granted are now shut off, and it makes dealing with all of this much, much more difficult. I suppose electricity is the thing that most of us almost always take for granted every day. I have talked to several North Dakotans in the last hours, and they reiterate that it is something we take for granted, but the loss of electricity, especially in the circumstance in North Dakota, with record low temperatures this morning, dating back to the 1890's, has been a very difficult circumstance for families struggling to keep warm and struggling to confront these elements.

So, Mr. President, Senator CONRAD, myself, and Senator WELLSTONE, who spoke earlier, and others, intend to go to North Dakota with the senior Federal team, either tomorrow or Friday, and do everything we possibly can to try to bring some help to some folks who are now trying to help themselves dig out and prepare for floods. We hope that when all of this is done—and it is going to be some while—that the record will show that everybody rushed to the folks in this region who have been hurt, the North Dakotans and South Dakotans and Minnesotans, and everybody did everything humanly possible to make life better, and extended a helping hand to try to get them through these challenges.

Mr. President, I yield the floor and suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

## NUCLEAR WASTE POLICY ACT AMENDMENTS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 104, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 104) to amend the Nuclear Waste Policy Act of 1982.

The Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 104

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* 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 1997'.

''(b) TABLE OF CONTENTS.—



**"SEC. 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 1997, 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,' mean 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 byproduct material as defined in section 11e. (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 terms '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 terms 'Nuclear Waste Fund' and 'waste fund' mean 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 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 1997 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 practices.

''(e) PRIVATE SECTOR PARTICIPATION.—In administering the Integrated 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) PREEXISTING 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 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 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 1997, 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 the City of Caliente and 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 the City of Caliente and 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 1 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 the City of Caliente and Lincoln County are 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 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 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 consistent with Federal requirements governing transportation of hazardous materials, transportation of spent nuclear fuel and high-level radioactive waste through populated 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 that 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.

**[**''(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.**]**

***'SEC. 202. TRANSPORTATION PLANNING.***

*''(a) TRANSPORTATION READINESS.—The Secretary—*

*''(1) shall take such actions as are necessary and appropriate to ensure that the Secretary is able to transport safely spent nuclear fuel and high-level radioactive waste from sites designated by the contract holders to mainline transportation facilities and from the mainline transportation facilities to the interim storage facility or repository, using routes that minimize, to the maximum practicable extent consistent with Federal requirements governing transportation of hazardous materials, transportation of spent nuclear fuel and high-level radioactive waste through populated areas, beginning not later than November 30, 1999; and*

*''(2) not later than November 30, 1999, shall, in consultation with the Secretary of Transportation and affected States and tribes, develop and implement a comprehensive management plan that ensures that 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 that date.*

*''(b) TRANSPORTATION PLANNING.—*

*''(1) IN GENERAL.—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 not later than November 30, 1999.*

*''(2) MATTERS TO BE ADDRESSED.—Among other things, planning under paragraph (1) shall provide a schedule and process for addressing and implementing, as necessary—*

*''(A) transportation routing plans;*

*''(B) transportation contracting plans;*

*''(C) transportation training in accordance with section 203;*

*''(D) public education regarding transportation of spent nuclear fuel and high level radioactive waste; and*

*''(E) transportation tracking programs.*

*''(c) SHIPPING CAMPAIGN TRANSPORTATION PLANS.—*

*''(1) IN GENERAL.—The Secretary shall develop a transportation plan for the implementation of each shipping campaign (as that term is defined by the Secretary) from each site at which high-level nuclear waste is stored, in accordance with the requirements stated in Department of Energy Order No. 460.2 and the Program Manager's Guide.*

*''(2) REQUIREMENTS.—A shipping campaign transportation plan shall—*

*''(A) be fully integrated with State, and tribal government notification, inspection, and emergency response plans along the preferred shipping route or State-designated alternative route identified under subsection (d); and*

*''(B) be consistent with the principles and procedures developed for the safe transportation of transuranic waste to the Waste Isolation Pilot Plant (unless the Secretary demonstrates that a specific principle or procedure is inconsistent with a provision of this Act).*

*''(d) SAFE SHIPPING ROUTES AND MODES.—*

*''(1) IN GENERAL.—The Secretary shall evaluate the relative safety of the proposed shipping routes and shipping modes from each shipping origin to the interim storage facility or repository compared with the safety of alternative modes and routes.*

*''(2) CONSIDERATIONS.—The evaluation under paragraph (1) shall be conducted in a manner consistent with regulations promulgated by the Secretary of Transportation under authority of chapter 51 of title 49, United States Code, and the Nuclear Regulatory Commission under authority of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), as applicable.*

*''(3) DESIGNATION OF PREFERRED SHIPPING ROUTE AND MODE.—Following the evaluation under paragraph (1), the Secretary shall designate preferred shipping routes and modes from each civilian nuclear power reactor and Department of Energy facility that stores spent nuclear fuel or other high-level defense waste.*

*''(4) SELECTION OF PRIMARY SHIPPING ROUTE.—If the Secretary designates more than 1 preferred route under paragraph (3), the Secretary shall select a primary route after considering, at a minimum, historical accident rates, population, significant hazards, shipping time, shipping distance, and mitigating measures such as limits on the speed of shipments.*

*''(5) USE OF PRIMARY SHIPPING ROUTE AND MODE.—Except in cases of emergency, for all shipments conducted under this Act, the Secretary shall cause the primary shipping route and mode or State-designated alternative route under chapter 51 of title 49, United States Code, to be used. If a route is designated as a primary route for any reactor or Department of Energy facility, the Secretary may use that route to transport spent nuclear fuel or high-level radioactive waste from any other reactor or Department of Energy facility.*

*''(6) TRAINING AND TECHNICAL ASSISTANCE.—Following selection of the primary shipping routes, or State-designated alternative routes, the Secretary shall focus training and technical assistance under section 203(c) on those routes.*

*''(7) PREFERRED RAIL ROUTES.—*

*''(A) REGULATION.—Not later than 1 year after the date of enactment of the Nuclear Waste Policy Act of 1997, the Secretary of Transportation, pursuant to authority under other provisions of law, shall promulgate a regulation establishing procedures for the selection of preferred routes for the transportation of spent nuclear fuel and nuclear waste by rail.*

*''(B) INTERIM PROVISION.—During the period beginning on the date of enactment of the Nuclear Waste Policy Act of 1997 and ending on the date of issuance of a final regulation under subparagraph (A), rail transportation of spent nuclear fuel and high-level radioactive waste shall be conducted in accordance with regulatory requirements in effect on that date and with this section.*

***''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 tribal governments prior to transportation of spent nuclear fuel or high-level radioactive waste under this Act.*

*''(c) TECHNICAL ASSISTANCE.—*

*''(1) IN GENERAL.—*

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

*''(B) EMPLOYEE ORGANIZATIONS.—The Secretary shall provide technical assistance and funds for training directly to nonprofit employee organizations and joint labor-management organizations that demonstrate experience in implementing and operating worker health and safety training and education programs and demonstrate the ability to reach and involve in training programs target populations of workers who are or will be directly engaged in the transportation of spent nuclear fuel and high-level radioactive waste, or emergency response or post-emergency response with respect to such transportation.*

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

*''(i) shall cover procedures required for safe routine transportation of materials and procedures for dealing with emergency response situations;*

*''(ii) shall be consistent with any training standards established by the Secretary of Transportation under subsection (g); and*

*''(iii) shall include—*

*''(I) a training program applicable to persons responsible for responding to emergency situations occurring during the removal and transportation of spent nuclear fuel and high-level radioactive waste;*

*''(II) instruction of public safety officers in procedures for the command and control of the response to any incident involving the waste; and*

*''(III) instruction of radiological protection and emergency medical personnel in procedures for responding to an incident involving spent nuclear fuel or high-level radioactive waste being transported.*

*''(2) NO SHIPMENTS IF NO TRAINING.—(A) There will be no shipments of spent nuclear fuel and high-level radioactive waste through the jurisdiction of any State or the reservation lands of any Indian tribe eligible for grants under paragraph (3)(B) unless technical assistance and funds to implement procedures for safe routine transportation and for dealing with emergency response situations under paragraph (1)(A) have been available to a State or Indian tribe for at least 2 years prior to any shipment: Provided, however, That the Secretary may ship spent nuclear fuel and high-level radioactive waste if technical assistance or funds have not been made available due to (1) an emergency, including the sudden and unforeseen closure of a highway or rail line or the sudden and unforeseen need to remove spent fuel from a reactor because of an accident, or (2) the refusal to accept technical assistance by a State or Indian tribe, or (3) fraudulent actions which violate Federal law governing the expenditure of Federal funds.*

*''(B) In the event the Secretary is required to transport spent fuel or high level radioactive waste through a jurisdiction prior to 2 years after the provision of technical assistance or funds to such jurisdiction, the Secretary shall, prior to such shipment, hold meetings in each State and Indian reservation through which the shipping route passes in order to present initial shipment plans and receive comments. Department of Energy personnel trained in emergency response shall escort each shipment. Funds and all Department of Energy training resources shall be made available to States and Indian tribes along the shipping route no later than three months prior to the commencement of shipments: Provided, however, That in no event shall such shipments exceed 1,000 metric tons per year, And provided further, That no such shipments shall be conducted more than four years after the effective date of the Nuclear Waste Policy Act of 1997.*

*''(3) GRANTS.—*

*''(A) IN GENERAL.—To implement this section, grants shall be made under section 401(c)(2).*

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

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

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

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

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

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

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

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

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

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

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

*''(4) AVAILABILITY OF FUNDS FOR SHIPMENTS.—Funds under paragraph (1) shall be*

*provided for shipments to an interim storage facility or repository, regardless of whether the interim storage facility or repository is operated by a private entity or by the Department of Energy.*

''(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] *1997*, 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.

''(g) TRAINING STANDARD.—(1) No later than 12 months after the date of enactment of the Nuclear Waste Policy Act of 1997, the Secretary of Transportation, pursuant to authority under other provisions of law, in consultation with the Secretary of Labor and the Commission, shall promulgate a regulation establishing training standards applicable to workers directly involved in the removal and transportation of spent nuclear fuel and high-level radioactive waste. The regulation shall specify minimum training standards applicable to workers, including managerial personnel. The regulation shall require that the employer possess evidence of satisfaction of the applicable training standard before any individual may be employed in the removal and transportation of spent nuclear fuel and high-level radioactive waste.

''(2) 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 offsite 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 and transportation 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 repository 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 subparagraph (B), the President shall designate a site for the construction of an interim storage facility. *The President shall not designate the Hanford Nuclear Reservation in the State of Washington as a site for 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 1997, 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 1997, 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 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 1997 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 1997 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] *in each year in which the actual emplacement rate is greater than* 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 1997, as set forth in the Secretary's annual capacity report dated March 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] *actual* 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 1997;

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

''(C) spent nuclear fuel, including spent nuclear fuel from naval reactors, and high-level radioactive waste from atomic energy defense activities*: Provided, however, That the Secretary shall accept not less than 5 percent of the total quantity of spent fuel accepted in any one year from the categories of radioactive materials described in subparagraphs (B) and (C).*

''(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 of a facility under paragraph (e)(1) of this section, and facility use pursuant to paragraph (e)(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 1997, the Commission shall, by rule, establish criteria for the storage in the interim storage facility of fuel and waste listed in subsection (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 1997. Following establishment of such criteria, the Secretary shall seek authority, as necessary, to store fuel and waste listed in subsection (e)(3) (A) through (C) at the interim storage facility. None of the activities carried out pursuant to this subsection 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 1997, 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 furthers 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.—The Administrator of the Environmental Protection Agency shall, pursuant to authority under others provisions of law, issue generally applicable standards for the protection of the public from releases of radioactive materials or radioactivity from the repository. Such standards shall be consistent with the overall system performance standard established by this subsection unless the Administrator determines by rule that the overall system performance standard would constitute an unreasonable risk to health and safety. 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), and the Administrator's radiation protection standards. 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 1997, 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.

**''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 governmental 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 rights, 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 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 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 subsection (a) 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.

''(3) CONSTRUCTION.—The maps and legal descriptions of special conveyances referred to in subsection (b) shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

''(4) 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 1997, 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] *2003*, 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] *2003*, 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 kilowatt-hour 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 kilowatt-hour 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 1997 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 1997 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 1997, 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 1997; 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 1997, 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 subsections (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) ESTABLISHMENT.—There hereby is established within the Department of Energy an Office of Civilian Radioactive Waste Management. The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(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 1 year from the date of enactment of the Nuclear Waste Policy Act of 1997, 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).

## ''TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

**''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.

**"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 subsection (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 1997, 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. 510. 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 1997, shall continue in effect subsequent to the date of enactment of the Nuclear Waste Policy Act of 1997.

''(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.]

*''The Board shall evaluate the technical and scientific validity of activities undertaken by the Secretary after December 22, 1987, including—*

*''(1) site characterization activities; and*

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

**"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 12 working days per calendar year.]

''(b) PRODUCTION OF DOCUMENTS.—

''(1) RESPONSE TO INQUIRIES.—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 records, 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) may include drafts of products and documentation of work in progress.]

*''(2) AVAILABILITY OF DRAFTS.—Subject to existing law, information obtainable under paragraph (1) shall not be limited to final work products of the Secretary, but shall 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 and the Librarian of Congress 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.**]**

*''Notwithstanding section 401(d), and subject to section 401(e), there are authorized to be appropriated for expenditures from amounts in the Nuclear Waste Fund under section 401(c) 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.

''(b) 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 corporations 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 1997.

**[**''(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)**]** *(3)* 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)**]** *(4)* 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.

''(e) 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 Waste 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 acceptance schedule;

''(2) a detailed schedule and timeline showing each action that the Secretary intends to take to meet the Secretary's obligations 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 annual 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.''

**''SEC. 703. EFFECTIVE DATE.**

This Act shall become effective one day after enactment.''.

Mr. MURKOWSKI. Mr. President, this begins our third day of debate on S. 104, the nuclear waste repository legislation, which has been introduced by myself and Senator CRAIG and a number of other cosponsors. This may not be a very exciting topic, Mr. President, but it is an important issue and it is an important responsibility for this body.

What we have is a situation where, as the charts will show, at some 80 sites in 41 States this waste has been accumulating. The Federal Government agreed in 1982 to accept this waste by 1998. Well, 1998 is next year. Now, the site that has been suggested as being the best for the waste is out in the Nevada desert at the Nevada test site.

Again, to refresh the memories of my colleagues, this is what the site looks like. It was used for over 50 years for more than 800 nuclear weapons tests. It is probably one of the more remote areas in the United States, but it is unique inasmuch as it has been a selected test site.

Now, why this site? That is a legitimate question, and I know my colleagues from Nevada are very concerned about it being designated in their State. I am sympathetic to that. But the reality is that it has to be put somewhere, Mr. President. In the debate yesterday, my colleagues from Nevada claimed that during the development of our nuclear program, it was necessary to do our patriotic duty to designate an area out in the Nevada desert, and you might say their State was used for that purpose as a contribution to the effort to fight and win the cold war.

I think it is fair to say, and the statement was made yesterday, that Congress chose that area to be studied for nuclear waste disposal for political reasons. Well, I don't know whether that is correct or not. It had to be somewhere. But Nevada is where we conducted nuclear tests, and where there is radioactivity from those tests. But

in the debate yesterday, the Senators from Nevada indicated there was no rational, technical, or scientific reason for placing a spent fuel storage facility in Nevada. Well, I don't know any other place in the country where we tested 800 nuclear bombs.

Now, it's also important to note that the Department of Energy spent over a billion dollars studying other potential sites before narrowing the list to three sites, including Yucca Mountain. Congress settled on Yucca Mountain in 1987. It indicated that it had a unique geology, and it tied in the reality that the Nevada test site had been used to explode nuclear weapons for 50 years. In other words, it said that from a geological point of view, it meets our expectations. Secondly, it is an area that has been used, and, therefore, it should be sufficient for this type of permanent repository.

As we look at this test site, we should recognize that the last weapon was exploded underground there in 1991. Underground tests are still being performed with nuclear materials being exploded with conventional explosives, as I understand it, from time to time—all with the wholehearted support, I might add, of the Nevada delegation. In fact, not too long ago, one of the Nevada Senators supported storing spent fuel at the site.

I have a copy of a resolution that reappeared, from the Nevada assembly; it's joint resolution No. 15. That is a copy of the resolution, Mr. President, dated February 26, 1975. I am not going to read the whole resolution, but I think it is important to recognize this:

Whereas, the people of southern Nevada have confidence in the safety record of the Nevada test site and in the ability of the staff to site and to maintain safety in handling of nuclear materials.

And, also:

Whereas, nuclear waste disposal can be carried out at the Nevada test site with minimal capital investment relative to other locations.

That is from the copy of the resolution that we have on the chart behind me.

Therefore, be it resolved by the assembly and the State of Nevada jointly that the legislature of the State of Nevada strongly urges the Energy Research and Development Administration to choose the Nevada test site for the disposal of nuclear waste.

Now, Mr. President, that was indicative of the attitude prevailing on February 26, 1975. The resolution was passed. It passed the Nevada Senate by a 12–6 vote, aided by the vote of one of our colleagues here in the Senate from Nevada, and it was signed by the Governor of Nevada, Mike O'Callaghan.

Well, I ask, Mr. President, what has changed? That test site hasn't changed. It is still there. It still has a trained work force, still has an infrastructure for dealing with nuclear materials. The geology of the site certainly hasn't changed. Obviously, at least one of the Nevada Senators thought it was the best place to store nuclear waste in 1975, or he would not have supported this resolution. In my opinion, when you are all through with going through the areas in the rest of the States, it is still the best place.

Where are we today? Well, we are still on our way—business as usual around the Senate, putting off decisions. We began this debate in the 104th Congress with the consideration of S. 1271. The Nevada Senators objected saying that the bill would gut environmental laws, allow unsafe transportation, and endanger the health and safety of Americans. We had objections from the administration saying that we were choosing Nevada as the site prior to the determination that the Yucca Mountain site would be viable as a permanent repository.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

COMMITTEE AMENDMENTS EN BLOC

Mr. MURKOWSKI. Mr. President, I ask unanimous consent the committee amendments as presented be agreed to en bloc.

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

The committee amendments were agreed to en bloc.

AMENDMENT NO. 26

(Purpose: To provide milestones and requirements that allow thorough analysis and public participation and decisions based on sound science)

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] PROPOSES AN AMENDMENT NUMBERED 26.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that 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, I believe that the Senator from South Carolina wishes to offer an amendment at this time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 27

(Purpose: To provide that the Savannah River Site and Barnwell County, South Carolina shall not be available for construction of an interim storage facility)

Mr. THURMOND. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for himself and Mr. HOLLINGS, proposes an amendment numbered 27.

On page 28, line 16, after ''Washington'' insert the following: '', and the Savannah River Site and Barnwell County in the State of South Carolina,''.

Mr. HOLLINGS. Mr. President, I rise today in support of the amendment offered by myself and the senior Senator from South Carolina, Senator THURMOND.

We all know the score, the chairman of the Energy and Natural Resources Committee has outlined the state of our nuclear waste policy and we are aware of the need to move this bill forward.

Currently, DOE is contractually bound to begin receiving spent commercial nuclear fuel in 1998. Under the 1982 Nuclear Policy Act, DOE was directed to identify, construct, and operate an underground repository to dispose of the Nation's commercial nuclear fuel.

Identifying such a site proved difficult, so in 1987 Congress intervened and directed DOE to study or characterize only one site, Yucca Mountain, NV. Since 1987 DOE has been studying the Yucca Mountain site to determine if it is a suitable site for the permanent repository. This characterization was to be completed and, if the site was suitable, a permanent facility was to be constructed by 1998.

I don't need to point out how far this process has fallen behind. If it was on schedule then we would not be debating this bill today. It is now 1997, and DOE has not finished its site characterization work. In fact they tell me that, if there is no further delay and the site checks out, then the permanent repository will not be ready until 2010 at the earliest.

Obviously that causes a problem since last year a Federal court held that DOE does have an obligation to dispose of the waste by the 1998 deadline. So where does the waste go in 1998? Well, to Senator MURKOWSKI's credit, he is trying to answer that question. That solution is to construct a temporary storage facility at the Yucca Mountain if the site is suitable for the permanent repository.

The Senator from Alaska has tried to accommodate a bunch of competing interests, and, hoping to avoid a veto by the White House, he has provided a means by which the President can identify an alternative site if the Yucca Mountain site is deemed unsuitable. It is this provision, allowing the President to designate an alternative temporary storage site, that brings me

here today. My friends from Oregon, Senators WYDEN and SMITH, both of whom are on the Energy Committee, offered a provision at markup to ensure that the DOE's Hanford Site be excluded as a possible alternative temporary storage site.

As many of my colleagues know, the DOE's Savannah River Site is located in my State, and I am here today to explain why, like the Hanford Site, it is not a suitable site for a temporary facility. After my colleagues hear SRS's disadvantages, they will agree. SRS is not the place for this spent fuel.

The amendment before us simply codifies that position. It simply states that the Savannah River Site and Barnwell County South Carolina, like Hanford, cannot be identified by the President as an alternative temporary storage site.

I am not going to spend time arguing why Yucca Mountain is the best site for this facility. The chairman of the Energy Committee has done a fine job of that. What I will do is tell you why SRS is not the site.

SRS is a 198,000-acre reservation located in South Carolina and abutting Georgia. It is 12 miles southwest of Augusta, GA, and 10 miles south of Aiken, SC. This is a highly populated area which has been and continues to grow rapidly. I have heard people argue that the Savannah River Site is some rural out-of-the-way place. Well, that is just not the case. The population within a 50-mile radius of SRS numbers about 615,000. This obviously encompasses all of Aiken, SC, and Augusta, GA, whose combined population is more that 400,000 people, plus a number of smaller communities that are too numerous to mention.

What is more astounding is that the population living within a 100-mile radius of the site numbers 2.6 million people. This includes a number of larger cities including the capital of South Carolina, Columbia, Charleston, SC, Hilton Head, SC, Savannah GA, and Augusta, GA. In fact, there are private homes located on private lands located within 200 feet of the site.

To say this is a far and out-of-the-way place is just not the case. Putting additional nuclear waste in such a highly populated area is crazy.

In addition, as I understand the scientists, their most constant fear is that nuclear material is exposed to water and leaches into surface or subsurface waters and that this water carries the contamination off-site. Therefore it is critical that this nuclear material be kept dry and away from the corrosive effects of water.

Well, for anyone who has visited the Savannah River site, or, for that matter the lowcountry of South Carolina, they know that in reality it is all wetlands or as some say, a swamp. In fact, the Savannah River site is literally surrounded by water. There are extensive water resources on, under, and adjacent to the site.

The Savannah River, which marks the border of the States of South Carolina and Georgia also marks the 20-mile western boundary of the site and six major streams flow through the site and into the river.

It is this river, the Savannah, which supplies drinking water for Beaufort and Jasper Counties in South Carolina and the town of Port Wentworth, GA. In addition, it runs directly through the city of Savannah, GA, downstream and supports an active commercial and sport fishing industry.

Studies indicate that portions of the site are within the 100-year flood plain, and although this information is not available, I would not be surprised to find that the entire site is within the 500-year flood plain.

Under the surface there are several aquifer systems. The largest of which is the Cretaceous or Tuscoloosa Aquifer. It is a huge aquifer stretching all across the Southeast. In general, the groundwater on the site flows into one of the numerous streams or swamps on the site and then flows into the Savannah River which is, as I mentioned earlier, the source of drinking water for numerous cities and towns downstream.

The water not making its way to the river is absorbed into the ground and eventually makes it to the groundwater. The level of this groundwater, like its flow, varies but in some places it is literally within inches of the surface. The rate of flow for this groundwater varies with areas where it travels as fast as several hundred meters a year. So it is not hard to imagine a scenario, and we have had cases, where nuclear contaminants have reached the groundwater and quickly moved off site.

It is interesting to note, but not surprising, that virtually every county in South Carolina and Georgia has some number of households getting their drinking water directly from these subsurface aquifers. In fact, over 50 percent of the households in two counties that abut the site draw their drinking water from wells.

Obviously, with the abundant wetlands, rivers, streams, and, an abundance of precipitation, averaging over 44 inches per year, the Savannah River site is not the place for this spent fuel—if you want to keep it dry.

There are numerous other reasons to eliminate the Savannah River site from consideration. Not the least of which is that South Carolina and the Savannah River site are already doing their share to safely store nuclear waste. In fact, foreign research reactor fuel shipped from all over the world passes right by my front door as it is being shipped to Charleston and then up to the Savannah River site. In addition, the site is constantly receiving waste from the nation's nuclear defense facilities and domestic research reactors. We have all the waste we can handle.

Trust me, I have visited the site repeatedly over my career, and I am aware of the cleanup job we face down there. We have spent years getting a waste processing facility up and running, and we are just now really beginning to clean up the 33 million gallons of liquid high-level nuclear waste on site. That does not include all the other forms of waste: low-level, transuranic, and hazardous. To add more waste to a site which has its hands full cleaning up the mess caused by 40 years of nuclear weapons production is not the solution.

It is clear given the dense population of the area and its geography that it is not the best site for any waste. Our goal should be to ensure that the Savannah River site is cleaned up and that its waste is stabilized and moved off-site. The site is not suitable to receive additional waste. This amendment simply ensures that the Savannah River site is not overrun with waste and that it continues without interruption the cleanup and stabilization of its existing contamination.

I urge my colleagues to adopt the amendment. I yield the floor.

Mr. President, I urge adoption of the amendment.

Mr. REID addressed the Chair.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Nevada.

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

The PRESIDING OFFICER. The assistant legislative clerk proceeded to call the roll.

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

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

(The remarks of Mr. BAUCUS pertaining to the introduction of S. 532 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

Mr. BINGAMAN. Madam President, I ask unanimous consent that I be allowed to speak for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from New Mexico is recognized.

(The remarks of Mr. BINGAMAN pertaining to the introduction of S. 532 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Madam President, I yield the floor and suggest absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. FAIRCLOTH). Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that I may be allowed to speak for up to 20 minutes, followed by Senator REID and Senator BRYAN for up to 10 minutes each, and further, that debate only be in order at this time.

Mr. REID addressed the Chair.

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

Mr. REID. Mr. President, reserving the right to object, if I understand the unanimous consent request, the manager of the bill will speak for 20 minutes, the Senators from Nevada will speak for 10 minutes each, and there will be no further debate on this bill tonight. Is that correct?

Mr. MURKOWSKI. It wasn't my intent necessarily to eliminate debate from any other Senator who may come down. I have no objection if that is the proposal from the other side.

Mr. REID. I want no further debate tonight.

Mr. MURKOWSKI. Then I would agree. If we may withhold that for a moment, let me check with the Cloakroom. I want to make sure we don't have anyone else.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I advise my colleagues from Nevada that I agree to their alteration to the agreement which would limit debate to 20 minutes on this side and 10 minutes each, with the understanding that there be no further debate at this time.

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

Mr. MURKOWSKI. I thank the Chair.

Mr. President, we began this debate with the consideration of Senate bill 1271. The Senators from Nevada, of course, objected, saying the bill would gut environmental laws, saying it would allow unsafe transportation and endanger the health and safety of Americans.

We had objections from the administration. They opposed choosing Nevada as the interim site prior to a determination that Yucca Mountain would be viable as a permanent repository. To address these concerns and others, we have attempted to adjust our bill. We began with Senate bill 1271, then a new bill, Senate bill 1936, and again with an amendment in the form of a committee substitute to Senate bill 1936. With each new version of the bill, we attempted to strengthen the public health and environmental safeguards as well as meet the criteria of Members who were concerned about these items.

First, in an effort to address the administration's concerns, we made it clear that no construction of an interim facility would take place at the Nevada test site until Yucca Mountain was determined to be technically viable as a permanent repository. So let me make that clear. No construction would be initiated without the viability being determined.

We have extended the time period in order to accommodate the reality that nothing moves very fast when you are addressing nuclear waste.

With respect to concerns over radiation protection standards, we began with a 100-millirem standard which could not be reviewed by any Federal agency. The bill before us today allows the EPA to issue a stricter standard if it determines one is necessary. So we have tightened up on the radiation standards.

With respect to the NEPA requirements, our latest version requires the Department of Energy and the NRC to fulfill the requirements of NEPA in conjunction with the operation of both an interim storage facility and a repository. Our first bill did not contain that requirement. So, again, we tightened it up with regard to NEPA requirements.

With respect to concern about transportation safety, we have accepted transportation language offered by Senator MOSELEY-BRAUN of Illinois, Senator WYDEN, and others.

With respect to the preemption of other laws, we proposed language consistent with the preemption authority found in the existing Hazardous Material Transportation Act. Indeed, I think we have made substantial changes in the bill. What is before us today is far different than what we originally introduced as Senate bill 1271 in the 104th Congress.

Despite all of the changes we have made, the opponents of this bill continue to object to the bill as if no changes were made. We have heard it referred to as ''Mobile Chernobyl,'' ''emasculating NEPA laws'' and ''running roughshod over all environmental laws.''

The emotional rhetoric that has been used fails to recognize the changes we have made in this bill and the charges that we have refuted.

The suggestion has been made that the transportation is unsafe. We have shown how we have safely been moving fuel around for many years. I have some charts behind me to show that. Not only have we moved fuel, but fuel has been moved overseas.

Here is a chart showing specifically fuel what is coming to the United States from other countries: Australia; it is coming from Turkey, Iran, Pakistan, and Canada. How does it get here? It moves. It is transported. And it is transported safely. The French, the Japanese, and the Swedes are moving spent nuclear fuel. Spent nuclear fuel is coming from Japan, going to France for reprocessing, being taken back to Japan, and being put back in the reactors. They have what they call reprocessing. They don't bury their waste. They put it back in the reactors and burn it. It combats proliferation. I am not here to argue the merits of that. I am simply showing that this waste does move, and it moves in transportation casks.

We have heard it argued that transportation casks are unsafe. But we have shown that the transportation casks can withstand significant exposure to crashes, and can survive fires. We have shown the casks have been tested by a locomotive hitting them at the 90 miles an hour, or crash into a brick wall at 80 miles per hour, submerged in water, and bathed in fire. These casks are safe, and they are designed to survive any type of real world accident. We have the technology to do that.

I also want to show a chart relative to the movement of waste throughout the United States, which I think is significant inasmuch as it reflects on the reality that we move a tremendous amount of waste throughout the United States.

But here we are. In the years 1979 to 1995, there were 2,400 shipments across the United States through every State except Florida and South Dakota. I don't know how we missed those. But there are the transportation routes. So we have moved them safely. We have shown that our national labs have certified that the casks can survive any real world crash.

We have heard statements that radiation protection standards are unsafe. We have shown how our standard is more protective than the current EPA guidance that allows five times as much. We allow EPA to tighten the standards further, if need be.

It has been said on the other side that the Nuclear Waste Technical Review Board says there is no compelling technical or safety reasons to move fuel through a central location.

We have shown that a more complete reading of the Technical Review Board's testimony—and their report—indicates there is a need for interim storage, and there is a need for Yucca if Yucca is determined to be a suitable site for the permanent repository.

The other side has indicated we can delay this action until August 1998, at a time when a viability determination is made with respect to Yucca.

We have shown that delay is what has gotten us into this situation in the first place.

There is a court case which has already determined that the Federal Government is liable because of its delays and its inability to accept the waste.

Eight months from now, when the Government is in breech of contract,

then the courts are going to consider the damage that we face.

We as legislators have a responsibility to protect the taxpayers. With each delay, the damage is going to mount. With each delay, the liability to the taxpayer will mount. With each delay, there will be a pressure to yield to even further delays. The call for delay is really a siren's song. It is a trap. It is an excuse for no action.

Only yesterday I heard our ranking member, Senator BUMPERS, suggesting that we could wait until August 1998 to deal with this problem. Well, it might sound reasonable at first. It has been so long now. But let's give it a little more thought.

Will Congress deal with the nuclear waste issue in an election year with time running out in the 105th Congress? I think not. Will my friends from Nevada forego their rights to filibuster the bill at that time? I think not. As a practical matter, delay until August 1998 will slip to 1999. And, if we are waiting until 1999, why not allow the decision to wait for the license applications in 2001 or 2002? All the while we will be in violation of our contractual commitment. We will be increasing the damages. If we delay until 2001 or 2002, then why not delay until final licensing of a permanent repository is due in the year 2015.

Let me refer you to the picture of where we propose to put this. This waste would be put in a temporary repository located at the Nevada test site, which was used for more than 50 years and over 800 nuclear weapons tests have taken place in that area.

That is what we propose. It would be adjacent to the continuing development of a permanent site in Yucca Mountain. We have gotten nearly 5 miles of tunnel done now. The problem is that site is not going to be ready until the year 2015.

I do not expect the changes we have made in this bill, along with the others, will necessarily satisfy all my friends on the other side. All the members of the Nevada delegation have appeared before the committee, and they have said they would oppose any approach that would bring nuclear waste to Nevada, so I do not realistically expect my good friends to change their minds. They are doing what they feel they must do for their State. But I do hope my other colleagues who have not expressed support for our bill will understand just how far we have already come to make accommodations and to reject the emotional rhetoric that has been heard so often with regard to this bill.

We are starting this bill with 63 votes. That is what we had last year. It is no secret that we are seeking a higher number. So we are prepared to adopt amendments today to further address the concerns of some Members who have indicated concerns to the White House as well and to generally try to tackle all reasonable concerns that still may persist about the bill. We have developed this substitute amendment. We have worked closely with Senator BINGAMAN, and I commend him and his staff for their hard work.

Let me go over the amendments very briefly, point by point. S. 104 sets the size of the interim storage facility at 60,000 metric tons. Opponents of S. 104 have charged that the large size of this interim storage facility diverts resources away from the permanent repository at Yucca.

The Senators from Nevada have also incorrectly stated that it is our intent to make the interim repository the de facto permanent repository. Clearly, that is not the case.

Our amendment allows the Secretary to set the size of the facility based on the emplacement. Initial capacity would be 33,100 metric tons. This adequately addresses charges made by the critics of S. 104 that the repository is too large, and it makes it clear that the interim facility can never be a substitute for a permanent repository.

As we have said all along, the work at Yucca for the permanent repository will go on; it must go on. This provision in our substitute makes it clear that it has to go on.

S. 104, as reported, envisioned the initial operation of a central storage facility by December 31 in the year 2002, if Yucca Mountain is determined to be viable, and December 31, 2004, if it is determined not to be viable. Critics of S. 104 charged that this did not allow adequate time for the NEPA and the NRC licensing process to work.

Our amendment addresses these concerns by shifting those dates to June 30, 2003, and June 30, 2005.

S. 104 sets a 100-millirem dose standard that could be reviewed and changed to protect public health and safety. Critics of S. 104 argued that this was not good enough and that there should be a risk-based standard as recommended by the National Academy of Sciences.

Our amendment, therefore, mandates full EPA involvement in the setting of the risk-based radiation protection standard that is likely to result in a standard of 25 to 30 millirem. This is the approach endorsed by the Senators from Nevada I believe yesterday.

S. 104 ensured that the State and local jurisdictions could not hamstring Federal intent by allowing the Atomic Energy Act and the Hazardous Materials Transportation Act to preempt all inconsistent laws. Critics charged that this preemption authority was too broad because it allowed Federal laws to be preempted as well.

Our amendment, therefore, makes it clear that our bill would preempt State and local laws only, only where State intransigence prevents Federal purposes. We have adopted a more narrow approach that attempts to I think bring in a careful balance of State and Federal law.

We do not preempt Federal law. Therefore, let us be very clear about what we have attempted to do with our amendment here today. We have worked to address all the key objections of critics of S. 104 and still have a bill.

The statement of administration position and the recent letters sent to the majority leader by the Secretary of Energy really are not referring to the bill that incorporates the amendments we proposed here today, so their objection, if you will, is inappropriate because it does not relate to the changes we have made, and we look forward to any comments the administration might make with regard to these adjustments.

Let me go over each of the administration's criticisms and how we have addressed them. The administration's position initially stated that S. 104 would ''effectively replace EPA's authority to set acceptable release standards.''

Mr. President, I am going to need about 3 more minutes here with no objection from my colleagues from Nevada. I would ask that they be extended 3 more minutes as well.

Mr. REID. Whatever the Senator needs, we will extend the time.

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

Mr. MURKOWSKI. I thank my friend. Let me begin again.

The administration's position states that S. 104 would ''effectively replace EPA's authority to set acceptable release standards.'' Our amendment, as I have stated earlier, places the EPA in a key role developing risk-based standards for the repository consistent with the recommendations of the National Academy of Sciences.

The administration position states that S. 104 would create loopholes in the application of the National Environmental Policy Act.

We have answered that. A full EIS is required prior to placement of any waste in temporary storage or the repository, and our amendment requires the evaluation of transportation which S. 104 excluded.

The administration also stated that S. 104 would ''weaken existing environmental standards by preempting all Federal, State and local laws inconsistent with the environmental requirements of this bill and the Atomic Energy Act.''

Our amendment completely changes section 501 of the bill. There will be full application of health and safety laws except where the local jurisdiction attempts to unreasonably stand in the way of the Federal mandate.

The administration's position further states that S. 104 ''would undermine the ongoing work at the permanent disposal site by siphoning away resources.''

That is simply not true. Our amendment establishes a user fee which was specifically added to provide sufficient funds for the construction and operation of a central storage facility and continued work at Yucca Mountain.

Finally, the administration's position states that ''it would undermine

the credibility of the Nation's nuclear waste disposal program by designating a site for an interim storage facility before viability has been assessed.''

As I have said earlier, that is simply not true. Our bill specifically conditions the use of the Nevada test site as a site for a temporary storage until completion, until completion of a viability assessment for the repository at Yucca Mountain. We have attempted to mirror the administration's position on this issue, and I think we have.

Mr. President, we have worked very hard to satisfy legitimate concerns of the administration and all Senators. We continue to remain open to suggestions. Our willingness to consider new approaches will not stop with the Senate passage of this bill. There will be consideration in the House, and there will be a conference. This is not the last word. We will continue our quest for compromise that is not only acceptable to a bipartisan majority of Congress but hopefully the President as well.

Finally, Mr. President, I want to again advise my colleagues of my thanks to Senator BINGAMAN for the efforts made to accommodate his amendments. I think we were able to accommodate seven of the eight. I would like to conclude by simply explaining the one that we could not resolve.

As the Chair is aware, Senator BINGAMAN opposes our provision, and that specific provision is if the Yucca Mountain site fails as a permanent disposal site, if it fails in the sense of the licensing viability or suitability test, why, then the President must pick an alternative temporary site. Our position is that if we should get to this point, and it is very unlikely that it could occur, that Yucca would fail as a permanent disposal site, it would be the President's obligation to pick a temporary site. It would also bind Congress in approving the President's site. However, if Congress does not approve, or if the President fails to pick a site in 2½ years, then we go back to the Nevada test site more or less as the default position.

Senator BINGAMAN's position is a little different. He says if Yucca fails and the President picks a site, and, of course, Congress must approve, but if the Yucca site is not approved and the President does not pick, or Congress does not approve, then the waste would stay where it is, at 80 sites in 41 States, and it would stay there, well, until we developed a new nuclear waste program for the country. It could stay there basically, in his contention, for an extended period of time.

We found that irreconcilable. We feel that in order to bring this to a conclusion, we have to structure the amendments in such a way as to determine, indeed, that if Yucca Mountain is not deemed to be an adequate site and if the President finds it necessary as a consequence of Yucca not being deemed an adequate site, the responsibility is the President's, with the approval of Congress, but if all proposed to duck responsibility, then clearly it comes back to the Nevada test site in default. And the rationale for that is obvious. Without closing the loop, we have left a loophole, and we would not see a satisfactory determination by the parties who must bear the responsibility. And the Congress and the Senate certainly share in that.

So with that concluding remark, I yield and encourage the Chair to grant an equal amount of time to my good friends from Nevada.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, will the Chair advise the Senator from Nevada how much time the Senator from Alaska consumed?

The PRESIDING OFFICER. The Senator consumed 25 minutes.

Mr. REID. Will the Chair advise the Senator when he has used 11 minutes?

The PRESIDING OFFICER. Yes, sir. If you will proceed, I will be happy to do that.

Mr. REID. Mr. President, I do not mean in any way to denigrate pigs. I like pigs. As far as I am concerned, they do not look too bad. But no matter how you dress up a pig, formal clothes or dress, it still looks like a pig. And this legislation, no matter how you dress it up, still appears to be garbage. It is a bill that is not good legislation. No matter how you dress it up, it is a bad piece of legislation. Not the least reason for that, Mr. President, is the fact that now, this year, we are trying to interchange the word ''viability'' with ''suitability.'' They are two totally different concepts with two totally different meanings.

As defined by the Department of Energy, viability is simply a finding that to that point in time, no disqualifying characteristic has been found. It simply says to this point we have not yet found anything wrong. It does not mean that the site will be suitable. Subsequent to viability, there is significant additional technical study to be pursued in the context of a repository design. The site could still be found unsuitable for an extended period later, while they find out if it is suitable. So an assessment of viability does not mean much.

This distinction between viability and suitability has been repeatedly pointed out to the Congress. It is a shame that in this debate, this year, we are now trying to satisfy the element of suitability by using the word ''viability.'' The distinction was emphasized by the immediate past Director of DOE's Office of Civilian Radioactive Waste Management, who cannot be considered someone who is opposed to the nuclear industry. He simply said the finding of suitability is much different and a much higher standard than the finding of viability.

The distinction was emphasized in S. 104 testimony by the Chairman of the Nuclear Waste Technical Review Board. He said repeatedly, as did the former Chairman of the Office of Radioactive Waste Management, ''Do not confuse viability with suitability. Suitability is the final step before license applications can be pursued. No centralized interim storage should be approved before that suitability decision has been made.'' This is very clear. So, in this debate let us not confuse suitability with viability.

There have been constant statements made on this Senate floor during the past few days that nuclear waste transportation is just fine, they do it other places. How many times have we heard statements, people saying we transport nuclear waste all over? Let me read from a letter written to my colleague, Senator RICHARD BRYAN, on March 28, 1997. This is not something that took place in ancient history. This is a brandnew letter. Let me read it:

DEAR SENATOR BRYAN: As the Senate prepares for a vote on S. 104, I thought you might find my recent experience with real-world transportation of radioactive waste in Gorleben, Germany of interest.

In early March, I was part of an international team which monitored the transport of six CASTOR casks of high-level atomic waste from southern Germany to the small northern farming community of Gorleben, a distance of about 300 miles. My experiences are chronicled in the enclosed issue of the Nuclear Monitor. But I want to add just a few points.

Too often, I feel like many of your Senate colleagues believe nuclear waste transportation is just another routine industrial endeavor and that, if they vote for a bill like S. 104, this transport will just be carried out with few problems.

The reality in Germany is quite different. The CASTOR shipments were met with protest every mile of the way. The shipments were front page news in every German newspaper the entire week I was in the country. Near Gorleben, a farming area and home of the ''interim'' waste storage facility, opposition to the transport and the ''interim'' facility is very nearly unanimous. In some towns nearby, I could not find a single house or farm that did not display anti-CASTOR, anti-nuclear, and anti-government signs. Farmers barricaded roads, and dug holes under them so the 100-ton CASTOR casks could not travel across them. Schoolchildren were forcibly removed from their schools, so police could use them as staging areas. The CASTOR transports had changed a quiet, conservative region of Germany into a bastion of protest and anger, causing a divisiveness in German society only now being recognized by the German Parliament, which has begun hearings on the issues.

The transport of these six casks required 30,000 police and $100 million. More than 170 people were injured during demonstrations, more than 500 arrested. Even the police have called for an end to the shipments; they no more like arresting demonstrators (who many sympathize with) than they like guarding highly radioactive waste casks. I personally measured the radiation from one of these casks: at 15 feet, it was 50 times higher than background levels—an amount no one should involuntarily be exposed to, and pregnant women and children should never be exposed to. The police, of course, stand much closer than 15 feet, and for hours at a time.

Eight casks, of 420, have been shipped to Gorleben. Total cost to the German government has been about $150 million. Each shipment the protests and anger increase, instead of dying down.

Perhaps obviously, while watching the casks lumber down the highway toward Gorleben, at about 2 miles per hour (it took them about six hours to move the final 14 miles), surrounded by police and protestors, I reflected on what this might mean to our own radioactive waste programs. We're not trying to move six casks, or eight, or even 420. Under S. 104, we could be moving as many as 70,000 casks—not six in one year, but six every day. And we wouldn't be moving them 300 miles, but many hundreds and thousands of miles at a time.

I frankly don't know if we will experience protests like those in Germany, though I suspect we will. But I do know we will experience the same type of anger expressed by the local farmers and townspeople, the same type of distrust of government and authority, and the same kinds of societal divisions. And I have to ask myself, has anyone in the Senate actually thought about what these waste shipments could mean? I fear not.

Nor, I am convinced, is the U.S. government as prepared as the German government to handle these shipments. Germany was able to place 30,000 police, brought in from all across the country, along the transport route. Medical people and the Red Cross were well in evidence. The first line of emergency responders—the police—obviously were present for every mile of the transport. And they were clearly well-trained, if sometimes visibly uncomfortable in their roles.

It will not work to simply load up a huge cask of high-level atomic waste from a nuclear utility and send it onto an American highway or railway like a truck or boxcar carrying cars or oranges or even gasoline or some other hazardous material. Radioactive waste shipments are qualitatively different and require much more thought, planning and contemplation than the U.S. Senate so far appears willing to provide.

In the end, it required establishment of a literal police state in the Wendland area of Germany, and very nearly a war zone, to complete this cask movement. I do not believe this would be a credible or accepted policy in the United States.

With only eight of 420 casks shipped, Germany's Parliament is re-evaluating the entire program. Perhaps we can learn from them, and begin our re-evaluation before the shipments start.

I would be happy to further brief you or your colleagues on my experiences at your convenience.

It is signed by Michael Mariotte.

So, Mr. President, saying you can ship these casks with no problem is just not common sense, in light of what has happened in other places of the world. In the country of Germany, a very sophisticated country, Parliament has had to stop the shipment program.

This substitute is no different from the bill as originally submitted. S. 104 and its nuclear industry advocates insist that waste will be stored in Nevada no matter what. And they do not at all consider the transportation problems, as I indicated we should. The substitute amendment says that if Yucca Mountain is determined unacceptable by the President, then a different interim storage site must be designated within 24 months. If a different interim site is not so designated within that period, then Nevada would become the default storage site.

Sponsors of S. 104 in this Senate and the nuclear industry know that no such designation is possible within 24 months. Everyone knows that. That is why this substitute is as big a sham as the original bill. As I indicated, you can dress up a pig however you want, but it is still a pig. This legislation is still garbage, no matter how they try to dress it up.

They know that there has been spent to this point over a decade trying to understand the area around Yucca Mountain well enough to approve permanent storage there. They want to void the billions of dollars spent in Yucca Mountain and sidetrack, short-circuit the system. They know that any site that receives nuclear waste will keep it forever, because a permanent repository will never be built. That is the whole game of the very powerful, greedy, devious, deceptive nuclear waste industry. They do not want to play by the rules. They want to have their own game where they set their own rules, as they are trying to do in S. 104, and they are trying to doctor it up by saying we have made the goal lines not 100 yards apart, they are only 80 yards apart. That is not true.

They know once waste is moved from its generator site to a centralized site, it will never be moved again. A suitability decision will permit designation of a site. Viability will not.

So the only possible way to proceed, the only way to overcome the overwhelming opposition to centralized interim storage, is to designate an interim storage site at a place that has already been found suitable for permanent disposal of spent nuclear fuel. That is the only way to do it.

It is this inability to see that S. 104 is putting the horse behind the cart, that is, establishing an interim site before a suitability decision—it is this blindness that compels me to believe S. 104 is really all about sabotaging this country's avowed policy to permanently dispose of nuclear waste.

The industry, with all their money and all their profits, want to change the system. They want to change the rules in the middle of the ball game. Everyone knows that Nevada is not happy with Yucca Mountain. But at least some rules have been established there, where scientists have at least some say in what is going on there. And the reason the nuclear waste industry is willing to change—wants to change the rules in the middle of the game is they know that Yucca Mountain is being, at this stage, studied, analyzed, and characterized in a fair fashion.

Think about it. S. 104 would move nuclear waste to Nevada and store it there permanently at a site that has been found unsuitable for that purpose. I repeat. Think about it. S. 104 would move nuclear waste to Nevada and store it there permanently at a site that has been found unsuitable for that purpose. What could be more outrageous than that?

Such a policy goes beyond stupidity, goes beyond unfairness. It would knowingly risk public health and safety by storing waste at a site that has been determined to be an unsafe site, and, by storing waste on an open, concrete pad, exposed——

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator has used 11 minutes.

Mr. REID. I thank the Chair.

By storing waste on an open, concrete pad, exposed to the weather and all manner of natural and accidental damage. That is wrong. Permanent storage, because that is what it would be, at a temporary site would be about the worst decision this Senate could make.

This legislation, this so-called substitute, is as bad as the original bill. I defy anyone to controvert what we have talked about here today, about the problems they had in Germany. Eight casks out of 420, moved 300 miles, not thousands of miles like we are moving them here. They had to call out 30,000 police and army personnel to allow those to proceed, at a cost of $150 million.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. Mr. President, I thank the Chair. I yield myself such time as I may need.

Mr. President, I want to continue this discussion of my colleague. Each of us was thinking in the same frame of reference. He said no matter how much you dress up a pig it's still a pig. I learned as a youngster the old adage, you cannot make a silk purse out of a sow's ear. You cannot make a silk purse out of a sow's ear. And that is exactly what we have here.

We have not had a chance to review in detail all the asserted changes that the chairman of the committee intends, and we will have a chance to comment on that tomorrow. But central to this debate, the basic issue, the point at which all discussion begins, every thoughtful and analytical and policy frame of reference, is the question of whether or not we should place interim storage anywhere before a determination is made with respect to a permanent repository or dump. That is why the administration continues to oppose this legislation, Senator BINGAMAN opposes this legislation, why every environmental organization in America opposes this legislation. Because the basic flaw is this is unnecessary and unwise. We will have a chance to expand upon this tomorrow.

But you go back to the origin of this debate, 17 years ago, you scratch the surface and always the nuclear utility industry and its highly paid advocates have one mission and one mission only—remove the waste from the reactor site. That was the essence of the debate, as we have pointed out time and time again on the floor dating

back to 1980 when then the Holy Grail of the industry was an ''away-from-reactor'' storage program; the same basic concept, anywhere away from here, get it out, away from reactor storage. The Congress wisely rejected in 1980 that approach, just as they have rejected that approach consistently, year after year.

I want to refer to the Nuclear Waste Technical Review Board. We have talked about that a great deal. Much has been made of its contents. But the point that needs to be made is there is no urgent technical need for interim storage of spent fuel—none. Our colleague, the ranking member of the committee, last night, the senior Senator from Arkansas [Mr. BUMPERS], went on at great length about: There is no necessity, no need to do so. Indeed, any thoughtful policy approach rejects that premise.

Again, in 1997, a reconstituted Nuclear Waste Technical Review Board reaches the same conclusion, namely that there is no necessity and no reason to move at this time.

They make a second point here that I think is important to emphasize, and that is, if the site selection process is to retain any integrity at all, here is what Dr. Cohon said in his testimony of February 5:

> However, to maintain the credibility of the site-suitability decision, siting a centralized storage near Yucca Mountain—

That is interim storage he has reference to—

> should be deferred until a technically defensible site-suitability determination can be made at Yucca Mountain.

That is the essence of the argument, that no decision should be made until a defensible site-suitability determination can be made at Yucca Mountain.

He goes on to say:

> We have estimated that such a determination could be made within about 4 years.

Those are Dr. Jared Cohon's comments.

So, Mr. President, it is clear that the nuclear utility industry is scrambling at the last moment to put together a few flourishes on the legislation that is before us, but they will not and cannot change the basic flaw in that they would propose to site interim storage at the Nevada test site before a determination is made with respect to the permanent repository.

Let me say, for those who have followed this issue over the years, the only justification for siting it at the Nevada test site—and this was debated last year on the floor, to some extent—was the assumption, the predicate that Yucca Mountain would be the permanent repository. That was the only basis. How in the world can you place interim storage until you have a determination made as to whether the permanent facility, which is the whole predicate of the interim storage licensing decision, has been determined, and that has not occurred.

So this has nothing to do with science. Frequently, science is invoked to defend the course of action that our colleagues on the other side of this issue would urge upon the body. This has absolutely nothing to do with science; it has everything to do with nuclear politics as advocated by the nuclear power industry and their legions of lobbyists who line the hallways and the corridors of this Chamber, as well as the other body.

A second point I think needs to be made here and was addressed, in part, by my senior colleague, and that is the transportation issue. If we should not be moving it at all until a decision is made, why place at risk the citizens of 43 States, 51 million people, along highway and rail corridors in America? Senator REID is quite correct that Europe is often cited: ''My gosh, they have their situation handled; why can't we do it here?'' Believe me, once you start moving 85,000 metric tons of high-level nuclear waste, you are going to have communities, and rightly so, exercised about the transport of those kinds of volumes.

The chairman of the committee says, ''Well, we're shipping nuclear waste around now.'' That is true to some extent, but the difference between 2,500 shipments and 17,000 shipments in which the 2,500 shipments have traveled 900 miles or less is a vastly different proposition in terms of magnitude of risk of shipping waste over thousands of miles. Remember, most of these reactors are in the East and would be transported virtually from coast to coast, a very different proposition again.

Something else that we have tried to make understandable in this debate to our opponents is the fact that the casks that would be used have not yet been designed, nor have they been manufactured. So we are talking about a totally different reconfigured cask that will take some time.

I invite my colleagues' attention to the testimony of Dr. Jared Cohon, again, earlier this year when he indicated that it is not just a siting decision. He says:

> But developing a storage facility—

And he is referring there, again, to interim storage—

> requires more than a siting decision. It also requires the development of a transportation system, and it is likely that such transportation system will take several years to develop.

So the notion that somehow instantaneously this problem is taken care of, just pass S. 104 and all of our problems go away.

I want to respond to one other issue briefly before concluding. The notion is somehow fostered here that if an interim storage facility is located at the Nevada test site, that rather than having 109 different reactor sites around the country where nuclear waste is stored, we will have only one. Mr. President, that is not correct. We will have 110, not 109.

Many people may not be familiar with the fact that immediately after a spent fuel cell assembly is removed from the reactor because it no longer has the efficiency necessary to generate electrical power, it is stored for many, many years in a spent-fuel pond or pool for it to cool off for a period of time. We are talking about reactors that are licensed up to the period of 2033. So we are going to have nuclear waste stored at many sites around the country for many, many years, irrespective of S. 104.

So the notion that is held out of ''pass this bill and we will have no nuclear waste other than at the site designated in this bill, the Nevada test site,'' is certainly a false premise and, indeed, once the waste is removed, the reactor itself remains and is hazardous for an extended period of time.

There are many things we will be talking about in more detail during the course of the debate over the next few days. But no matter how they try to recast this as a different piece of legislation, some chameleon-hued piece of nuclear legislation, when you get to the very essence, the core of the legislation, its fatal and unperfectable flaw is that it calls for siting interim storage before the decision is made on the permanent facility, and no one in the scientific community is arguing for that proposition.

So this is nuclear politics, and we are simply responding to the bidding of the nuclear utility industry, which, for more than a decade now, has urged the Congress, in one form or another, to remove the reactor waste, send it somewhere else, send it anywhere, but get it out from under us, and that is the objection that the policymakers, who have given this their thoughtful attention—the President of the United States and others—have said that is what is wrong with this legislation. It is what was wrong with the legislation in 1996, and that has not changed in the original form in which this bill was introduced, and based upon the discussion of the chairman of the committee, it has not changed in the substitute that is being proposed.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CLOTURE MOTION

Mr. LOTT. Madam President, I send a cloture motion to the desk to the pending committee substitute.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby

move to bring to a close debate on the substitute amendment to S. 104, the Nuclear Policy Act:

Trent Lott, Frank Murkowski, Lauch Faircloth, Phil Gramm, Craig Thomas, Gordon Smith, Ted Stevens, Pete Domenici, Slade Gorton, Larry Craig, William Roth, Conrad Burns, Spencer Abraham, Bob Smith, Susan Collins, and Don Nickles.

Mr. LOTT. Madam President, for the information of all Senators, this cloture vote would occur on Friday unless consent can be granted for a vote on Thursday. Also, the interested parties are in the process of negotiating a consent agreement that would call for the final passage of S. 104 by the close of business tomorrow. Needless to say, if that is agreed to, the cloture vote would not be necessary. I encourage our colleagues to continue to negotiate on this important legislation, and I hope that they will be able to reach an agreement shortly.

## MORNING BUSINESS

Mr. LOTT. Madam President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

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

## REPORT CONCERNING SCIENCE AND TECHNOLOGY POLICY—MESSAGE FROM THE PRESIDENT—PM 28

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation.

*To the Congress of the United States:*

A passion for discovery and a sense of adventure have always driven this Nation forward. These deeply rooted American qualities spur our determination to explore new scientific frontiers and spark our can-do spirit of technological innovation. Continued American leadership depends on our enduring commitment to science, to technology, to learning, to research.

Science and technology are transforming our world, providing an age of possibility and a time of change as profound as we have seen in a century. We are well-prepared to shape this change and seize the opportunities so as to enable every American to make the most of their God-given promise. One of the most important ways to realize this vision is through thoughtful investments in science and technology. Such investments drive economic growth, generate new knowledge, create new jobs, build new industries, ensure our national security, protect the environment, and improve the health and quality of life of our people.

This biennial report to the Congress brings together numerous elements of our integrated investment agenda to promote scientific research, catalyze technological innovation, sustain a sound business environment for research and development, strengthen national security, build global stability, and advance educational quality and equality from grade school to graduate school. Many achievements are presented in the report, together with scientific and technological opportunities deserving greater emphasis in the coming years.

Most of the Federal research and education investment portfolio enjoyed bipartisan support during my first Administration. With the start of a new Administration, I hope to extend this partnership with the Congress across the entire science and technology portfolio. Such a partnership to stimulate scientific discovery and new technologies will take America into the new century well-equipped for the challenges and opportunities that lie ahead.

The future, it is often said, has no constituency. But the truth is, we must all be the constituency of the future. We have a duty—to ourselves, to our children, to future generations—to make these farsighted investments in science and technology to help us master this moment of change and to build a better America for the 21st century.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 9, 1997.*

## MESSAGES FROM THE HOUSE

At 4:02 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 28. An act to amend the Housing Act of 1949 to extend the loan guarantee program for multifamily rental housing in rural areas.

H.R. 394. An act to provide for the release of the reversionary interest held by the United States in certain property located in the County of Iosco, Michigan.

H.R. 785. An act to designate the J. Phil Campbell, Senior, National Resource Conservation Center.

H.R. 968. An act to amend title XVIII and XIX of the Social Security Act to permit a waiver of the prohibition of offering nurse aide training and competency evaluation programs in certain nursing facilities.

H.R. 1000. An act to require States to establish a system to prevent prisoners from being considered part of any household for purposes of determining eligibility of the household for food stamp benefits and the amount of food stamp benefit to be provided to the household under the Food Stamp Act of 1977.

## MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 394. An act to provide for the release of the reversionary interest held by the United States in certain property located in the County of Iosco, Michigan; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 968. An act to amend title XVIII and XIX of the Social Security Act to permit a waiver of the prohibition of offering nurse aide training and competency evaluation programs in certain nursing facilities; to the Committee on Finance.

## MEASURE PLACED ON THE CALENDER

The following measure was read the second time and placed on the calendar:

S. 522. A bill to amend the Internal Revenue Code of 1986 to impose civil and criminal penalties for the unauthorized access of tax returns and tax return information by Federal employees and other persons, and for other purposes.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CAMPBELL (for himself and Mr. CONRAD):

S. 528. A bill to require the display of the POW/MIA flag on various occasions and in various locations; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself and Mr. GRAMS):

S. 529. A bill to amend the Internal Revenue Code of 1986 to exclude certain farm rental income from net earnings from self-employment if the taxpayer enters into a lease agreement relating to such income; to the Committee on Finance.

By Mr. KOHL:

S. 530. A bill to amend title 11, United States Code, to limit the value of certain real and personal property that a debtor may elect to exempt under State or local law, and for other purposes; to the Committee on the Judiciary.

By Mr. ROTH (for himself, Mr. BAUCUS, Mr. BIDEN, Mrs. BOXER, Mr. DODD, Mr. DURBIN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. HARKIN, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LIEBERMAN, Mrs. MURRAY, Mr. TORRICELLI, Mr. WELLSTONE, and Mr. WYDEN):

S. 531. A bill to designate a portion of the Arctic National Wildlife Refuge as wilderness; to the Committee on Environment and Public Works.

By Mr. BAUCUS (for himself, Mr. KEMPTHORNE, Mr. THOMAS, Mr. DORGAN, Mr. CONRAD, Mr. DASCHLE, Mr. JOHNSON, Mr. CRAIG, Mr. BURNS, Mr. ENZI, Mr. HARKIN, Mr. BINGAMAN, Mr. ROBERTS, Mr. KERREY, and Mr. GRASSLEY):

S. 532. A bill to authorize funds to further the strong Federal interest in the improvement of highways and transportation, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 533. A bill to exempt persons engaged in the fishing industry from certain Federal antitrust laws; to the Committee on the Judiciary.

By Mr. DODD:

S. 534. A bill to amend chapter 44 of title 18, United States Code, to improve the safety of handguns; to the Committee on the Judiciary.

By Mr. MCCAIN (for himself, Mr. WELLSTONE, Mr. GLENN, Mr. COCHRAN, Mr. BURNS, Mr. MOYNIHAN, Mr.