating to Members of the House of Representatives.''.

AMENDMENT NO. 4849

At the appropriate plea, insert:

SEC. . FINDINGS.

The Congress finds that—

(1) over 10,000,000 people in the world are amputees, and each year more than 250,000 people become amputees;

(2) thousands of citizens of the United States depend on the availability of prosthetic devices in order to function fully in contemporary society;

(3) a sizable number of amputees are unable to afford adequate prosthetic care;

(4) used prosthetic devices could be recycled for reuse by amputees in the United States, but, because of the potential liability of providers of those prosthetic devices, the prosthetic devices are shipped to Third World countries;

(5) making recycled prosthetic devices available to economically disadvantaged amputees would enable those amputees to live more comfortably and function fully;

(6) nonprofit organizations would be uniquely suited to provided recycled prosthetic devices to amputees, if they could be enabled to do so in a cost-efficient manner;

(7) in order to enable nonprofit organizations to provide recycled prosthetic devices to amputees in a cost-efficient manner, immediate action is needed to—

(A) limit the liability of nonprofit organizations in serving as providers of recycled prosthetic devices; and

(B) minimize the cost of litigation against those providers by establishing expeditious procedures to dispose of unwarranted actions.

SEC. . DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) CLAIMANT.—

(A) IN GENERAL.—The term ''claimant'' means any person who brings a civil action, or on whose behalf such action is brought, arising from harm allegedly caused directly or indirectly by a recycled prosthetic device.

(B) ACTION BROUGHT ON BEHALF OF AN ESTATE.—With respect to an action arising from harm caused directly or indirectly by a recycled prosthetic device brought on behalf of or through the estate of an individual, such term includes the decedent that is the subject of the action.

(2) HARM.—With respect to harm caused by a recycled prosthetic device, the term ''harm'' includes any physical injury, illness, disease, or death or damage to property caused by that prosthetic device.

(3) NONPROFIT PROVIDER.—The term ''nonprofit provider'' means an organization that is—

(A) described in section 501(c) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of such Code; and

(B) established for the purpose of providing prosthetic devices to economically disadvantaged individuals.

(4) PRACTITIONER.—The term ''practitioner'' means a health care professional associated with, employed by, under contract with, or representing a nonprofit provider who—

(A) is required to be licensed, registered or certified under an applicable Federal or State law (including any applicable regulation) to provide health care services; or

(B) is certified to provide health care pursuant to a program of education, training, and examination by an accredited institution, professional board, or professional organization.

(5) PROSTHETIC DEVICE.—The term ''prosthetic device'' means a mechanical or other apparatus used as an artificial limb for amputees.

(6) RECYCLED PROSTHETIC DEVICE.—The term ''recycled prosthetic device'' means a previously used prosthetic device that—

(A) has been reconditioned for use by a different amputee;

(B) other than as provided under subparagraph (C), has not been materially altered; and

(C) if altered, has been altered only with respect to the socket, frame, or any additional materials used to attach the prosthetic device to the amputee.

SEC. . APPLICABILITY; PREEMPTION.

(a) APPLICABILITY.—Notwithstanding any other provision of law, this Act applies to any civil action brought by a claimant in a Federal or State court against a nonprofit provider or practitioner for harm allegedly caused by a recycled prosthetic device.

(b) PREEMPTION.—

(1) IN GENERAL.—This Act supersedes any State law (including any rule of procedure) applicable to the recovery of damages in an action brought against a nonprofit provider or practitioner for harm caused by a recycled prosthetic device.

(2) OTHER ISSUES.—Any issue that is not covered by this Act shall be governed by applicable Federal or State law.

SEC. . LIMITATION OF LIABILITY OF NONPROFIT PROVIDERS AND PRACTITIONERS.

(a) IN GENERAL.—Except as provided in paragraph (2), a nonprofit provider shall not be liable for harm to a claimant caused by a recycled prosthetic device.

(b) EXCEPTION.—A court shall find a nonprofit provider or practitioner liable for harm caused by a recycled prosthetic device only if the claimant establishes that, the nonprofit provider or practitioner engaged in an intentional wrongdoing (as determined under applicable State law) that was the proximate cause of such harm.

SEC. . PROCEDURES FOR DISMISSAL OF CIVIL ACTIONS AGAINST NONPROFIT PROVIDERS.

In any action that is subject to this Act, a nonprofit provider or practitioner who is a defendant in such action, may, at any time during which a motion to dismiss may be filed under applicable Federal or State law, move to dismiss the action.

PRESSLER AMENDMENTS NOS. 4850–4851

(Ordered to lie on the table.)

Mr. PRESSLER submitted two amendments intended to be proposed by him to the bill, S. 1936, supra; as follows:

AMENDMENT NO. 4850

Beginning on page 24, strike line 8 and all that follows through page 25.

AMENDMENT NO. 4851

Beginning on page 24, strike line 8 and all that follows through page 25, line 11, and insert the following:

''(f) EMPLOYEE PROTECTION.—Any person engaged in the interstate commerce of spent nuclear fuel or high-level radioactive waste under contract to the Secretary pursuant to this Act shall be subject to and comply fully with the employee protection provisions of sections 20109 and 31105 of title 49 United States Code. Qualified persons shall perform the inspection and testing of trains under the provisions of sections 215 and 232, Code of Federal Regulations, and shall be trained pursuant to the standard required by section 203(g).

''(g) TRAINING STANDARD.—No later than 12 months after the date of enactment of the Nuclear Waste Policy Act of 1996, 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 evidence of satisfaction of the applicable training standard before any individual may be employed in the removal or transportation of spent nuclear fuel and high-level radioactive waste.

THE DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1997

SIMON ANENDMENT NO. 4852

Mr. SIMON proposed an amendment to the bill, S. 1894, supra; as follows:

On page 88, between lines 7 and 8, insert the following:

SEC. 8099. (a) REPEAL OF TEMPORARY REQUIREMENT RELATING TO EMPLOYMENT.—Title VII of the Department of Defense Appropriations Act, 1996 (Public Law 104–61; 109 Stat. 650), is amended under the heading ''NATIONAL SECURITY EDUCATION TRUST FUND'' by striking out the proviso.

(b) GENERAL PROGRAM REQUIREMENTS.—Subsection (a)(1) of section 802 of the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102–183; 50 U.S.C. 1902) is amended—

(1) by striking out subparagraph (A) and inserting in lieu thereof the following new subparagraph (A):

''(A) awarding scholarships to undergraduate students who—

''(i) are United States citizens in order to enable such students to study, for at least one academic semester or equivalent term, in foreign countries that are critical countries (as determined under section 803(d)(4)(A) of this title) in those languages and study areas where deficiencies exist (as identified in the assessments undertaken pursuant to section 806(d) of this title); and

''(ii) pursuant to subsection (b)(2)(A) of this section, enter into an agreement to work for, and make their language skills available to, an agency or office of the Federal Government or work in the field of higher education in the area of study for which the scholarship was awarded;''; and

(2) in subparagraph (B)—

(A) in clause (i), by inserting ''relating to the national security interests of the United States'' after ''international fields''; and

(B) in clause (ii)—

(i) by striking out ''subsection (b)(2)'' and inserting in lieu thereof ''subsection (b)(2)(B)''; and

(ii) by striking out ''work for an agency or office of the Federal Government or in'' and inserting in lieu thereof ''work for, and make their language skills available to, an agency or office of the Federal Government or work in''.

(c) SERVICE AGREEMENT.—Subsection (b) of that section is amended—

(1) in the matter preceding paragraph (1), by striking out '', or of scholarships'' and all that follows through ''12 months or more,'' and inserting in lieu thereof ''or any scholarship''.

(2) by striking out paragraph (2) and inserting in lieu thereof the following new paragraph (2):

''(2) will—

''(A) not later than eight years after such recipient's completion of the study for which scholarship assistance was provided under the program, and in accordance with regulations issued by the Secretary—

''(i) work in an agency or office of the Federal Government having national security responsibilities (as determined by the Secretary in consultation with the National Security Education Board) and make available such recipient's foreign language skills to an agency or office of the Federal Government approved by the Secretary (in consultation with the Board), upon the request of the agency or office, for a period specified by the Secretary, which period shall be no longer than the period for which scholarship assistance was provided; or

''(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no position in an agency or office of the Federal Government having national security responsibilities is available, work in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the scholarship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); or

''(B) upon completion of such recipient's education under the program, and in accordance with such regulations—

''(i) work in an agency or office of the Federal Government having national security responsibilities (as so determined) and make available such recipient's foreign language skills to an agency or office of the Federal Government approved by the Secretary (in consultation with the Board), upon the request of the agency or office, for a period specified by the Secretary, which period shall be not less than one and not more than three times the period for which the fellowship assistance was provided; or

''(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no position in an agency or office of the Federal Government having national security responsibilities is available upon the completion of the degree, work in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the fellowship was awarded, for a period specified by the Secretary, which period shall be established in accordance with clause (i); and''.

(d) EVALUATION OF PROGRESS IN LANGUAGE SKILLS.—Such section 802 is further amended by—

(1) redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

''(c) EVALUATION OF PROGRESS IN LANGUAGE SKILLS.—The Secretary shall, through the National Security Education Program office, administer a test of the foreign language skills of each recipient of a scholarship or fellowship under this title before the commencement of the study or education for which the scholarship or fellowship is awarded and after the completion of such study or education. The purpose of the tests is to evaluate the progress made by recipients of scholarships and fellowships in developing foreign language skills as a result of assistance under this title.''.

(e) FUNCTIONS OF THE NATIONAL SECURITY EDUCATION BOARD.—Section 803(d) of that Act (50 U.S.C. 1903(d)) is amended—

(1) in paragraph (1), by inserting '', including an order of priority in such awards that favors individuals expressing an interest in national security issues or pursuing a career in an agency or office of the Federal Government having national security responsibilities'' before the period;

(2) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by striking out ''Make recommendations'' and inserting in lieu thereof ''After taking into account the annual analyses of trends in language, international, and area studies under section 806(b)(1), make recommendations'';

(B) in subparagraph (A), by inserting ''and countries which are of importance to the national security interests of the United States'' after ''are studying''; and

(C) in subparagraph (B), by inserting ''relating to the national security interests of the United States'' after ''of this title'';

(3) by redesignating paragraph (5) as paragraph (7); and