



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, SECOND SESSION

Vol. 142

WASHINGTON, WEDNESDAY, JULY 31, 1996

No. 115

Senate

The Senate met at 9 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Holy Lord God, we admit that we often try to live our lives within the narrow, limited dimensions of our own wisdom and strength. As a result, we order our lives around our own abilities and skills and miss the adventure of life You have prepared for us. We confess to You all the things we do not attempt; the courageous deeds we contemplate but are afraid we cannot do, the gracious thoughts we do not express; the forgiveness we feel, but do not communicate. Forgive us, Lord, for settling for a life which is a mere shadow of what You have prepared for us, forgetting that You are able to do in and through us what we could never do by ourselves.

Plant in us the vivid picture of what You are able to do with lives like ours, and give us the gift of new excitement about living life by Your triumphant power in the name of our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able Senator from Idaho is recognized.

SCHEDULE

Mr. CRAIG. Mr. President, this morning the Senate will immediately turn to the consideration of S. 1936, the Nuclear Waste Policy Act. The bill will be considered under a previous unanimous-consent agreement that limits the bill to eight first-degree amendments with 1 hour of debate equally divided on each. Following disposition of that bill, the Senate will resume consideration of the transportation appropriations bill which will also be consid-

ered under an agreement limiting first-degree amendments to that bill. Following disposition of those bills, the Senate may also be asked to turn to consideration of the VA-HUD appropriations bill. Therefore, Senators can expect a full legislative day with roll-call votes expected throughout the day and into the evening in order to complete action on the bills just mentioned or any other items cleared for action.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

NUCLEAR WASTE POLICY ACT OF 1996

The PRESIDING OFFICER (Mr. INHOFE). The Chair lays before the Senate S. 1936, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1936) to amend the Nuclear Waste Policy Act of 1982.

The Senate resumed consideration of the bill.

AMENDMENT NO. 5055

Mr. MURKOWSKI. Mr. President, I call up amendment No. 5055 which is at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 5055.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. MURKOWSKI. Mr. President, this amendment will solve a pressing

environmental problem, a major environmental problem in our Nation, a problem that is looming as a liability to the taxpayers, and this will end an era of irresponsible delay.

This major environmental issue is simple to understand. That is, do we want 80 nuclear waste dumps in 41 States serving 110 commercial reactors and defense sites across the country—near our neighbors, our schools and populated cities? Or do we want just one in the remote, unpopulated Nevada desert where we tested and exploded nuclear weapons for decades?

Mr. President, I am going to yield some time on the amendment to the distinguished Senator from South Carolina, the Senate President pro tempore, Senator THURMOND, without losing my right to the floor.

Mr. THURMOND. I thank the able Senator from Alaska.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise today in strong support of S. 1936, the Nuclear Waste Policy Act of 1996. In 1982, Congress passed the Nuclear Waste Policy Act, which directed the Department of Energy to develop a permanent repository for highly radioactive waste from nuclear powerplants and defense facilities. This act was amended in 1987 to limit DOE's repository development activities to a single site at Yucca Mountain, NV. Since 1983, electric consumers have been taxed almost \$12 billion to finance the development of a permanent storage site. Despite DOE's obligation to take title to spent nuclear fuel in 1998, a permanent repository at Yucca Mountain will not be ready to accept this waste until the year 2010, at the earliest.

Mr. President, a July 16, 1996, Washington Post editorial states that the nuclear waste storage situation is not

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



Printed on recycled paper.

S9209

yet a fully urgent problem. I believe that it is a fully urgent problem. Currently, nuclear waste is stored in 41 States at facilities that were never intended for long-term storage. At least 23 nuclear reactors are nearing full storage capacity for their spent fuel. According to a Washington Post article from December 31, 1995, every day, 6 more tons of high-level radioactive waste pile up at the Nation's 109 nuclear powerplants, a total of some 30,000 tons of spent fuel rods so far. If it were all shaped into midsize cars, it would fill every parking space at the Pentagon—twice over—with material that will be dangerous for centuries. And there's nowhere for it to go.

On July 23, 1996, the U.S. Court of Appeals for the District of Columbia Circuit correctly ruled that DOE must begin disposing of this waste by 1998. Unless we designate an appropriate storage site soon, DOE will be unable to safely fulfill this obligation. Without a central interim site, DOE may be forced to use existing DOE facilities that are unsuitable for waste storage. Or, if DOE continues to evade its obligation to store waste by 1998, facility operators may then have to expand on-site storage at an additional cost to ratepayers. Powerplants may have to close down, adversely affecting the reliability of electric services and depleting funding for the Federal disposal program. Because DOE will fail to provide an appropriate facility for this waste on time, we must designate a temporary central storage site immediately. Anything less would be irresponsible and dangerous to the environment.

The most logical location for an interim site is Yucca Mountain. Transportation of spent nuclear fuel is a delicate undertaking, so it is sensible to locate an interim facility as near to the likely permanent facility as is possible. We have already spent 13 years and \$6 billion to find a permanent repository site and conduct development activities at Yucca Mountain. Designating a central interim storage facility and continuing to develop a permanent repository at Yucca Mountain is our most reasonable course of action.

S. 1936 provides a safe, efficient, and responsible means for reaching this objective. I would like to commend Senator CRAIG and Senator MURKOWSKI for their excellent work on this bill, and I urge my colleagues to vote in favor of final passage.

Mr. President, I yield the floor. Again, I thank the Senator from Alaska.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair and I thank my good friend and colleague for his support in addressing once and for all the issue of high-level nuclear waste in this country.

Mr. President, I think it is significant to reflect that at last we have in

our extended debate with our good friends from Nevada basically broken the filibuster on this issue. Today the Senate is going to have the chance to debate the issue and reach conclusions. We are demonstrating, I think, that we do have the courage to address this difficult problem, recognizing that it is one of the major environmental issues before the U.S. Senate.

Two weeks ago Senator CRAIG, Senator JOHNSTON, and I stood on this floor and said the Government had an obligation to take this spent fuel. Of course, some disagreed with us. Some argued that the Government had no such obligation. But a curious thing happened last week. A Federal appeals court unanimously ruled the Government does, indeed, have an obligation to take the spent fuel; as a matter of fact, a statutory obligation.

Mr. President, this is a landmark decision, because it makes it imperative for us to pass this bill today. The situation has radically changed since our last vote.

I appeal to my colleagues, if you did not vote with us last time, there is a good reason to vote with us today. That reason is very simple: The court unanimously ruled that the Government does have an obligation to take the spent fuel. Again, Mr. President, that is a statutory obligation. The courts have confirmed our contention that the Federal Government has the obligation to take spent commercial fuel.

Failure to pass this bill and build an interim repository means the Government will have to take the fuel and put it somewhere else, or simply pay the damages. The court has not specified the amount of the damages yet because, technically, the Government has not yet broken its promise. But the damages could run into the billions of dollars if the Government reneges on its obligation. If we do not build an interim repository in Nevada, the Government might have to store the fuel at other Federal facilities around the Nation.

The interesting thing about this problem, Mr. President, you simply cannot just throw spent fuel up in the air and defer the decision about where to store it. It has to come down somewhere. It has to be stored somewhere. Perhaps it will be the naval fuel storage facility in Connecticut, or maybe Rocky Flats or Fort St. Vrain in Colorado, or maybe the Pinellas plant in Florida, or maybe in Ohio, Portsmouth, Mound or Fernald, or maybe West Valley in New York, or perhaps Paducah in Kentucky, or perhaps it will be in Hanford on the Columbia River, which flows through Oregon and Washington.

Therefore, Senators, I appeal to you, those from Connecticut, Colorado, Florida, Ohio, New York, Kentucky, Oregon, those who did not vote with us for cloture on the motion to proceed, you might want to reexamine your position in light of the recent court deci-

sion, which simply states the Federal Government has to take it. The court has said the Government must take the spent fuel. As I have said, it has to go somewhere. If you are saying no to Nevada, you may be saying yes to your own State. You are certainly saying yes to someplace else.

Last night I received a letter from Secretary of Energy O'Leary that criticizes Senate bill 1936 because it provides for the Department of Energy to begin accepting waste in 1999 and not 1998. I repeat, Mr. President, last night we did receive a letter from the Secretary criticizing Senate bill 1936 because it provides for the DOE to begin accepting waste in 1999, not 1998. This criticism is almost humorous in light of the fact that the current administration would not provide for the acceptance of waste at a central facility until the year 2010 at the earliest. Even under the most optimistic scenario, the Department of Energy would be in breach of its contract for 12 years.

Further, the letter is inconsistent on its face because it then proceeds to criticize Senate bill 1936 for providing unrealistic schedules. It seems the administration believes our bill would provide an interim storage facility both too late or perhaps too soon.

Senate bill 1936 provides a valid, realistic plan for the construction of a safe, centralized interim storage facility. I have personally sent over four letters to the President over the last 18 months asking for his plan if he opposed any legislation pending before this body. I have received only support for the status quo.

Again, I repeat, if you were not with us before, you have reason to be with us today. The court's decision has made it clear that the status quo is not an acceptable option.

Now, Mr. President, I make a few comments for the benefit of those Senators who did not vote with us 2 weeks ago. That is, very realistically, the ratepayers in your State are getting ripped off. They paid for something, and they are not getting anything in return. Instead of saving more for their children's college fund or saving for their dream home, consumers paid into the nuclear waste fund through their individual electric bill. They paid somewhere in the neighborhood of almost \$12 billion. They have paid this money with the expectation that the Government would live up to their part of the bargain and remove the waste as it promised. But the Government simply has not performed. The waste is still there. It is near the homes, near the schools, it is near the neighborhoods. The opponents of this legislation are working to keep the status quo, and to keep the waste where it is.

I want to again run down the list of States where those Senators did not vote with us, or at least one of the Senators did, and repeat how much the consumers of those States have spent for the nuclear waste fund. The State of Arkansas has contributed \$266 million into that fund, and they receive 33

percent of their electric power from nuclear energy; California, \$645 million has been paid by the ratepayers, they receive 26 percent of their electricity from nuclear power; Connecticut, \$429 million paid in, and they receive 73 percent of their power from nuclear energy.

It is rather interesting, as well, because I was reminded by my friend from Idaho that we build various submarines in Connecticut; after they are decommissioned they are cut up, and various parts of the reactors go to Hanford, where they are buried, and the fuel goes to Idaho, where they are currently stored. The point is, Mr. President, we all have an interest in this issue of what to do with nuclear waste.

Florida, \$557 million from ratepayers, for receiving 18 percent on nuclear energy; Massachusetts, \$319 million paid by the ratepayers, 14 percent dependent on nuclear energy; Maryland, \$257 million, 24 percent of their power is nuclear; New York, \$734 million ratepayers in New York have paid into the fund and they are 28 percent dependent on nuclear energy; Ohio, \$253 million has been paid in, 7 percent dependent on nuclear energy; Wisconsin, \$336 million paid by the ratepayer, 23 percent of their energy comes from nuclear.

There are other States with no nuclear plants that, nevertheless, depend on nuclear power from neighboring States, and they have also paid into that fund. Those States are: Delaware, \$29 million; Indiana, \$288 million; Iowa, \$192 million; Kentucky, \$81 million; New Mexico, \$32 million; North Dakota, \$11 million; Rhode Island, \$8 million. Mr. President, that adds up to a total of \$4.537 billion. That is a lot of money to throw away without results. That is not our money, Mr. President; that was money collected from Americans to deal with nuclear waste.

Do we really want to tell consumers from those States that after allowing this money to be taken from their electric bills, we are not going to use that money to solve the nuclear waste problem? Do we want to tell consumers that we are going to make them pay, once again, for additional waste storage at reactor sites, or that we will expose them and all taxpayers to tremendous liabilities arising out of the court cases I mentioned earlier? The extent of these liabilities are very difficult to estimate, but we know they are going to be high.

There are yet other reasons to join us in supporting this amendment, and I appeal to my colleagues. After the 65-to-34 cloture vote on the motion to proceed to Senate bill 1936 2 weeks ago, we received many constructive suggestions for improving the bill.

Amendment No. 5055 would replace the text of Senate bill 1936 with new language and incorporate these changes. The most important of the changes are as follows:

A role for the EPA. The amendment provides that the Environmental Protection Agency shall issue standards

for the protection of the public from releases of radioactive materials from a permanent nuclear waste repository. The Nuclear Regulatory Commission is required to base its licensing determination on whether the repository can be operated in accordance with EPA's radiation protection standards.

Another issue was transportation routing. The amendment includes the language of an amendment that was filed by Senator MOSELEY-BRAUN, which provides for further assurance of the safe transportation of these materials by requiring the Secretary of Energy to use routes that minimize, to the maximum practical extent, transportation through populated and sensitive environmental areas.

Elimination of civil service exemption. As requested by Senator GLENN, the amendment strikes the provisions in title VII that would have exempted the nuclear waste program from civil service laws and regulations.

Elimination of train inspection limitation. The amendment includes language provided by Senator PRESSLER that strikes any reference to who shall perform inspections of trains. This is to address concerns that the language in Senate bill 1936 would change existing law with regard to train inspections.

Clarify scope of the Department of Transportation training standards. The amendment clarifies that the Nuclear Regulatory Commission has primary authority for the training of workers in nuclear-related activities. However, the Department of Transportation is authorized to promulgate worker safety training standards for removal and transportation of spent fuel if it finds that there are gaps in the NRC regulations.

Next, Mr. President, is elimination of permanent disposal research provisions. This amendment eliminates the section requiring the Department of Energy to establish an office to study new technologies for the disposal of nuclear waste.

Elimination of budget priorities. This amendment eliminates a section providing that the Secretary must prioritize funds appropriated to the nuclear waste program to the construction of the interim storage facility. This provision, obviously, is no longer needed in light of DOE's reevaluation of its budget requirements for the program.

Elimination of direct reference to Chalk Mountain route. The amendment eliminates the reference to the map outlining the heavy haul route through Nellis Air Force Base. The amendment simply provides that the DOE must use heavy haul to transport casks from the intermodal transfer facility at Caliente, NV, and does not specify any particular route.

Remove failure to finalize viability assessment as a trigger for raising size of phase 2. Senate bill 1936 provides that phase 2 of the interim storage facility will be no larger than the 40,000

metric tons of spent fuel, but provides a series of triggers that will allow the Department of Energy to expand the facility to 60,000 metric tons.

The amendment eliminates DOE's failure to complete a viability assessment of the permanent repository in 1998 as a trigger, making the first trigger the license application for the permanent repository in the year 2002.

Limitation and clarification of "preliminary decisionmaking" language. The amendment clarifies that the preclicensing construction activities authorized by 203(e)(1) are the only construction activities that will be considered to be "preliminary decisionmaking" activities.

Further, the amendment corrects this section by indicating that the use of the existing E-Mad facility at the interim storage site for emergency fuel handling in phase 1 is considered to be a preliminary decisionmaking activity. Senate bill 1936 mistakenly refers to use of facilities use authorized another section, which was the entire interim storage facility.

Mr. President, we believe these changes, in addition to those already made in Senate bill 1936, provide additional assurance that the construction and the operation of an integrated management system will be carried out with the utmost sensitivity to environmental and safety concerns.

However, Senate bill 1936 will still allow the Department of Energy to resolve this urgent environmental problem by meeting its obligation to store and dispose of spent fuel and nuclear waste in a timely manner.

Obviously, I urge my colleagues to consider the merits of this amendment and support final passage of Senate bill 1936.

Mr. JOHNSTON. Mr. President, I understand that there may be some ambiguity in the unanimous-consent request and that it may give 4 hours to the distinguished Senator from Alaska and 4 hours to the less distinguished Senator from Louisiana. I think that would really be a good way to do it, but, unfortunately, my friends from Nevada are insistent that they be granted equal time.

So I ask unanimous consent that, to the extent there is ambiguity, the Senator from Alaska have his 4 hours, and the other 4 hours be under the control of the distinguished senior Senator from Nevada.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I believe it would be appropriate to defer to our colleagues from Nevada at this time.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 7 minutes 36 seconds.

Mr. MURKOWSKI. I am sure that my friend from Louisiana, as well as Senator CRAIG, would like to be heard from. But I think we should perhaps go to the other side at this time.

The PRESIDING OFFICER. The Senator from Nevada, [Mr. REID] is recognized.

Mr. REID. Will the Chair advise the Senator from Nevada when he has used 10 minutes?

The PRESIDING OFFICER. Yes.

Mr. REID. Mr. President, the substitute is nothing more than a regurgitation of S. 1936. It changes absolutely nothing. It is just a rearranging of words. That is all it is. There are no constructive suggestions. It answers none of the questions that have been propounded by a number of Senators on this issue.

There has been the term used that the ratepayers are being ripped off. Mr. President, the only rip-off occurring to the taxpayers of this country would be if this travesty, S. 1936, is allowed to pass.

The substitute offered by my friend from Alaska does not address any of the substantive problems regarding the underlying legislation. This is still bad legislation, unnecessary legislation, and still very dangerous legislation. This is effectively at least the third substitute for the original bill, S. 1271. We went from S. 1271 to S. 1936 to the chairman's substitute, and now to this substitute amendment. They are all the same. There are no changes. Changing the number of the legislation will not help the substantive aspect of this legislation.

As each of the earlier versions were shown to be seriously flawed, a cosmetic substitute was offered. This amendment contains that same failed strategy—change the number and talk about the great changes in the bill. A loose examination—not a close examination—a loose examination indicates that there are literally no changes. None of these substitutes have addressed the fundamental flaws of the proposed legislation.

This version, as well as the previous one, tramples on our environment, our safety, and our health laws. There has been nothing done to answer why this legislation is necessary. It is not. There has been nothing to indicate why the risk standard is 400 percent higher than any other risk standard. There is nothing to answer why we preempt Federal law. There is nothing to answer how you are going to handle the difficult transportation problems. There is nothing to answer the most—and it is so interesting that there is never a word from the proponents of this legislation about the report to Congress from the Secretary of Energy that was filed this year by the Nuclear Waste Technical Review Board where they said, "Is there urgent technical need for centralized storage of commercial spent fuel?" And the answer is clearly no. The board "sees no compelling technical or safety reason to move spent fuel to a centralized storage facility. The methods now used to store spent fuel at reactor sites are safe and will remain safe for decades to come."

There has never been a response to this except legislate them out of busi-

ness. That is what this legislation does. If you do not agree with the proponents of the powerful nuclear lobby, then legislate them out of business. That is what they have done here.

It is also quite interesting that they have done nothing to address the results of a court case last year. They come and talk about a spin. They should sign on to one of the Presidential campaigns. The court case does not help their case. The court case settles the contractual dispute between Michigan-Indiana Power and the Department of Energy. We will talk about that later.

But in the briefs filed by the power utilities they did not even seek to relieve these people who gave the decision. There is nothing wrong with the decision. We have an amendment that is going to incorporate the results of that opinion into this legislation—but anything to confuse and to get the ideas of the powerful nuclear lobby in the eyes of the public with full-page ads in newspapers all over the country. Who pays for that?

Mr. President, I think that we should recognize that every environmental group in America—not those that are to the left nor those to the right—every environmental group in America is opposed to this legislation; is opposed to this amendment.

Public Citizen yesterday came out because it was a letter sent to Senators by the other side saying we should pass this nuclear waste bill because EPA's authority has been restored. Wrong again—false advertising. And it explains why.

Another group, National Resources Defense Council:

On behalf of the quarter million members of the National Resources Defense Council, I am writing you to urge you to oppose 1936 and the amendment. It would curtail a broad range of environmental health and safety laws. It would quadruple allowable radiation standards for waste storage. It would exacerbate the risk of transportation of nuclear waste throughout the country. Please vote no on 1936.

Before turning this over to my colleague from Nevada, Mr. President, I want to refer to part of a letter that was sent to all Senators last week. Here is part of the language from it.

S. 1936 is a bill only a polluter could love. The measure attacks the Environmental Protection Agency, curtails Federal environmental regulations, preempts State laws . . .

And I should have a little editorial "exempts Federal laws.

. . . and sets a repository standard that allows four times the radiation exposure of current regulations. Oppose S. 1936.

That says it all.

I yield to my colleague from Nevada. I reserve the remainder of my time.

Mr. MURKOWSKI. Mr. President, I yield 6 minutes to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 6 minutes.

Mr. JOHNSTON. I thank my colleague.

Mr. President, this may be the last bill that I will floor manage as a U.S. Senator. It happens to be on a subject matter that it has fallen my lot to deal with for some 20 years now—dealing with nuclear waste. It is a lot that has fallen to me because of jurisdictions on the committees of which I have been involved.

I have not enjoyed being in opposition to my friends from Nevada who have done an absolutely marvelous job with an absolutely bankrupt case in my view which means that the people of Nevada to the extent they agree with their Nevada Senators ought to be greatly appreciative of the excellent job they have done, as I say, with a weak case. When I say a weak case, Mr. President, the amazing thing to me is that Nevada can be so opposed to having a nuclear waste site when at the same time they have been so anxious to have a nuclear test site for exploding nuclear bombs because with nuclear bombs all they did was dig a hole and shoot the bombs underground—some even as low as the water table—hundreds of these nuclear tests that involved all of the radioactivity materials that are present in nuclear waste: Thorium, cesium 137, strontium 90, plutonium—all of these daughter elements of a nuclear explosion, the same thing as you have in nuclear wastes. Nevada was not only willing to have these nuclear tests but anxious to have the nuclear tests.

As chairman of the Energy and Water Appropriations Subcommittee I sit shoulder to shoulder with my friends from Nevada, the Senators from Nevada, in seeking more nuclear tests. My motive was that I thought we ought to have reliability and safety in our nuclear arsenal and, therefore, a few years ago I proposed that. My friends from Nevada argued the same thing and also argued the economy of Nevada in seeking additional tests.

Mr. President, when you have these explosions which leave a cavity in the ground with all of these—cesium, strontium, et cetera—in the cavity, it is not sealed over by a waste package. We hope and we believe that these waste packages may be good for 10,000 years, even if they were thrown somewhere where they had exposure to the water. We think that the waste package itself is going to be sufficient. And, moreover, in Yucca Mountain the waste packages will be buried some 200 meters above the water table. So it is many times better, if you are concerned about the contamination of the ground and the water, it is many times better to have a nuclear waste site such as Yucca Mountain than it is to have a test site.

That is common sense—absolutely common sense—because, on the one hand, you have the explosion, some in the water table, and hundreds of these explosions. On the other hand, you have a Yucca Mountain which is 200 meters that is more than 600 feet above the water table in one of the driest places on the face of the Earth.

So we start with that, Mr. President. That is why I say my colleagues from Nevada have an exceedingly weak case.

On the question of the pending amendment, to say that it eviscerates the role of EPA is just not correct. We set the standard at 100 millirems which is the same standard that you have for the International Commission on Radiological Protection, the National Council on Radiation Protection and Measurements, the United States Nuclear Regulatory Commission, the Environmental Protection Agency, and the International Atomic Energy Agency. That is where we get the 100 millirems.

What we say is, if EPA believes that poses an unreasonable risk to health and safety, we give to EPA the right, the duty, and the mandate to set it at such level as they think will protect health and safety.

So, Mr. President, that argument simply does not hold water.

Moreover, I would say, Mr. President, that, again to compare it to the nuclear test site, it is exceedingly more safe than the nuclear test site.

We have upwards of 40,000 metric tons of nuclear waste in some 70 sites around the country. If we do not put away this waste in an interim storage facility, then it will take, according to testimony before the Energy and Natural Resources Committee, some \$5 billion to build what we call dry cask storage, which, according to the Court of Appeals of the District of Columbia in a decision just last week, is the responsibility of the Federal Government. So what we are dealing with on this interim storage facility is a \$5 billion bill to the United States of America.

We are told in letters from the administration that if we build this interim storage facility, we may have to move the waste twice.

Not so, Mr. President. The present legislation on which we will vote very clearly states that you may not begin construction on the interim facility until and unless the repository, that is, the underground facility, is declared to be suitable, or I think the word is viable, which is a defined word in the legislation. So that not until 1998, when the nuclear waste administrator says he can and will make that decision, may you begin construction on the interim facility. So by that time we will know whether or not this is a suitable facility for the repository.

Why do we say pick the facility now and begin construction? Simply because we have about 2½ or 3 years of what we call long-lead-time items which are necessary before you begin construction—such things as the environmental impact statement, the design, picking the routes of transportation. Those things can and should be done at this point so as to save the billions of dollars that are involved.

We urge Senators to vote for the pending amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MURKOWSKI. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MURKOWSKI. Mr. President, recognizing there is time on the other side, I anticipate a vote on the pending amendment at the conclusion of the Senators from Nevada speaking on this amendment, because I think our time has just about expired.

How much time do we have?

The PRESIDING OFFICER. The Senator is correct. Time has expired.

Mr. MURKOWSKI. I thank the Chair. So all Senators should be advised that will be—I guess the Senators from Nevada can give us a better idea, but I would imagine 15 or 20 minutes.

Mr. BRYAN. May I inquire of the Chair as to how much time remains?

The PRESIDING OFFICER. The Senators from Nevada have 24 minutes remaining.

Mr. BRYAN. I thank the Chair.

Mr. President, let me just make a couple of preliminary observations.

Our good friend, the distinguished senior Senator from South Carolina, rose this morning to express his strong support for this legislation. I say with great affection and great respect that the irony of his position could not have been more acute. In this morning's *Energy Daily*, we read that the State of South Carolina, the State that he has so ably represented and defended since 1954, has filed suit against the Department of Energy because they are concerned about safety standards as it relates to the shipment of foreign nuclear fuel into the State of South Carolina.

I guess I would have to repeat, Mr. President, an old expression that I think would be understood down home: "What's sauce for the goose ought to be sauce for the gander." I respect and greatly admire the Senator's concern about the health and safety of his own State. I just wish he shared that same perspective in terms of the health and safety of the entire Nation, because that is one of the principal objections we have to this piece of legislation.

Let me in the time that I have try to address the issues that were so fundamental to the debate in S. 1936, because, as my senior colleague has pointed out, with respect to the core issues nothing has changed. There has been some language that has been massaged, but nothing has been changed.

Let me take my colleagues for a great leap through the bill itself. We have expressed strong opposition, not on behalf of Nevada but on behalf of the Nation, to a piece of legislation that would effectively emasculate major pieces of the environmental legislation that affects all Americans. The National Environmental Policy Act provides the framework for making major policy decisions that affect the environment, and nobody denies that

the legislation before us, the siting of an interim storage facility, has profound implications in terms of its impact.

So here is what we have in the act itself under section 204. OK, first of all, and I paraphrase, it says, "The National Environmental Policy Act shall apply." That is like saying the Constitution and the Bill of Rights shall apply. And then it goes on to say that such environmental impact statements shall not consider the need for interim storage, the time of the initial availability of interim storage, any alternatives to the storage, any alternatives to design criteria, the environmental impacts of the storage beyond the initial term.

We are talking about something that lasts tens of thousands of years, and they are talking about something that would be limited to the initial term of the license, which is a matter of years.

Then they go on to deprive the court of jurisdiction to review the environmental impact statement as it is being developed, and then goes on to say, in what is the height of arrogance—our colleagues have railed against the costs that have been incurred over the years in seeking a solution to the disposition of high-level nuclear waste. Much of those costs have been incurred as a result of unrealistic time lines generated by the zeal of the nuclear utility industry in America. The storage of interim waste has been for more than 30 years their Holy Grail. That is what they want, and the only reason we are having this debate today is because the nuclear utilities want interim storage. But the irony and the ultimate travesty that I refer to is, after talking about the environmental policy act, it goes on to say none of the activities carried out pursuant to this paragraph shall delay or otherwise affect the development or construction, licensing or operation.

So, yes, the Constitution and the Bill of Rights by way of analogy would apply, but the amendments that all of us rely upon for our protection, by way of analogy, would not apply here.

So far as the contention has been made that there has been an effort to address environmental concerns, that is simply false. And I will not take the time at this point, but we will discuss it in more detail.

The letter sent by the Administrator of the Environmental Protection Agency makes a very compelling argument. So for the purposes of this act, we, in effect, wipe out the National Environmental Policy Act.

Let me go on and talk about the standards because we have talked a good bit about that.

The standards that we are concerned about are the radioactive exposure standards. Nowhere in the world, for no other project on the face of the Earth is a radiation standard—if I could get that chart—no other place in the world do we have a radiation standard that proposes 100 millirems from a single source. No place.

The EPA safe drinking water standard is 4; the WIPP standard is 15. Let me refresh my colleague's memory. In this Congress, this year, our distinguished colleague from New Mexico got up, and properly so, expressed concern about EPA's ability to establish standards for the WIPP facility, the repository for transuranic waste.

The National Academy of Sciences has recommended between 10 and 30 millirems of exposure. What do we have in Nevada? Mr. President, 100 millirems. That is just simply unconscionable. That is simply unconscionable.

Oh, yes, they say, the EPA is brought back into the process. Not as one would expect it. That is the standard unless they are able to disprove that 100 millirems would have no adverse impact on health and safety, another concern raised by the EPA, which makes no equivocation at all about the fact that that presents a public health risk. Every Member in this body, whatever his or her view is on an interim storage facility, should be concerned as Americans about what is being done with respect to this provision.

Moreover, the EPA is restricted and the NRC is restricted in terms of how to apply the standards. We will talk a little bit more about that during the course of this debate. The National Academy of Sciences has indicated, as one example, that there are health and safety concerns for 10,000 years and beyond. The statute we are being asked to consider in this very amendment would limit the ability to consider this only to the first 1,000 years. That is not the most critical time. It is after 1,000 years that the canisters are supposed to fail and then it migrates into the underground repository itself.

I could go on and on. We have talked about the preemption. Make no mistake, I say to my colleagues, this amendment in effect preempts the environmental laws of America, all of these provisions here. I will not take time to read all of them because we are under some time constraints on this amendment. Look at them: Federal Land Policy Act, RCRA, clean air, clean water, Superfund. None of those apply if they are in conflict with the provisions of this act, none. This is simply an outrage, whatever one's view is about transporting nuclear waste across the country, and much more will be said about that later.

The fiscal impact of this has been discussed. I want to comment briefly on this. It has been clear since the very beginning of the Nuclear Waste Policy Act of 1982, that the fundamental premise of that act, as contained in all the provisions, indicates the first and primary responsibility from a financial point of view will be the utilities' themselves. That is the first and foremost responsibility. This amendment very cleverly changes that.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 14 minutes remaining.

Mr. BRYAN. It very cleverly changes that. Remember the premise in the 1982 Nuclear Policy Act itself was the responsibility will be that of the utilities, in terms of the financial responsibility. Repeatedly—over and over again.

The responsibility goes far beyond the initial licensing period. We are talking about something that lasts for tens of thousands of years. But this is why this is the nuclear industry bailout or relief act. What they have done is limited the liability of the utility by saying, until 2002, the maximum amount that can be contributed into the nuclear waste fund, a fund that is generated by a 1 mill levy on each kilowatt hour of energy generated, will be 1 mill.

The people who have looked at that, the General Accounting Office and others, have concluded that the fund currently is underfunded between \$4 and \$8 billion. It gets better. After the year 2002, the utilities' liability is further limited to the amount of the annual appropriation. So there is nothing that is being done with respect to the long-term implications of this piece of legislation, in terms of the storage of nuclear wastes.

Let me be clear that by the year 2033, for the utilities, nuclear utilities that are currently licensed, those licensing periods expire. What this means is that the American taxpayer, people who have never received 1 kilowatt of nuclear-generated power, will pick up the balance. Let me be clear on that. Historically, since the establishment of the Nuclear Waste Policy Act, it has been the financial responsibility of the utilities to handle the storage, the financial responsibility. This now changes dramatically and there are limitations—the 1 mill limitation and, after the year 2002, only the amount that is appropriated. This year, for example, that would have been roughly one-third of a mill. The balance all shifts to the taxpayer. So, you talk about an unfunded mandate on the American taxpayer, this is it.

Let me respond briefly to a couple of comments that were made, and I know our time will conclude. First of all, our friend from Louisiana makes the point that Nevada has hosted the Nevada test site and nuclear detonations have occurred there for many years. I hope none of us is going to be penalized because Nevada, as part of the national defense effort beginning during the height of the cold war in the 1950's, agreed to accept the Nevada test site. That was part of our national defense effort and Nevadans assumed that responsibility, and proudly so.

Now, with respect to the amount of radioactivity generated, all the tests conducted out there would amount to less than 1 ton. That would be the cumulative impact of all of that radioactivity. What we are talking about—

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. BRYAN. Yes.

Mr. JOHNSTON. You are speaking of the radioactivity released to the air at this point, are you not?

Mr. BRYAN. No. We are referring to the total volume of radioactivity, underground as well.

Mr. JOHNSTON. It amounts to how much?

Mr. BRYAN. One ton.

Mr. JOHNSTON. One ton?

Mr. BRYAN. Yes.

The point I am trying to make is, by way of comparison, we are talking about tens of thousands of metric tons, so the degree of risk is immeasurably greater as a result.

Let me turn next to the question of the lawsuit. Much has been made of the lawsuit. The lawsuit changes absolutely nothing, as my colleague pointed out. In point of fact, what the lawsuit said is there is an obligation on the part of the Department of Energy, and we look to the provisions of the contract to determine how that liability will be ascertained. At no time—and I emphasize—at no time was it contended by the utilities that there would be a need to commence some type of transportation on February 1, 1988. In point of fact, in the briefs, the legal briefs filed by the utilities, they make it very clear that they do not assert that there should be a mandatory injunction requiring the transfer of anything, or the movement of anything on January 31, 1998. What they say, and our amendment that we will offer later indicates that, is that becomes a matter of contract adjudication, depending upon the nature of the delay. I believe it is fair to point out the Secretary of Energy makes that point in her letter, that the lawsuit changes nothing. It is a smokescreen. The utilities did not seek nor does the lawsuit decision require the transport of anything on January 31, 1988. At most it would require an adjustment of the fees paid by utilities into the nuclear waste fund, to the extent that they incur additional costs to expand that storage.

I might say, parenthetically, the Senators from Nevada have introduced legislation to that effect for the last 7 years. So the lawsuit means absolutely nothing.

It is plain the ratepayers are not getting what they paid for. Let me say that certainly is not the fault of the citizens of Nevada. Frankly, it is the fault of the way the nuclear utilities themselves have constantly tried to jam unrealistic deadlines, to make politics rather than science the determiner of this program. The original program suggested we should search the country, find the best site, send three sites, after they have been studied, to the President of the United States, and have the President make the determination. That did not occur. Politics—politics intervened, nuclear politics. The folks in the Northeast, and understandably, said we do not want granite in the study, so they were taken out of the equation.

The folks in the Southeast, I can understand, said, "My gosh, we don't want salt domes." So what happened in 1987—and no scientist worthy of the description of scientist would ever contend that from a scientific point of view, forcing all of the study to occur at a single site is the best from a scientific perspective, and the fact they have encountered technical problems dealing with health and safety certainly is not the fault of Nevadans.

Frankly, the decision to embark upon nuclear energy carried with it certain risks for the utilities, and part of that risk is the financial responsibility of dealing with the waste.

So I simply say to my colleagues that none of the provisions that relate to the heart and core of our concerns—the National Environmental Policy Act, the preemption provisions, the standards or the fiscal impact for the American taxpayers—not a single provision in this new amendment changes the impact from the debate that we had in S. 1936, and none of my colleagues should be misled as a result.

May I inquire as to how much time I have left?

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator has 5 minutes 53 seconds.

Mr. BRYAN. I reserve the remainder of my time.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada, [Mr. REID], is recognized.

Mr. REID. Mr. President, there has been a suggestion by my friend, the senior Senator from Louisiana, that this is a bankrupt case, the defense of S. 1936, the opposition to S. 1936. Mr. President, the exact opposite is true. For example, the opposition to S. 1936 is supported by the President of the United States. He has done it vocally and in writing. The case is supported by the Secretary of Energy. There is a letter that will be entered into the RECORD where she vehemently disagrees with not only the underlying legislation but the amendment. No one can ever think that the Secretary of Energy would do anything to assist this Senator from Nevada. This Senator and the Secretary of Energy have been in a longstanding dispute over various issues, but her letter is direct and to the point that not only is the legislation bad, but the amendment is bad.

The Environmental Protection Agency Administrator sent a letter that is succinct, to the point, that outlines why the legislation is bad and why the amendment is bad.

The Council for Environmental Quality opposes this legislation. The Nuclear Waste Technical Review Board is opposed to what they are trying to do, and, as we talked about before, all environmental organizations.

Mr. President, let me say that the only case for S. 1936 is a powerful nuclear industry. They are the only supporters of this legislation.

The Senators from Nevada have indicated that we would not require a rollcall vote on this amendment. We have been told that the advocates of this amendment want a vote on it. I can only speak for this Senator, but this amendment does not help anything. I say to all my colleagues, it does not help anything in the underlying legislation, and it does not hurt it. It is just as bad after you adopt it as before.

My colleagues can go ahead and vote for this if they want. It makes absolutely no difference, because the ultimate test of this legislation will come on final passage when we will determine whether or not the President of the United States is going to have to oppose this legislation by veto and whether the request, the pleas by the President, the Secretary of Energy, the Vice President of the United States, the Environmental Protection Agency, the Council for Environmental Quality, the Nuclear Waste Technical Review Board and all environmental organizations are going to land on deaf ears.

I reserve the remainder of our time on this amendment.

The PRESIDING OFFICER. The Senators from Nevada still have 2 minutes 56 seconds. Who yields time?

Mr. REID. I reserve the 2 minutes 56 seconds to the underlying bill.

Parliamentary inquiry, Mr. President. Can we reserve the time on the other amendments on the bill itself?

The PRESIDING OFFICER. The Chair will state to the Senator the time will continue to roll unless the Senator seeks unanimous consent to stop the time.

Mr. REID. Mr. President, I ask unanimous consent that all time be no longer counted against the opponents of this amendment and that, if there is going to be a rollcall, we have it.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. That is fine. We would like a rollcall vote. I have asked for the yeas and nays.

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

The question is on agreeing to amendment No. 5055. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Hampshire [Mr. GREGG] is necessarily absent.

Mr. FORD. I announce that the Senator from Ohio [Mr. GLENN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 86, nays 12, as follows:

[Rollcall Vote No. 256 Leg.]

YEAS—86

Abraham	Bradley	Campbell
Akaka	Breaux	Chafee
Ashcroft	Brown	Coats
Bennett	Bumpers	Cochran
Bingaman	Burns	Cohen
Bond	Byrd	Coverdell

Craig	Hollings	Murkowski
D'Amato	Hutchison	Murray
DeWine	Inhofe	Nickles
Dodd	Inouye	Nunn
Domenici	Jeffords	Pressler
Dorgan	Johnston	Robb
Exon	Kassebaum	Roth
Faircloth	Kempthorne	Santorum
Feingold	Kennedy	Sarbanes
Feinstein	Kerrey	Shelby
Ford	Kerry	Simon
Frahm	Kohl	Simpson
Frist	Kyl	Smith
Gorton	Lautenberg	Snowe
Graham	Leahy	Specter
Gramm	Levin	Stevens
Grams	Lott	Thomas
Grassley	Lugar	Thompson
Harkin	Mack	Thurmond
Hatch	McCain	Warner
Hatfield	McConnell	Wellstone
Heflin	Mikulski	Wyden
Helms	Moseley-Braun	

NAYS—12

Baucus	Conrad	Pell
Biden	Daschle	Pryor
Boxer	Lieberman	Reid
Bryan	Moynihan	Rockefeller

NOT VOTING—2

Glenn
Gregg

The amendment (No. 5055) was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that there be a quorum call, which I am going to suggest, and that the time not run against either the proponents or the opponents of this legislation.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. Mr. President, I object. I ask that the time run equally.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LOTT. Mr. President, I commend the Senators who are working on this very important legislation. They have been doing an excellent job. I have the impression they are going to make good progress today. I thank, again, the Nevada Senators for their reasonableness in a very difficult situation.

The sooner we can finish this legislation, the better, so that we can move on to very important issues that are pending, such as the transportation appropriations and the VA/HUD appropriations bill. Conference reports are beginning to come back now.

I thank the Democratic leader for his cooperation in bringing this issue to this point.