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Senate

The Senate met at 9:31 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Here is some really good news to start our day. From Deuteronomy 31:6: *Be strong and of good courage, do not fear nor be afraid . . . ; for the Lord Your God He is the one who goes with You. He will never leave or forsake you.*

Almighty God, Sovereign of our Nation and Lord of our lives, Moses' words to Joshua ring in our hearts. We claim their fear-dispelling power. You have promised to be with us today. Help us make this day one constant conversation with You. Whisper Your instructions for each challenge. We commit ourselves to be attentive. Show us Your will and way. We gratefully remember the times You helped us in the past and our hope for today and the future is renewed.

O God of courage, put steel in our spines, vision in our minds, and hope in our hearts. There are things we cannot do today without Your power and there are other things we would not even think of doing because You are present. So give us the will to say "yes" to what You clearly guide and "no" to what we know You would not bless. In the name of the Way, the Truth, and the Life. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT, is recognized.

SCHEDULE

Mr. LOTT. Mr. President, I am sorry I am a minute late. I will not make a practice of that, Mr. President. We like to start right on time.

Today the Senate will resume consideration of Senator THURMOND's amend-

ment to the substitute amendment to S. 104, the Nuclear Waste Policy Act. We are still hopeful that an agreement can be reached to enable us to complete action on this important bill in a reasonable timeframe. At any rate, we will continue to go forward on it, and we are making progress. I appreciate the cooperation of Senators on both sides of this issue for their cooperation.

A cloture motion was filed last night on the committee substitute; however, if an agreement is reached, that cloture vote will, hopefully, not be necessary, and I assume it will not be. If an agreement is not reached, the cloture vote will occur on tomorrow morning.

As a reminder, under rule XXII, Senators have until 1 p.m. today in order to file first-degree amendments to the substitute amendment. Rollcall votes are possible throughout today's session of the Senate, and into the evening if necessary. I do expect some votes today, but the most important thing is to find a way to come to an amicable agreement on how to conclude this legislation. That is our focus, and, again, we are making progress in that effort. As always, Senators will be notified as to when any votes are scheduled.

MEASURE PLACED ON THE CALENDAR—S. 543

Mr. LOTT. Mr. President, I understand there is a bill at the desk due for its second reading.

The PRESIDING OFFICER (Mr. INHOFE). The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 543) to provide certain protections to volunteers, nonprofit organizations, and governmental entities in lawsuits based on the activities of volunteers.

Mr. LOTT. Mr. President, I object to further consideration of this matter at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

Mr. LOTT. I yield the floor.

Mr. REID. Mr. President, before the able majority leader leaves the floor, would you go over once again—you said you has until 1 o'clock to file amendments?

Mr. LOTT. All Senators, under rule XXII, have until 1 o'clock to file first-degree amendments.

Mr. REID. Fine. I misunderstood.

NUCLEAR WASTE POLICY ACT AMENDMENTS

The PRESIDING OFFICER. Under the previous order, the Senate will now resume 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 resumed consideration of the bill.

Pending:

Murkowski amendment No. 26, in the nature of a substitute.

Thurmond-Hollings amendment No. 27 (to amendment No. 26) to provide that the Savannah River site and Barnwell County, SC shall not be available for construction for an interim storage facility.

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, on behalf of Senator WELLSTONE, I ask unanimous consent that Brian Symms, a congressional fellow on his staff, be permitted the privilege of the floor during consideration of S. 104.

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

Mr. LOTT. 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.

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



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S2951

Mr. MURKOWSKI. Mr. President, it is my understanding that Senator THURMOND has an amendment that is pending at this time, and that he would like to dispose of that amendment?

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 28 TO AMENDMENT NO. 27

Mr. REID. Mr. President, I send an amendment to the desk. This amendment is being offered on behalf of Senators REID and BRYAN.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself and Mr. BRYAN, proposes an amendment numbered 28 to amendment No. 27.

At the end of the matter proposed to be inserted, add:

"Notwithstanding any other provision of this bill, transportation of spent nuclear fuel or high-level radioactive waste under the provisions of this bill to a centralized interim storage site or to a permanent repository shall not cross any state line without the express written consent of the governor of the state of entry."

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, during the last several years, in fact, during the entire time I have been in Congress, there has been an explosion of comment about returning matters to the States. This has been evidenced in a number of pieces of legislation we passed, including those in the last Congress dealing with immigration reform and especially that dealing with welfare reform.

Matters have been returned to the States. Why? Because there have been feelings of many that there was an accumulation of power here in Washington that had taken away from the basic foundation of our constitutional form of Government. Too much power was being developed and too much power actually existed in Washington, DC, in the Federal level of Government.

Mr. President, as a result of that, we, most everybody in Congress, have felt that we needed to return things to the States and have the chief executive of that State have the say of what goes on within the confines of that State.

That is what this amendment deals with. If you are going to ship the most poisonous substance known to man across State lines, then, of course, you should get permission of the Governor.

Many also in the majority have proclaimed that the 105th Congress, above all other Congresses, be a States rights Congress, the mantra of those avowed supporters of States rights, grounded in the notion that Congress has no right to impose costly and burdensome laws, rules and regulations on the States. In fact, I joined with the assistant leader of the majority, Don NICKLES, in sponsoring an amendment to the regulation reform bill that came from the House last Congress, the Nickles-Reid amendment. That passed.

In effect, what that amendment said is that Federal agencies are promulgating too many regulations without Congress having any authority or say as to what regulations they have promulgated.

What the Nickles-Reid amendment said is that if there is a regulation promulgated that has a certain financial impact, then it does not go into effect for 60 days. If it has less than a \$100 million economic impact, it goes into effect immediately, but we have 60 days to review it. That was only one example of how we felt that Congress should have more say in returning power to the people.

Mr. President, the mantra of the States rights Congress is grounded in the notion that Congress has no right to impose these costly rules, laws and regulations on States. I respect this point of view, and that is the reason I joined with my friend, the senior Senator from Oklahoma, in sponsoring this legislation that passed without a single dissenting vote. It did not have a dissenting vote when we offered the amendment here; there was not a single dissenting vote when it came back from the House in conference.

That said, it is ironic that some who consider themselves stalwart supporters of States rights are going to support this underlying legislation. If there is ever a bill that abrogated abuse of States rights in a more terrible manner than the underlying legislation, I do not know what that would be. It seems that when it comes to issues involving the most basic of States rights, the right to be free of living with deadly nuclear waste, this Congress does not care. We, Mr. President, are directing this amendment not to the States that have to live with nuclear waste, we are directing it to the States that are concerned about their highways and railways transporting this poison.

It seems that we should care. How can anyone who considers themselves to be a supporter of States rights vote against this amendment? It is clear that States rights then, if, in fact, they do not vote for this amendment, is as hollow as the arguments that they could make on any specious legislation. The next time we hear moving oratory about the sanctity of the tenth amendment and the need to protect States rights, I will simply refer to this second-degree amendment and ask where those strong voices were on this issue involving the most fundamental of States rights.

This amendment offered by this Senator and my colleague from the State of Nevada is something that every Senate office should listen to and listen to very closely. Remember what we are saying is that if you are going to transport nuclear waste through a State, the Governor should give the signoff. Why do I say that? What we are doing is saving this country a lot of problems by saying, "Let the Governors sign off." Nuclear waste will not be transported in the United States. It does not

matter how many bills we pass, it will not happen.

I was in the House of Representatives this morning talking to one of the Presiding Officer's and this Senator's former colleague when we served in the other body, and he said to me, "You know, I voted with Congress on Vucanovich," who supported this Senator's position on nuclear waste. He said, "I did it for a simple reason. If everyone says that nuclear waste can be transported safely, then, obviously, it is going to be safe where it is to begin with. Why not leave it where it is?"

The reason I say we are doing this country a favor with this amendment is that nuclear waste is not going to be transported. Look at the experiences they had in Germany recently with the transfer of almost 500 canisters of high-level nuclear waste. They wanted to haul this 300 miles to a remote place in Germany. We are talking about hauling it more than 3,000 miles.

What did it take in Germany to haul this nuclear waste 300 miles? It took 30,000 police and military personnel. The average speed was 2 miles an hour. It cost the German Government over \$150 million. The German Parliament has said, "We're not going to do this anymore. We are going to review what we are doing."

As we speak, Germany's Parliament is reevaluating the entire program. They shipped 8 of 420 casks of high-level nuclear waste, and they have given up; 30,000 military and police personnel, 107 injuries, demonstrations everywhere, people dug holes in the road and put barriers over them so the trucks would fall in them when they came back. It was absolute civil disobedience at its worst. Why? Because the people of Germany are human beings, and they do not want this stuff hauled unnecessarily. That is what this amendment is all about.

The two people representing the very fine State of South Carolina were Governors of that State. Two of the most—I am trying to find the word. When the history books are written about the U.S. Senate, the two Senators from South Carolina will be talked about, the senior Senator and the junior Senator. They have made history in this institution. But they also, before they came here, were Governors. They know what the power of the Governor should be.

Shouldn't the Governor of a State, a sovereign State under our Federal system of Government, have the right and the opportunity to say, "We will let this stuff travel through, but I'm going to have to sign off on it first"? If the Governor of the State does not have that right to make sure that his citizens are safe and free of harm and that they can have enough personnel—in the instance of Germany, it took 30,000—shouldn't they have that right? That is what this amendment is all about.

I do believe, without any question, we are doing a service with this amendment. We are doing a service because if

you are going to believe in this form of Government that we have, we have a central whole divided amongst self-governing parts—that is the definition of our Government under the Constitution, a central whole divided amongst self-governing parts—those self-governing parts are States, and shouldn't they have the right to determine whether or not we are going to haul this stuff willy-nilly through the States? That is what this amendment is about. It is simple and direct. It says, if you are going to haul nuclear waste, let the Governor of the State through which you are going to haul it sign off on it.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The junior Senator from Nevada.

Mr. BRYAN. I thank the Chair. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. BRYAN. I thank the Chair. Mr. President, let me add, if I may, the significance I find in this piece of legislation that we are offering today. This has for too long a time been characterized strictly as a Nevada issue, and many of my colleagues have, obviously, focused less time on this than my senior colleague and I, because Nevada is targeted as the interim storage facility in this piece of legislation. But the point that we have sought to make is that there is a national impact in the transportation of 85,000 metric tons—that is the emphasis, 85,000 metric tons—of nuclear waste in an order of magnitude never before seen. There have been over the years 2,500 shipments, but we are talking about 17,000, and as the Presiding Officer may recall from our debate earlier on this, those earlier 2,500 shipments involved a relatively short distance of about 900 miles or less.

By reason of the proximity of the Nevada test site, as contrasted from the origin of the nuclear waste itself at the reactors, we are talking about thousands of miles. I think my colleagues will recall that we are talking about rail and highway corridors that go through 43 States. Forty-three States are involved. So it is not just Nevada. Forty-three States.

To give you some idea of the size of each cask, although they have not yet been designed, what is contemplated is that a rail cask would weigh 125 tons and a truck cask would weigh 25 tons. You will recall that, in terms of the level of potential radioactivity, that is the equivalent of 200 bombs the size of Hiroshima. So many may wonder why we are suggesting that we do this with respect to high-level nuclear waste shipments. It is because the order of risk is so much greater and the consequences of failing to provide for it is much, much greater.

The Presiding Officer represents the great State of Oklahoma. You will note

that in Oklahoma, we have at least three different corridors that would be used. These are all rail corridors that would come through the State of the distinguished Presiding Officer. What we are simply saying is, "Look, can a Governor have a greater responsibility and obligation to the citizens of the State that he or she represents than to make sure that adequate measures are taken to protect the health and safety of the citizens of that State?"

Mr. President, as you know, I was honored by the citizens of my own State to have been elected Governor twice. I have some idea of the responsibilities that a Governor undertakes, and there can be no greater responsibility than a Governor advocating on behalf of the people he represents to make sure that any actions that are within his or her power are done for the purpose of protecting the health and safety of the citizens.

So that is what we are doing. Not only is the Presiding Officer's State involved, we have Arizona, New Mexico, Texas, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, Tennessee, Missouri, Kansas, Colorado, Utah, California, Washington, Oregon, Idaho, Wyoming, Nebraska, Iowa, Minnesota, Illinois, Wisconsin, Michigan, Indiana, Ohio, West Virginia—we can go on and on and on—Pennsylvania, New York, Massachusetts, Connecticut, to go on and on. My point is that each of these Governors should have the ability to make sure adequate safeguards are taken.

Let me just say, because this is an issue that has occurred out in the West and may not be widely publicized and it came to a boiling point during the recess, there is a series of shipments which are being received on the west coast from overseas nuclear reactors. They would come in through the Port of Oakland in California, ultimately to be located at the facility in Idaho. California's Governor complained vociferously that there had not been adequate notice, not adequate safeguards taken, and so he has filed, on behalf of the people of California, a lawsuit, or has directed the attorney general to do so, to challenge the adequacy of some of those provisions. My senior colleague, Senator REID, pointed out the problems that have occurred in Europe. So these are not theoretical or hypothetical, these are real-life circumstances, and Governors ought to have the ability to do that.

All we are saying is, look, each Governor must be satisfied that before a shipment goes through his or her State that safeguards are needed to protect the citizens of that State in literally hundreds of thousands of cities that this nuclear waste would go through. That strikes me as not being unreasonable.

We talk a lot in this Congress of returning power to the States, not assuming all wisdom resides on the banks of the Potomac. Indeed, those who

work in the Federal bureaucracy are vested with no greater wisdom than those who toil on behalf of a State government at the State level. I hear that time after time in many different contexts as we debate legislation on the floor.

There is no greater opportunity that a Member can have than to say, in effect, "I am implementing a policy that provides to each of the States that which I have philosophically espoused, namely, giving the Governor, as the chief executive officer of that State, the ability to undertake the necessary protections." I think that is a reasonable approach. I think it is something that every Governor would want. It is not partisan. Democratic Governors and Republican Governors alike would certainly want to be protected in terms of the 17,000 shipments that would pass through their States, through thousands of cities in America, small communities, and that is not unreasonable. And because these routes are identified here, as we are pointing them out—there is no great mystery—so that the State Governors could be contacted long in advance of any proposed shipment to work out the necessary health and safety precautions.

I say to my colleagues that, however they come down on S. 104, this certainly is a measure that everybody ought to embrace because this is health and safety and it provides the ultimate protection for a Governor to take care of those persons in his or her State to the best of that Governor's ability.

I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The senior Senator from Nevada.

Mr. REID. Mr. President, we need to make it very clear that this amendment, this second-degree amendment, is not directed toward Nevada. It is directed toward this sovereign Nation made up of 50 separate States.

For example, Governor Beasley of South Carolina, before nuclear waste moves through that State, would have to sign off saying, yes, it should travel through the State of South Carolina. Governor Hunt of North Carolina would have to sign off saying, yes, it can travel through the State. Governor O'Bannon of Indiana, Governor Romer of Colorado, Governor Voinovich of Ohio—and we would go through the list—allowing nuclear waste to travel.

I would say to people who espouse some degree of returning matters to the States, there is no better and more direct example than this. What we are saying is that the Governor of the State, the Governor of a sovereign State, one of the 50 sovereign States in this Nation, should have the right to determine if they want this stuff carried through their State. It is as simple as that.

If it is in the best public interest of that State, the Governor will allow it.

It would be better, I think, that Governor Beasley, Governor Hunt, Governor Romer, Governor O'Bannon, Governor Voinovich, Governor Wilson, Governor Miller would sign off rather than some nameless, faceless bureaucrat making the decision.

So I think Members of this U.S. Senate are going to be put to a test today, a very simple test. Do they really believe in States rights or do they not?

There will, of course, be one of the very clever things that has developed, with precedent, over here—a motion to table. The managers of this bill will move to table our second-degree amendment. And they will say to their friends, "Well, you're not really voting against States rights. This is a procedural matter. You'll never be bothered at home." Well, there is no doubt in my mind that this will be something that constitutional bodies—those who believe in the constitutional form of Government, I should say, will target this as a very important States rights vote. This is it. You cannot run and hide from this. The motion to table will not do it.

So I hope that everyone will understand that this is a basic States rights issue. If you want to carry, transport or haul nuclear waste through a State, all you have to do is go to the Governor and say, "Governor, it's in the public interest to do this. It's very important that you allow nuclear waste to travel through your State. And you can weigh the good and the bad." Let the Governor decide, not somebody who works in the bowels of the Department of Energy down here on Independence Avenue.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. REID. 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. 28, AS MODIFIED

Mr. REID. Mr. President, I ask unanimous consent that there be a substitute allowed for the second-degree amendment.

The PRESIDING OFFICER. Is there objection to modifying the second-degree amendment?

Without objection, it is so ordered. The amendment is so modified.

The amendment (No. 28), as modified, is as follows:

At the end of the matter proposed to be inserted, add:

"Notwithstanding any other provision of this Act, no transportation of high level waste or spent nuclear fuel to a facility authorized under Section 205 of this Act shall take place through a State without the prior written consent of that State's Governor."

Mr. MURKOWSKI. 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. 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.

Mr. MURKOWSKI. Mr. President, I wonder if the clerk would read the amendment, the substitution, to clarify where we are here.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read as follows:

AMENDMENT NO. 28, AS MODIFIED

At the end of the matter proposed to be inserted, add:

"Notwithstanding any other provision of this Act, no transportation of high level waste or spent nuclear fuel to a facility authorized under Section 205 of this Act shall take place through a State without the prior written consent of that State's Governor."

Mr. MURKOWSKI. Mr. President, I thank the Chair.

Let me refer to a reality, and that reality is behind me in the chart, because all of us should recognize what is happening in the United States now.

This is where nuclear fuel is moving. It is moving through all of the 48 States with the exception of Florida and South Dakota. Now, that is just a harsh reality. In this timeframe from 1979 to 1995, there have been 2,400 movements of nuclear material. They moved safely; they moved over the transportation system of our highways, as well as our railroads, as indicated in the red.

This is a very dangerous amendment that would basically ensure that potentially no nuclear waste anywhere would move to any storage or disposal.

Let me highlight what it does in the next chart, because in the next chart we have the locations of spent nuclear fuel and radioactive waste in the United States. And in it is, Mr. President, 81 sites in 40 States. Is it safer to leave that waste in 80 sites in 40 States or move it?

This is what this amendment is all about. This is a desperate tactic on the part of my good friends from Nevada who simply do not want the waste put in their State. That is the bottom line, make no mistake about it.

But we have an obligation here. We have a problem here. We are either going to solve it by defeating the second-degree or we are going to be left with this situation that has been created over the last couple of decades.

That is the harsh reality of where we are. This amendment grants to the Governor of a State the power to preclude any specific shipments of spent fuel or nuclear waste through that State to the temporary proposed shipment site in Nevada out in the desert.

Let me show you where we propose to put this. We propose to put the temporary repository out in Nevada where we have had a series of tests for some two decades. I have the chart coming in. It is important that we grasp the significance of just what this amend-

ment would do if they are successful in passing it. On the face of it, it may have some appeal, particularly to Senators like myself who have always been staunch supporters of States' authority to determine matters which are within their State borders.

Now here, Mr. President, is where we propose to put the temporary repository. This is an area in Nevada used previously for more than 800 nuclear weapon tests over an extended period of time. The other option, Mr. President, again, if you look at the other chart, is leave it where it is. If we take action today to support the second degree amendment, we are killing any effort to address a problem that we have put off far too long. When I say "far too long," Mr. President, we have contracted to move this waste next year from the reactors where it has been stored as it is exhausted from the nuclear powerplants, and the liability associated with this is going to be substantial. It is estimated to be somewhere between \$40 and \$80 billion.

The appeal, as I said, that is perhaps of some significance, regulation of transportation of any type of hazardous materials across State lines, has long been one of the primary examples of appropriate exercise of Federal jurisdiction. I question the constitutionality of prohibiting the movement on highways, but that is neither here nor there. The principles of federalism on which this country was founded recognize that the States' authority to govern matters within their borders, must give way to Federal authority when an issue is one of national scope reaching beyond any particular State borders. Interstate shipments of hazardous waste such as spent fuel and other forms of nuclear waste clearly require a uniform framework of requirements that ensure safety but also insure that the shipments can reach their destination.

Transportation of these materials is currently regulated under the Hazardous Materials Transportation Act, known as HAZ-MAT. That law is an intricate system for controlling hazardous materials and shipments across the United States. The HAZ-MAT system was adopted to uniformly regulate all materials regardless of type, and in each case regulation of these materials allows the States limited authority to conduct certain inspections and other activities related to the shipment.

Never do the HAZ-MAT regulations, however, allow a Governor to veto the shipments altogether. That is what this second-degree amendment would propose to do. If each State were allowed to impose its own set of safety requirements, it would very likely prove impossible to move any hazardous material from one place to another. So the alternative is to leave it where it is.

This amendment is even more restrictive than that. It would allow virtually a veto over any Federal shipments of nuclear spent fuel or other

nuclear waste through any State whose Governor chooses to exercise the authority, even if all safety requirements are met. Again, Mr. President, I implore those that have questions about this to recognize that these Governors want to get this waste out of their State. That is what Senate bill 104 is all about, providing a place to put the waste.

Now, my friends from Nevada, if they were able to prevail, we simply could not move the waste. Is that what the States want? Is that what the Governors of these States want? No, they do not want it left in their State. They want it to be moved to a safe place that has been proposed, which is, obviously, the desert out in Nevada.

Now, this amendment would allow any single State to thwart a solution to a national problem, the very situation that was intended to be precluded by the Framers of the Constitution. Even though the original Senate bill 104 included adequate measures to guarantee safe transportation of nuclear spent fuel, we have accepted additional provisions in the substitution regarding safety and training, to assure safe shipments.

It seems obvious that safety is not the real issue here. The real interest here and the real issue here is simply Nevadans, the Nevada Senators, do not want it in their State. I am sympathetic to that. But it has to go somewhere. This is the best place, out here in the desert, where, again, we have had more than 800 nuclear weapon tests over the last 50 years. That is the best place we have found in the United States. If we want to move it outside the United States, that is another matter. But who will take it? We do not have a place in the Atlantic to put it. People in the Pacific certainly do not want it. Scientists have said you can put it in the sea bed, perhaps, but that is not going to be a possibility. This is the possibility. This is all we are talking about. This is the crux of it. We either put it there or we leave it where it is.

That is something in this debate that my friends from Nevada have really not addressed. We have a permanent repository out here under construction. That repository is not going to be ready until the year 2015. Our pools are filling up. We face a crisis relative to the ability of our nuclear industry to continue to generate the 21 to 22 percent of power that is generated by nuclear energy in this country, when their pools are filling up with the high level of waste that the Government committed 15 years ago to take and has to start taking next year. The reality is that some of those reactors probably will have to shut down because they are out of space. Somebody says, "Well, make more space." The States have control of the licensing, and rightly so. Those pools where the high-level waste is stored were not designed for permanent storage. They were designed for temporary storage, until

such time as the Federal Government would take the waste.

You might say, why is the Federal Government so generous in just taking the waste? I remind the President that \$13 billion has been paid to the Federal Government by the ratepayer, collected by the nuclear power companies, paid to the Federal Government by the ratepayers, and now the Federal Government is in breach of its contract. Some people around here say, "Well, that is no big deal. If you are going to contract with the Government, that is just an incidental." I think that is a terrible precedent to take.

The Government is in breach of the contract beginning next year. There are going to be damages. The taxpayer will pick it up. How big? I do not know. Mr. President, \$59 billion was the last estimate for damages. We have to get on with this. The national interest of providing safe central storage of disposal of nuclear spent fuel could never, ever, be achieved if this amendment is adopted. I submit that this is the only purpose for which its proponents have offered it.

Again, I refer to the chart. If you look where it is, it is all over. There are 80 sites in 41 States. If you don't want to leave it there, you have to move it. This second-degree amendment would prohibit you from moving it. It would keep it where it is.

So, I implore all Senators representing the States that are affected here to recognize what this amendment would mean. This amendment really does not pass the straight-face test, if we are serious about resolving the nuclear waste issue. As a consequence, I think it speaks for itself.

I am going to read for the RECORD an editorial that appeared April 8 in the Chicago Tribune. The headline is, "Honoring a Pledge on Nuclear Waste."

From the start of commercial nuclear power, Washington decided to make the storage of high-level radioactive waste a Federal responsibility.

They are right. We did. We made it a Federal responsibility. We voted on it. We passed it.

Fourteen years ago, Congress ordered the Federal Government to begin taking control of nuclear waste in 1998 and storing it at a permanent storage site in Nevada.

Where? In Nevada, right there, out in the desert.

Despite spending billions and extending deadlines, Washington won't be ready to accept any waste for another 10 years or so.

As a matter of fact, it is the year 2015, according to the previous Secretary of Energy, Hazel O'Leary.

Meantime, the stuff keeps piling up at nuclear power plants in Illinois and around the Nation.

The Senate this week can begin to correct this unconscionable malfeasance. It will consider a bill to build a temporary waste storage facility in the Nevada desert, about 100 miles from Las Vegas. It passed similar legislation last year, but not by enough votes to override a threatened veto by President Clinton, who agreed to oppose it if Nevada's Democratic Governor and two Senators supported his reelection.

This is a quote from the Chicago Tribune, Mr. President.

Well, it further states:

The election is over, but Clinton again is promising a veto. Nuclear waste, he argues, shouldn't be shipped to a temporary facility until it's known for certain whether a permanent site can be built at nearby Yucca Mountain. Temporary storage, he contends, will drain funds from Yucca and make it likely the underground facility will never be completed.

The Senate should end this political gamesmanship by passing the bill by a veto-proof margin. For national security and environmental safety, it makes more sense to have the waste stored in a well-protected central location than at scattered sites near major cities or bodies of water like Lake Michigan, which are filling up rapidly. It will also keep electricity users from shelling out twice for the waste storage.

If Washington continues to slough off its obligation, it will be forced to build additional above-ground storage facilities at their nuclear plants and try to pass the cost on to the consumers. For more than a decade, ratepayers have chipped in billions to a private fund created by Congress to help pay for permanent storage facility, some of which has already been spent on research and study at Yucca.

"A Federal appeals court"—this is important, Mr. President, because it is right on—"A Federal appeals court has ruled the Energy Department is contractually obligated to begin accepting the spent fuel next year. That deadline is unrealistic, but a temporary storage site should be designated so that the Government can begin receiving waste expeditiously. Someone in Washington must honor past promises and quit putting different decisions off on future generations, and the Senate can begin this week."

I think that is right on target.

Now, I understand that there are those who have concerns about transportation of spent fuel to a central facility. That is why this bill has 12 pages of language providing transportation, training, and notification provisions.

Let me read from selected portions of the bill, section (2):

... not later than 24 months after the Secretary submits a licensed application under section 205 for an interim storage facility shall, in consultation with the Secretary of Transportation and affected States and tribes, and after an opportunity for public comment, develop and implement a comprehensive management plan that ensures 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.

Further, 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) . . .

Further, under "Transportation requirements."

(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.

(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 the safe routine transportation and for dealing with emergency response situations under paragraph (1)(A) have been available to a State or Indian Tribe for at least 3 years prior to any shipment.

In conclusion, Mr. President, this is a dangerous amendment. This is an amendment that freezes nuclear waste where it currently is, in those 41 States, 80 sites. Some of them are near neighborhoods, some are near schools. Just reflect on the significance if this second-degree passes—this stuff won't move. Of course, as I said before, my friends from Nevada simply don't want it to move to their State. That is really what this debate is all about. Nobody wants the stuff. You have to put it somewhere. Every State should accept the responsibility. In Connecticut, we build nuclear submarines, and that, I am sure, from the standpoint of the delegation from Connecticut, is very attractive from the economics associated with shipbuilding. But do they have a responsibility as a State? They generate the prosperity, but they don't have to put up with the actual disposal of the submarines when they are cut up and the reactors that are sent to Hanford in the State of Washington and go up the Columbia River.

I think every State has an interest in this. Colorado has waste out in their State. Do they want to keep that military waste there, or do they want to move it out? This second-degree amendment will ensure that it will stay in Colorado. I don't think the Governor or the Colorado delegation want that to happen. They want to move it out. The reality is, Mr. President, that nobody wants it. I don't know whether the Nevada delegation would consider some kind of a creation of this area out there in Nevada, dispense it from the State and put it under some kind of an original Federal enclave that is no longer part of the State. For all practical purposes, its structure is it's Federal land out in a State. But, clearly, the Federal Government does not have the disposition because it is still in a State. But the reality is, rather than go down that rabbit trail too long, no one of the 50 States wants to be named as either a permanent or temporary repository for the waste.

In conclusion, Mr. President, at an appropriate time, I will move to table this amendment. It is my understanding that there are other Members who intend to speak in opposition of the amendment.

I yield the floor.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada [Mr. BRYAN].

Mr. BRYAN. Let me respond to a couple of things that the chairman of the Energy Committee has said that I think bears correction. First of all, the amendment, as cast—

Mr. MURKOWSKI. Will my friend yield for a unanimous-consent request from the leadership?

Mr. BRYAN. Yes.

UNANIMOUS-CONSENT REQUEST

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the vote occur on or in relation to the pending Reid-Bryan second-degree amendment, No. 28, at 11 o'clock today.

Mr. BRYAN. This is the first I have heard of this.

Mr. MURKOWSKI. I thought it had been cleared.

Mr. BRYAN. It has not been. I want to assure the chairman that it is not our intent to be dilatory, but this is the first I have been made aware of that proposal.

Mr. MURKOWSKI. I certainly apologize, because I checked and asked, and they said it was. I withdraw the unanimous-consent request at this time and yield back to the Senator from Nevada.

Mr. BRYAN. I appreciate that. The Senator has been very fair, in terms of affording us the opportunity to do what is permitted under the rules. Perhaps what may have occurred is that we were asked by our staff to be given adequate time before a vote was taken, and someone said 11 o'clock would be that adequate time. That may have been misconstrued, I say to my friend. As to an agreement for a time certain for the vote, that was not my intention, and I accept what the chairman said.

Let me make a couple of points, if I may. One is that this amendment applies only to the shipment of waste to the interim facility. So we are not talking about the ultimate shipment that may go to a permanent repository if indeed that repository would be found acceptable. I know the distinguished occupant of the chair, in his own legal background, would appreciate that what we are trying to say to his State and to every other State—Alabama has a great many routes that are going to be major corridors for the transshipment of nuclear waste. Most of those appear on this map to be hide-away corridors. I confess not knowing the State as he does, but there are at least four different corridors that would be involved, as I see it, by rail. That is the blue line. Much of that would come from Florida and Georgia, it would appear. Some would come from Tennessee, perhaps, I don't know. Then there is a major highway that appears to come across the top of his State. So what it would simply say is that the Governor of Alabama, before shipments would cross his State, would say, "Look, I want to have the opportunity to review and look and see if indeed all of the safety precautions are there." Then if the Alabama Governor said he was satisfied, no problem, that's fine. We are trying to provide

States with the opportunity to defend and protect themselves.

The basic premise, Mr. President, is that we ought not to be moving this stuff all over the country, back and forth. Somehow there has been this fallacious assumption that there has been a determination that the Nevada test site is preeminently qualified to serve as an interim storage facility. That simply is not true. There has never been a study that reaches such a conclusion. There are probably a thousand places in the country that would be acceptable for interim storage. The only reason the Nevada test site has been chosen is the premise that the permanent repository at Yucca Mountain will meet the test. That is what this debate is about. We will talk much more about that in a different context.

I want to, also, if I may, set the record straight. The Chicago editorial that the distinguished chairman read is absolutely replete with misinformation and errors. As the chairman read the article and indicated that 14 years ago it was determined that Nevada was the site, Mr. President, that is simply not true. Fourteen years ago, I believe the Congress attempted to pass a reasonable and balanced piece of legislation—the Nuclear Waste Policy Act of 1982—which was signed into law by then President Reagan in the early part of 1983. What it said was that we will look across the country and try to find the best sites. We will look at formations that consist of granite; we will look at the salt domes; we will look at welded tuft, which is what we have in Nevada. No region in the country will have to bear it all. There will be a balance. And, indeed, three sites would ultimately be submitted to the President of the United States after the study—three sites—and the President would select among those three sites.

Now, that made some sense, in terms of the scientific approach and, indeed, I think that most people in my own State, as well as across the country, to the extent that they followed this, said that was balanced.

Here is what happened. No sooner was the ink dry than the Presidential campaign of 1984 began to heat up and the President was telling people in the Southeast, "Don't worry, it is not going to be salt domes." Then the Department of Energy said, "Well, my gosh, locating something in the East is going to create a lot of political pressure for us, so we will abandon that site." Then, in 1987 came the ultimate rejection and repudiation of anything that purported to have any kind of scientific basis at all; it is a bill that is known in infamy in Nevada as the "screw Nevada" bill. It said, without so much as a scintilla of science, that we will only look at Nevada. That wasn't what the law said in 1984. It said we would look at three, we would look all over the country. Maybe Nevada would be the short straw. We would not like that. I am sure the occupant of the chair would not like it if it were Alabama. I understand that.

Now, somehow the editorial suggested that the President entered into a crass political quid pro quo with my distinguished colleague, the senior Senator from Nevada, with me and the Governor, and said, "Look, if you support my reelection that had absolutely nothing to do with it." We made our argument based on merit—that is, that there should not be a shipment of interim waste to an interim storage facility until such determination of a permanent facility could actually be characterized. That was the whole scientific predicate. The President of the United States, in reaching his conclusion, followed the recommendations and conclusion of the Nuclear Waste Technical Review Board, a body constituted by this Congress, which said there is absolutely no need to have an interim storage facility at this point.

Mr. REID. Will my friend yield for a question?

Mr. BRYAN. I would be happy to yield to the Senator from Nevada.

Mr. REID. Would the Senator agree that President Clinton would be better off politically if he had gone along with the majority?

Mr. BRYAN. Absolutely. If you are looking at this in terms of the political consequences, there are four electoral votes in Nevada. Many States have many more. So if it was a political calculus made, the President's math was poor indeed. He supported the position argued by not only those of us in Nevada, but those who were following the premise of the act, the Nuclear Waste Technical Review Board, and the point made by the Senator from Arkansas the other day that we ought not to be transporting this across the country until we have the permanent site. Does it make any sense at all? I believe that was the basis.

Mr. REID. Will the Senator yield further?

Mr. BRYAN. Yes.

Mr. REID. As to the present state of the law, I ask the Senator, what does it say about whether or not you can locate a permanent repository and a temporary repository in the same State?

Mr. BRYAN. The present state of the law, enacted by the Congress, prohibits a State that is being considered for a permanent facility to be the site of an interim or temporary facility. Moreover, at the request, as I recall it, of the Tennessee delegation some years ago, it prohibits the location of an interim facility until an application for licensure is made for the permanent facility. Now, that was sound policy. No. 1, no State, frankly, should have to bear the burden of both. That was the philosophy and the remnant of what was a fair act in the beginning—to look all over the country. The interim ought not to be located before the permanent, because we know that kind of tends to be de facto permanent. That was good policy, I say in answer to my friend.

Mr. REID. Will the Senator allow me to ask another question?

Mr. BRYAN. I will.

Mr. REID. It is my understanding, belief, and knowledge that you, like the two Senators from South Carolina, have been the chief executive of the State of Nevada, the Governor.

Mr. BRYAN. Yes, we share that history together. I was elected twice as Governor of my State.

Mr. REID. Is it true that one of the philosophies that you had while you were Governor was to protect the rights of the State of Nevada?

Mr. BRYAN. It was indeed. Every Governor takes an oath of office in which he or she indicates they will indeed uphold those rights and responsibilities, and I did so, as each and every Governor has done not only in Nevada but throughout the country, I am sure.

Mr. REID. Will the Senator further respond? It is my understanding that the Senator has a law degree from the University of California Hastings College of Law, was Nevada's first public defender, and was a prosecutor and in the district attorney's office. He was also in private practice. How many times was the Senator elected attorney general of the State?

Mr. BRYAN. I was elected attorney general once.

Mr. REID. During that period of time, the Senator was the chief political officer of the State of Nevada. Is that true?

Mr. BRYAN. That is true.

Mr. REID. And the chief function was to handle the legal questions that came to the State of Nevada.

Mr. BRYAN. That is, to advise all of the State agencies that were constituted by the State legislature or established in our Constitution, and to represent, protect, and defend the people of the State. That was my obligation.

Mr. REID. Based upon the Senator's experience as Governor of the State of Nevada and as its chief legal officer, the Attorney General of the State of Nevada, and based upon other legal experiences, does the Senator from Nevada think it is an appropriate function of this Congress to adopt this amendment protecting the States rights in all 50 States?

Mr. BRYAN. It is indeed. This I would say to my friend from Nevada is a litmus test of whether we just talk the talk or walk the walk. This is all about States rights. I cannot conceive of any attorney general or any Governor in America who would not want the ability to provide for the protection of his or her State by simply saying, "Look, before we ship this 25-ton cask that someday will be provided by rail"—the 25-ton casks that are going to be mounted on some type of highway transport with the equivalency of 200 Hiroshimas in terms of its radioactive potential—I would think that any Governor, or any attorney general who has taken the same kind of oath of office that I and others have taken, would say, "Look. I would like the

ability to provide that protection. I would like to see what it is that is coming."

I say in response to my friend's question about the protections that are purportedly built into this S. 104 that deals with transportation issues that it seems to me this is a logical extension of that.

Mr. REID. I say in further questioning of my friend, if in fact this substitute, this bill that we are working under now, has all of the protections that we have heard about here for the last several days—that they are going to train people and have all of these protections—based upon the Senator's experience as attorney general and Governor of the State, and as a U.S. Senator, doesn't it seem to make sense that if all of those protections are built in you could go to a Governor and reasonably explain that this is such a great piece of legislation, and say "You are protected, sign on, Governor"? Could the Senator see that happen?

Mr. BRYAN. Absolutely. Indeed, I would go further. It seems to me that it would be incumbent upon the department that wants to shift this, talking about 835,000 metric tons—we are talking about 17,000 shipments over a period of a number of decades—it would seem to me that the department would have the burden of going to Governors who have concerns, talk with them, and to say, "Look. This is what we are doing. This is how we propose to protect the shipment route to go through your State." That seems to me to be a reasonable basis.

I know that there are others who want to take the floor and will have a chance to discuss this some more. But I would like to conclude by saying that this is something that gives every Governor an opportunity to protect his or her citizens. And I say with some measure of envy that the Senator from Alaska can speak with a far greater degree I suppose of comfort level because whatever occurs or does not occur in this body, his State is thousands of miles from the field of action. I wish I were so fortunate. But it becomes my responsibility representing the people of Nevada who I represent, and who are my primary responsibility, to make sure that we provide all of the protections that can possibly be secured for their health and safety. And I will continue to do so.

This is an offer by my colleague from Nevada and I to try to provide a safe piece of legislation, if indeed this is to be enacted into law.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I stand on the floor today to speak against the Reid-Bryan amendment as it relates to Governors' authority on transportation of materials through their States.

My colleague from Nevada, who is not only a U.S. Senator but a former Governor of that State, just said something that I found fascinating in the

context of this legislation or this amendment. In a dialog with his colleague, the other Senator from Nevada, he suggested that with all of the safeguards and the protections put in, couldn't you go to a Governor and logically argue with him and, therefore, convince him to just sign off, Governor?

My guess is that as a former Governor of the State of Nevada or a Governor today in Nevada, with all these safeguards, he wouldn't sign off—not because of the science, not because of the engineering, but because of the politics. Plain and simple politics is what is dictating the argument on the floor today—not science, not engineering, not the facts. So, sign off, Governor. Just sign off, and everything will be fine. And the Governor looks over his back shoulder, he looks at the polls, and he sees that the citizens of his State do not want nuclear waste stored in their State no matter how good the science, no matter how good the engineering, no matter how good the record, no matter how good the history of that record. What does he do? Is he the statesman that he should be? Not at all. He is the politician that he is. He says, "My reelection is in trouble if I do this and so."

Why do I speak in this manner? Because Idaho went through that very experience. Idaho has a large amount of interim storage of high-level nuclear material. And a former Governor of our State got a Federal court order to stop the shipment of that waste coming into the State. But could he get the Federal court to ultimately say no waste movement to Idaho? No; what he could get, what any Governor can get, what our S. 104 provides, and what current law provides is that he could assure that the condition in which that waste would be stored both long-term or short-term would be safe, would be environmentally sound, and would not put at risk or put in danger the citizens of that State.

Why could the Governor not absolutely say, "It cannot cross my borders"? Because we are no longer a confederation of States. We almost fell apart as a nation when we were a confederation. We are now a union bound together by a Constitution that speaks very specifically to interstate commerce, and the ability of a Governor or a State to block the movement of materials or commerce across its border. But what we do say—and what we defend and what S. 104 clearly spells out—is that the Governor of the State and the State itself can condition the movement of materials across its border.

That is exactly what the State of Idaho did. My Governor over the last several years has signed agreements with the Department of Energy under a Federal court order that conditions the waste that still comes to Idaho across many borders up the rails from Norfolk, VA, to Idaho—2,500-plus miles, 600 shipments over 30 years, and never an

accident—with never a human put at risk by the spill of radioactive activity.

I am not suggesting nor am I attempting to impugn the integrity of the Senators from Nevada. They will do what they must do because they have the right to do it. But let me suggest they do not have the science, and they do not have the engineering. They only have the politics.

When you look at the amendment that they proposed and at the legislation that the Senator from Alaska, I, and the committee crafted, when you talk about the intricacies of laws, when you look at the legislation that is now law, the Hazardous Materials Transportation Act, known as HAZMAT which involves the States, which assures that States and Federal transportation of hazardous materials is in concert, that humans are safe and humans are protected, but the reality is that to provide greater protection for the broader good and for the national interests sometimes State borders must be crossed. The HAZMAT system has adopted a uniform, regulated approach toward handling materials regardless of their type. Regulations of these materials allow States authority to conduct certain inspections, and we have even extended that. We have created greater authority in this legislation because several of our Senators—and rightfully so—are concerned about the movement of radioactive materials across their States. And I am concerned when States are not generators of it. My State is a partial generator but a much larger store in a temporary way of waste.

This second-degree amendment is not just some conditioning amendment. This kills S. 104. This changes the whole character and the context of what the bill itself would do. The Senator from Alaska, the chairman of the committee, has so clearly said that this gives every Governor in every State absolute authority to cancel, stop, or otherwise terminate movement across State borders. We have really never given States that authority. And we should not here. But we have continually done it. And I have argued for it on many occasions under many different examples and legislation that is now law. States have very clear rights. They have 10th amendment rights. And those rights are very strong as it relates to the ability of States to govern themselves and control themselves, and not have the Federal Government impugn that authority, or dictate that authority, or change the character of that authority. But one thing that a State cannot do is lock and block its borders.

That is, of course, the reason that 208 years ago many of what we now call our Founding Fathers joined in Philadelphia to try to figure out how to get our States back together because we were falling apart largely because States had that kind of absolute authority. The States of Maryland and

Virginia were shooting at each other across the Potomac River, or at least some of their interests were. And the Confederation was falling apart. That was one of the early parts of a Constitution, to make sure that commerce could flow.

I think all of the Senators on the floor would argue that this isn't the best form of commerce, and this isn't like what we would like to think of as commerce. But we clearly recognize that in the national interest, when it comes to the rights of States, that the principles of federalism on which our country was founded recognize States' authority to govern matters within their borders but must give way to Federal authority when an issue is one of national scope reaching beyond the particular boundaries of a given State. This is an interesting combination.

This is not only an issue of national scope. This is a Federal material going to a Federal property—not a private property, not a State-owned property, but Federal land in the State of Nevada. The Senators from Nevada and I are oftentimes very perplexed because we are representatives of States that have very large Federal domains. Sometimes we wish a great amount of that land could either be public-State land, and in some instances private land, but that is not the way it is, and that is not the way our States came into the Union. As a result, we are talking about building an interim storage facility, after viability determination, facilitating a deep geologic repository, long term. And it is not true that this is just going to happen and the Nevada test site was just chosen. Certainly this argument deserves merit. I know it can have the emotion, and I certainly know it has its politics because I live with nuclear radioactive politics in my State every day because we are a repository temporarily of large volumes of high-level waste from our nuclear Navy. I also know that it has been handled safely for decades, and it is a sound place to store it on a temporary basis until such time as a permanent repository is developed.

As I have mentioned, over 600 shipments have moved across numerous State borders from as far away as from Norfolk, VA, to the deserts of Idaho. And it has been done safely, soundly, and responsibly because of our country's recognition of the risk and the liability to human safety. And we have never compromised a human, and we never will.

We cannot kill S. 104. I hope that when the Senator from Alaska places the tabling motion that our colleagues will join with us to table the second-degree amendment because there is no question about its intent. I believe it is not a constitutional amendment. But then again we don't judge the Constitution here on the floor. We only try to live with it and live under it. That is not ours to make that judgment. But I do not believe the courts of our country would allow the Governor of the

State of Nevada or Idaho the privilege of absolute cancellation, or absolute border blockage. And that is, of course, in my opinion, what this amendment ultimately does. So I would ask my colleagues to join with us, those who support S. 104, in the need to recognize the importance of the building of a national deep geological repository for high-level materials and high-level nuclear spent fuel and that they would vote down the second-degree amendment and vote for the tabling motion.

I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER (Ms. SNOWE). The Senator from Nevada.

Mr. REID. Madam President, the senior Senator from Idaho articulated the position that we have felt for several years. He did it clearly and concisely and directly when he said nuclear waste is safe. If that is the case, leave it where it is. That is what we say. If it is so safe, leave it where it is. There is no reason to change the law, to go around, to short-circuit, to sidestep the present law. Last year, \$200-plus million were spent characterizing the site at Yucca Mountain. What this underlying bill does is just throw all that money away and goes and pours a cement pad on top of the ground and dumps all the spent fuel rods on the cement pad.

The amendment that is now before this body says that if you are going to transport nuclear waste through a State, the Governor must allow that to happen. We certainly, under this Constitution, this Constitution that we all live by and talk about, have the obligation, we have the right to set standards as to how the flow of commerce will take place.

The senior Senator from Idaho said that you are moving Federal property. Certainly, doesn't the Federal Government, the Congress of the United States have the ability and the right to determine how Federal property is going to be moved? That is an inherent right we have, to determine the flow of commerce over our sovereign borders.

Continually, there have been efforts to say this is only a Nevada problem, this is just a couple of Senators from Nevada carping about a provincial interest; nobody else in the world cares about this other than the Senators from Nevada.

Madam President, every environmental organization in America opposes this legislation, and I say every. I also say that we only need look around. The United Transportation Union, you would think that this union would be really enthused about hauling large cargo. No, they are not real enthused. In fact, in a letter of April 8 of this year, the national director of this union, with a copy of a letter to the international president, C.L. Little, states:

In its present form, S. 104, the Nuclear Waste Policy Act of 1997, advocates a reckless and unsafe shipping campaign of spent nuclear fuel and high-level radioactive waste.

Madam President, the United Transportation Union, to my knowledge, does not have a local. It does not have a local union in Nevada. If it does, I do not know about it. There may be one up in the northern part of the State where the railroad goes through, but I really doubt it. This letter is not driven by Nevada interests. It is driven by the United Transportation Union that cares about its members and wants safe transportation of products. The letter goes on to say:

The Chairman of the Nuclear Waste Technical Review Board has testified to serious deficiencies in the transportation planning and preparation that are so necessary to execute this campaign safely . . .

Serious questions remain regarding containment integrity of the transportation canisters that would have to be designed, tested, evaluated, certified and procured. Presently the country has only a few shipping containers that were developed and tested a number of years ago.

I was going to say a long time ago, which is, in fact, the case.

These have apparently proven durable under some accident environments.

And we talked about that. If the accident occurs and you are not going more than 30 miles an hour, you are in pretty good shape. If the fire isn't burning more than 1,400 degrees, you are OK. Of course, diesel burns at 1,800 degrees. They go on to say:

The NRC certification requirements for newly manufactured containers have raised serious concerns regarding their integrity.

That is the ones that are now in existence.

A program of design and full-scale testing is desperately needed to generate confidence that the transportation campaign could be done safely.

This is the not driven by Nevada interests. This is driven by interests of a national union that is concerned about what is shipped across the railways of this country.

Now, I know there are Baptist churches in Nevada, but I have to tell you, I do not have enough power over the Baptist churches in Nevada to have them prepare a letter from the entire Baptist ministry of this country opposing this legislation. I wish I had that ability, but I do not.

In spite of that, Madam President, just a few days ago they wrote a letter to every Senator in this body saying, among other things:

S. 104 would require the premature transportation of nuclear waste, placing communities in some 43 States at risk. Current cask regulations fail to consider the full range of plausible accident conditions and do not require compliance testing of full-cask models.

I did not make this up. I did not write this letter. This is written from the National Ministries of the American Baptist Churches USA.

The American Baptist Churches USA, a denomination of over one million members in all 50 States, regards the right to a secure and healthy environment, clean air, pure water and an Earth that can nurture and support present and future generations as a human right. This right is rooted in the Bib-

lical revelation that God cares for the good of all, has delivered us from sin and intends that we express love toward our neighbors. Our concern for persons and the earth we share compels us to support efforts to transport and dispose of hazardous and radioactive waste in a safe and secure manner. S. 104 fails to meet this criteria for safety and security. For these reasons, I urge you to oppose S. 104.

The director, Curtis W. Ramsey-Lucas, National Ministries of American Baptist Churches USA.

Madam President, this is not a Nevada letter. There are Baptist churches in Nevada. I am very thankful for that. Here is a group of millions of people who are interested in this issue but only as it protects people, and this legislation does not protect people.

We have from the State of Missouri two members from the other party. They do not represent this side of the aisle, but yet the Missouri Coalition for the Environment writes a letter saying:

Missouri would surely be one of the primary States that would suffer a high percentage of the train and truck shipments because of its central location and the relatively well-maintained conditions of its rail tracks and roads.

Political leaders may seek to comfort their urban constituents by promising that these shipments would avoid highly populated areas. However, such areas are precisely where the best transit routes cover. Because industrial job centers receive the greatest number of train and truck shipments, the roads, rails and bridges are maintained better than more isolated routes.

Although no one knows exactly which routes the railroad and trucking companies would choose, current computer analyses predict that all but seven States would be affected by this massive—

Listen to this word—

fruitbasket upset.

Because all irradiated nuclear power plant fuel contains plutonium—a primary component of nuclear bombs—the Nuclear Regulatory Commission requires that when shipments transit cities of over 100,000 either by rail or highway, two armed escorts—

Now, this does not say armed guards, two armed escorts—

must accompany every shipment of the irradiated fuel in an effort to protect against terrorists.

Until a permanent repository is built and in operation, we believe the wisest, safest move would be to prevent any move of America's high-level radioactive waste through our cities and towns.

Madam President, the point I am making is this is not a Nevada issue only. This is an issue that is here because it is being driven by big money. Utilities making, as we indicated, over 17 percent profits, they want to shun the responsibility that they have created with nuclear garbage and get it out of their hands.

All the talk about having to do it by next year is poppycock. The court case was very clear. If the responsibility is that of the Federal Government, and they are the reason that the repository is not ready and it is their fault, then they will have to pay the damages. What are the damages? It is the cost of

storage. We have already established that the cost of storage is almost meaningless. On-site storage costs almost nothing, and it is safe, as indicated by the Missouri Coalition for the Environment, by the National Ministries of the Baptist Church.

Mr. BRYAN. Will the Senator yield for a question?

Mr. REID. And by the United Transportation Union. I would be happy to yield.

Mr. BRYAN. We have heard considerable debate in the Chamber here about the horrendous liability that may exist out there because everyone concedes that the Department would not be able to physically accept possession of the waste in 1998. I thought I understood the Senator to indicate that there is at least some measure of damages provided. We have heard all kinds of billions and billions of dollars. I wasn't sure that I heard the Senator's comments.

Mr. REID. I would answer my friend's question. We have made, since this bill came up, we have made \$21 billion for the country. The figure was originally \$80 billion. You heard the remarks of the proponents of this legislation. They said it is down to \$59 billion. The truth is it should be down in the low millions, because to store this substance onsite costs almost nothing. The average cost per site is \$5 million. Let us say we have 100 sites. We have 109 sites. We are talking about \$50 million or whatever it is. Significantly less than \$59 billion.

Mr. BRYAN. Am I correctly informed that each of the utilities has entered into a contract with the Department of Energy dating back to the enactment of the Nuclear Waste Policy Act? Is that the Senator's understanding?

Mr. REID. Absolutely true. It is by contract.

Mr. BRYAN. By contract. And there are provisions, if I understand it, that specifically relate to the scenario that is going to occur, namely, that nuclear waste, its physical possession cannot be accepted in 1998, and there are specific provisions in that contract, if I understand correctly.

Mr. REID. Absolutely. And the court, in making its decision, like many courts do, said let us send this back and take a look at what the contractual provisions are. And the contractual provisions are very direct and concise. This is not going to generate a lot of lawsuits.

Mr. BRYAN. And the measure of damages, as I recall, that is in that contract, it is additional cost that the utilities will incur, and that additional cost would be the provision of additional storage during that period of time, if I am correctly informed.

Mr. REID. The Senator is absolutely right. If they decided to leave it in the cooling ponds, whatever the cost of that would be during that interim period of time for the storage ponds. If they decide to do the right thing, which is probably dry cask storage con-

tainment, then it would be an average of \$5 million per site.

Mr. BRYAN. And they could use that as an offset in terms of what they are paying into the Nuclear Waste trust fund right now.

Mr. REID. Absolutely right. In preparation for a permanent repository. And that is why I say to my friend from Nevada and everyone else, this is not a Nevada-only issue. We are here espousing what we feel is appropriate to protect the State of Nevada. But that is only secondary to the issues that affect this whole country and that is why the Baptist Ministries, the United Transportation Union and the people from Missouri—and I only picked a few of the letters. As you know, there are several hundred organizations that we know of—oppose this legislation, which is so unsafe for the environment and so unnecessary, and only being driven by the gluttonous utilities of this country.

Mr. BRYAN. So the argument that we have heard in the Chamber that ratepayers will pay twice is specious, because to the extent that after 1998 nuclear waste would not be taken physically from a site, it cannot be under any scenario, the ratepayers would then be protected because any additional costs that the utilities would incur would be deducted from the payments that the utilities would have to make into the nuclear waste trust fund, so there would be no double payment.

Mr. REID. I would respond to my friend, that is absolutely correct. A first-year law student not even having taken a course in contracts would read that and understand that it is one of the most simple contracts ever written, and that is why the court did not spend a lot of time on that issue.

Mr. BRYAN. It strikes me as curious, if I am hearing the Senator respond, that, indeed, the senior Senator and I have introduced for a number of years legislation that would accomplish the same provision that exists in the contract; namely, to the extent that there is not the ability to physically take possession, the utility would be entitled to a reimbursement in the form of the reduction in the payments made to the nuclear waste trust fund.

Mr. REID. I would respond to my friend, we did that prior to the court rendering its decision. Probably now the legislation is unnecessary, but we could certainly do that. And I think it would make things a little clearer. But it is really unnecessary now because the court, in effect, has ruled that way.

Mr. BRYAN. I thank the Senator from Nevada.

Mr. REID. So, Madam President, what we are saying is that this amendment simply establishes what should be the law of this land. That is, if you are going to haul, as indicated in the chart behind the manager of the bill and the chart behind my colleague from the State of Nevada, showing all these routes all over the country, what

we are saying is this product, if it is going to be transported through a State, the Governor should give the OK.

We have been told here for several days now that transporting this product is going to be just as safe as carrying a quart of milk from the store to your home. If that is the case, the Governors that I have mentioned, Beasley, Hunt, Romer, O'Bannon, Voinovich, Wilson from California, Miller from Nevada—and all the other fine Governors, chief executives of the States, they should be able to sit down with their staffs, it should be explained to them how safe this is, they would sign on the dotted line, and their constituents would feel happy that the government was protecting their interests.

If we do not do this we are going to wind up with a situation that has already occurred in recent days in Europe where, to move this product in the country of Germany, 300 miles, you had to call up 30,000 police and armed guards to transport at the rate of 2 miles an hour. They had to go 2 miles an hour because people had dug huge holes under the roadways and put in, in effect, disguised covers so these vehicles would fall into them—2 miles an hour. There were 170 people injured, hundreds of people arrested. And Germany's parliament said we are not going to do this anymore. We are going to reassess our situation.

That is what we should be doing here, but we cannot reassess the situation because the utilities, with all of their money, are dictating what is going on here on the Senate floor. That is what this amendment is all about.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Madam President, I think it is appropriate that we move on to vote as soon as possible. But I would like to make a couple of points that I think are pertinent to the debate that is at hand.

First of all, I think we have to recognize the premise that nobody wants to take the waste. On the other hand, I think we also have to recognize the reality of those who have the waste. Currently, we have in the State of Washington, at Hanford, a significant abundance of spent fuel, about 2,133 metric tons over here at Hanford. I have been out there. It is right on the edge of the Columbia River. These were the first graphite reactors; and the first generation of nuclear bombs that were used in Hiroshima and Nagasaki were created there.

The State of Washington has also, at that Hanford facility, 61 million gallons of liquid, high-level waste in 177 tanks. That is just the harsh reality. Savannah River, in South Carolina, 206 metric tons of high-level spent fuel, 33 million gallons of liquid waste. There is more that comes in every day. It comes from overseas and from our research reactors. How does it come? It comes through a transportation network, 2,400 shipments from 1979 to 1995.

Every State has had shipments with the exception of Florida and South Dakota.

So, when we talk about transportation, we have a transportation system. Why is it not news? Because nothing is happening. It is safe.

Mr. CRAIG. Will the Senator yield on the issue of transportation?

Mr. MURKOWSKI. I will be happy to yield to my friend from Idaho.

Mr. CRAIG. The Senator from Nevada said you and I portrayed the transportation as safe as transporting a quart of milk home from the store. I think the record ought to be corrected. The transportation system for nuclear waste is safer than transporting a quart of milk home.

Have you ever dropped a quart of milk on the floor of the supermarket or on the floor of the kitchen? I have, and I have burst the container. You can drop these containers 50 feet onto a piece of concrete and they do not burst. That is the characteristics of the container.

I think, when we also get in our car at the supermarket and drive home, we do not have a police escort in front of us and behind us, making sure that the road is perfectly clear so someone does not sideswipe us at the intersection or hit us as we are leaving.

I know what the Senator from Nevada was trying to do. But the reality is, the transportation of high-level radioactive materials in this country is, by far, much safer than transporting a quart of milk home from the supermarket. There is a lot of milk spilled between the supermarket and the kitchen of the average residence in our country. But to our knowledge not one curie of radioactivity has ever been spilled going from a reactor to a storage site, once it was containerized and in its mode of transportation.

I thank my colleague for yielding. That is an important correction. We ought not make light of our arguments here because the facts are very clear when it comes to transporting this critical material.

Mr. MURKOWSKI. Let me point out to the Senator from Idaho, this is a typical cask that has been used since 1964 for shipping by truck transport. These are designed according to a very, very technical and highly engineered requirement that would associate itself with whatever the exposure is of a wreck, dropping from a high level. They have tested these. They have tested them with a railroad car at 60 to 70 miles an hour, dropping them from various levels. So the technology is here.

These are the facts, as we look at this chart of where the waste is currently, and the position our friends from Nevada have taken, which is "Do not put it in Nevada, leave it where it is." To highlight, again, the transportation chart, the one that shows the network, you just cannot reflect reality, and that is reality, 2,400 shipments. It has been safe. We have never

had an accident that resulted in any exposure of any kind. We had a couple of minor trucking accidents, but clearly the cask withstood whatever the exposure was.

Let me add one more consideration relative to where the significant areas of waste are. In addition to Savannah River and Hanford, at Oak Ridge, TN, we have 1 metric ton of spent fuel in storage and what we have there are some tailings and low-level waste as well.

The Senator said it was not my State of Alaska that was affected, and that is true. But I would like the RECORD to note that we, in Alaska, at Amchitka, had the two largest underground nuclear explosions ever initiated and we are still monitoring those areas, relative to any waste that might be depleting into the landmass.

So, the point I want to make here is that everybody shares in the concern of what we do with our nuclear waste. That is what this legislation is all about, what we do with the waste.

There has been some discussion about what the damages, relative to the inability of the Government to perform on its contract to take the waste in coming years, what that might be. The lawyers are going to make that determination. But let us be realistic and recognize what the court said. The court ruled the Department of Energy had an obligation to take the spent fuel in 1998. And they promptly rejected the DOE's attempt to file a motion to dismiss. As a consequence, the Federal Government is clearly liable.

How much are the damages likely to be? Again, that is like giving the lawyers a license to go after damages or full employment. The cost of the storage of spent fuel is estimated to be about \$20 billion. That is the cost. That is the cost to the Government, when the Government fails to perform on its contractual obligation starting next year. The return of nuclear waste fees—they have to return what they collected from the ratepayers, about \$8.5 billion. The interest on that for the last several years, as a consequence to it building up to \$13 billion, is going to be somewhere in the area of \$15 billion to \$27 billion and the consequential damages associated could amount to an estimated shutdown of 25 percent of the nuclear plants due to insufficient storage—another \$20 or \$24 billion.

I do not think there is any point, necessarily, to try to sharpen up the figures on what the damages are. Clearly there are going to be damages as a consequence of the Government's inability to respond to its contractual agreement.

What I wanted to say, relative to the point of Nevada being the best place for this, showing the Nevada chart again, is we have had 800 nuclear weapons tests in this area for approximately 50 years. And the proposed location for the interim repository is here as well as, hopefully, the permanent repository that we spent approximately \$6 billion

on. We will probably spend as much as \$30 billion to finally get it licensed.

I have a couple of other comments relative to points that have been made, that I think need to be cleared up. I read a copy of the editorial in the Chicago Tribune of April 8. There was a reference to a possible association with regard to support for President Clinton, who agreed to oppose the legislation if Nevada's Democratic Governor and two Senators supported his reelection. That is obviously literary jargon, but, by the same token, I noted in the debate, time and time again, a reference that none of the environmental groups support this bill. Of course, I think it is fair to say the President received almost unanimous support from America's environmental groups relative to their particular policies.

What we have here from the standpoint of the environmental groups is, many of them, their objective is to simply shut down the nuclear industry as we know it today. They do not accept the responsibility for picking up on where we would generate the offset of energy as a consequence of shutting down the nuclear industry. They do not give any credence to reducing greenhouse gases as a consequence of the contribution that nuclear energy can bring to lessening or eliminating emissions.

No consideration is given to the reality that many of the nations that we compete with internationally are going to achieve their reductions of particulates and emissions as a consequence of moving toward nuclear power. France is already 98 percent nuclear power. Japan is actively moving into the area and they are beginning to reprocess. So I think it is fair to say as we stand still and debate on and on, endless discussions about the issue of what we are going to do with our waste, other countries are moving into advanced technology and reprocessing the waste.

This particular second-degree amendment talks about States rights, and we are all sensitive to that aspect.

However, the reality of States and the interest of States has to be addressed in the consideration of the major chart which shows where the waste is and the reality that we want to move this waste to one site. As a consequence of that, I think it is fair to note we have some inconsistencies relative to the statements that have been made by my good friends on the other side.

There has been a reference that we all have to do a certain amount of sacrifice relative to States storing nuclear waste and nuclear waste fuel, and that certainly has been done by the State of Nevada. They were chosen for reasons unknown to me, but nevertheless chosen as the ideal site for nuclear explosions over those some 50 years. But there was a reference made that suggested that the transportation of nuclear fuel was an eminent right of a State to make a determination that it was or was not in the best interest of

that State. But that concept defeats the logic of what we are attempting to achieve here, and that is to get it out of the States, to move it to one central repository.

As far as the history of at least some Members of the Nevada delegation, let me again refer to action that was taken some time ago. Again, I refer to this picture of the Nevada test site, where the last underground explosion occurred in approximately 1991. Underground tests are still being performed there with nuclear materials being exploded with conventional explosives.

During this time, the Nevada delegation, we assume, has not rejected that continued activity, but it is even more interesting to note that one of the Senators during his association with public service from Nevada supported storing nuclear waste at the test site. If you are going to support it, Madam President, you are going to have to get it there. So, if you support it, the realization of how you are going to move it across this network of States gets to the very crux of where we are in the second-degree amendment.

Let me read a relative portion of the Nevada Assembly Joint Resolution No. 15, and this is a chart of the entire resolution dated February 26, 1975, and the appropriate portion:

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

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

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

This resolution passed the Nevada Senate by a 12-to-6 vote, aided by one of the Senators from Nevada, who is here today, and signed by the Governor of Nevada, Mike O'Callaghan.

I do not know what has changed. The Nevada test site out there certainly has not changed. It is the same as it was. It still has a trained work force, and it still has an infrastructure for dealing with nuclear materials. The geology of the site certainly has not changed, and, obviously, some of the Senators thought it was the best place to store nuclear waste in 1975 or they probably would not have voted for it back then.

So that is the reality relative to this issue, that nobody wants it, that it is stored in 80 sites in 41 States, and the answer is to move it to one safe site. If you do not move it, it is going to sit where it is, and that is not acceptable. As a consequence, we are at a time where it is imperative that we recognize that adoption of the second-degree amendment would simply kill the legislation, kill the bill and leave the waste where it is, and I do not think that is in the interest of the 50 States.

Madam President, I propose to move to table the Reid-Bryan amendment.

Mr. BRYAN. Will the chairman just allow a brief response?

Mr. MURKOWSKI. Sure.

Mr. BRYAN. I appreciate that.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. Madam President, I appreciate that, and I will be brief. I want to respond to the comments about the resolution adopted by the Nevada Legislature in 1975. I think we have to put things in context. In 1951, we were assured that the detonation of nuclear bombs in the air 60 miles from Las Vegas was a very safe thing to do; you can rely upon us; you can trust us; we will never do anything. The scientific community embraced that, or at least we were told that at the time, and Nevadans agreed to do that. No scientist in the world would suggest to any community that to detonate a nuclear bomb within 60 miles of a metropolitan area is absolutely safe, and, in point of fact, we entered into an atmospheric nuclear test ban in 1963.

If Nevadans can be faulted, they can be faulted because they relied upon representations of their Government which they believed to be true. We were all in America less sophisticated about the risk inherent in detonating bombs in the air.

So, too, it was in 1975. If Nevadans can be faulted, we were less sophisticated. But I point out to the chairman and others that the world is dramatically different today than it was in 1975, and we know a lot more about the risks.

Prior to 1979, I am sure that it would have been asserted not a chance in the world that any of the reactors in America would ever have a problem; we have the most preeminent, highly qualified, most sophisticated people in the world. Nobody today believes that to be categorically true. Three Mile Island occurred, and our naivete about the risks of nuclear power have been irreparably shattered, and nobody accepts those representations today.

Before the worldwide devastating impact in Chernobyl, I am sure everybody was assured there was no problem with any of these reactors, there was no risk, no danger. My point is that we are all more sophisticated today, and Nevadans fully understand the risks that are involved with storage of nuclear waste, and they have rejected it both by the State legislature since that period of time, and Democrats and Republicans alike, in the most recent survey, in numbers in excess of 70 percent categorically reject that storage.

So I think it is somewhat unfair to suggest we be judged by an earlier time, less sophisticated, more naive and perhaps, if we can be faulted, more trusting.

Let me just say by way of conclusion, this is a highly technical debate. Much of it is arcane, much of it is not easy to understand, and for that reason, I am indebted to the senior Senator from

Idaho, because I think he has framed the issue that all of us can understand.

If you believe that the shipment of nuclear waste, 125-ton casks by rail, 25-ton casks by truck, containing the equivalent radioactivity of 200 bombs the size dropped on Hiroshima, is as safe as the transportation of milk from the market to your home or across the country, let me just say you should vote against the Reid and Bryan amendment. But if you believe, as I believe most Americans do, that when you are shipping nuclear waste, 85,000 metric tons, 17,000 shipments, for decades to come over thousands and thousands of miles through 43 States where 51 million Americans live within a mile, then I think you might think that it is a little bit more risky than shipping milk from point A to point B. I believe that the logic of the Reid-Bryan amendment is inescapable, and I believe that you want to support us and to protect the citizens of your State. I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Madam President, I move to table the Reid-Bryan second-degree amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 28, as modified. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Minnesota [Mr. GRAMS] is necessarily absent.

Mr. FORD. I announce that the Senator from North Dakota [Mr. CONRAD], the Senator from North Dakota [Mr. DORGAN], and the Senator from Minnesota [Mr. WELLSTONE] are necessarily absent, because of the severe disaster conditions in their States.

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

The result was announced—yeas 72, nays 24, as follows:

[Rollcall Vote No. 36 Leg.]

YEAS—72

Abraham	Craig	Hollings
Akaka	D'Amato	Hutchinson
Allard	DeWine	Hutchison
Ashcroft	Dodd	Inhofe
Bennett	Domenici	Jeffords
Biden	Enzi	Johnson
Bingaman	Faircloth	Kempthorne
Bond	Frist	Kennedy
Brownback	Gorton	Kerry
Bumpers	Graham	Kohl
Burns	Gramm	Kyl
Byrd	Grassley	Lautenberg
Chafee	Gregg	Leahy
Cochran	Hagel	Levin
Collins	Hatch	Lieberman
Coverdell	Helms	Lott

Lugar	Robb	Snowe
Mack	Roberts	Specter
McCain	Roth	Stevens
McConnell	Santorum	Thomas
Moseley-Braun	Sessions	Thompson
Murkowski	Shelby	Thurmond
Murray	Smith (NH)	Torricelli
Nickles	Smith (OR)	Warner

NAYS—24

Baucus	Durbin	Landrieu
Boxer	Feingold	Mikulski
Breaux	Feinstein	Moynihan
Bryan	Ford	Reed
Campbell	Glenn	Reid
Cleland	Harkin	Rockefeller
Coats	Inouye	Sarbanes
Daschle	Kerrey	Wyden

NOT VOTING—4

Conrad	Grams
Dorgan	Wellstone

The motion to lay on the table the amendment (No. 28, as modified) was agreed to.

Mr. MURKOWSKI. I move to reconsider the vote.

Mr. REID. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 27

The PRESIDING OFFICER. The pending question is amendment 27, offered by the Senator from South Carolina [Mr. THURMOND].

Mr. THURMOND. Mr. President, I rise to ask for passage of the Thurmond-Hollings amendment to the pending Nuclear Waste Policy Act bill. The pending bill includes a prohibition against storing commercial spent nuclear fuel at the Hanford site in Washington State. This amendment would include an exemption for the Savannah River site and an adjoining site in Barnwell County, SC.

Mr. President, the purpose of the amendment is to level the playing field among all states, should the Department of Energy have to select an alternate interim storage site.

There are three sites under the jurisdiction of the Department of Energy which currently have facilities that might be capable of accepting spent nuclear fuel. They are the Hanford Nuclear Reservation in Washington, the Idaho National Environmental and Engineering Laboratory in Idaho, and the Savannah River site in South Carolina. Let me note that these facilities are near their capacity and would require many significant upgrades to take on a commercial mission.

The pending bill explicitly exempts the Hanford site from being selected for interim storage. The State of Idaho has a legally enforceable court order prohibiting importation of new wastes into the State. This leaves South Carolina as the only other State with facilities capable of accepting spent nuclear fuel.

Passage of the amendment is not intended to impact the overall success or failure of this legislation. It is only intended to ensure that if the Department finds that the Yucca Mountain facility is not suitable for spent fuel storage, that all States would then be placed on an equal footing for the

siting and construction of a new state-of-the-art storage facility.

Mr. President, I urge adoption of the amendment.

Mr. MURKOWSKI. I believe both sides are ready to accept the amendment by voice vote.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment.

The amendment (No. 27) was agreed to.

Mr. MURKOWSKI. I move to reconsider the vote.

Mr. REID. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 26

Mr. MURKOWSKI. Mr. President, I ask for the yeas and nays on the Murkowski substitute.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

Yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. REID. 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. I ask unanimous consent that the order for the quorum call be rescinded.

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

MORNING BUSINESS

Mr. MURKOWSKI. I ask unanimous consent there now be a period of morning business until the hour of 1:30, with Senators permitted to speak for up to 5 minutes.

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

The Chair recognizes the Senator from New Mexico.

PRIVILEGE OF THE FLOOR

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Dr. Bob Simon, who is on detail on my staff, be granted the privilege of the floor during the pendency of S. 104.

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

Mr. BINGAMAN. 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.

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

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

Mr. LEAHY. Mr. President, I thank the Chair.

(The remarks of Mr. LEAHY pertaining to the introduction of S. 546 are lo-

cated in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LEAHY. I ask unanimous consent to proceed for 1 minute.

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

FEDERAL JUDICIARY VACANCIES

Mr. LEAHY. Mr. President, we are now in April and we have been in session for 4 months. We have confirmed two Federal judges in 4 months. That is half a Federal judge a month. There are almost 100 vacancies in our Federal judiciary. That means that puts a strain on our Federal justice system. Cases cannot be heard because judges are not there. Prosecutors are forced to plea bargain in cases they do not want to. If you are a private litigant in a business or just an individual and you have suits you want heard, they cannot be heard.

The Chief Justice of the United States has said it is a crisis situation. It is.

Mr. President, I urge the leadership of this body to start moving forward and get some of the vacancies filled, take the judges that have already been nominated, get them confirmed, and show respect to the independent Federal judiciary of this country.

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

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

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that I may be allowed to proceed as in morning business.

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

REMEMBERING THE HOLOCAUST

Mr. LIEBERMAN. Mr. President, this month we observe the 52d anniversary of the beginning of the end of World War II, and the liberation of victims of the Holocaust in Europe. Just 2 years ago, the 50th anniversary of the war's end, there were many ceremonies, memorials, books, articles, and television programs marking the events of 1945. Now, much of the world's attention seems focused on the coming millennium, and the beginning of the 21st century.

But we must not allow ourselves to forget those events of the 20th century that continue to shape our lives. And we must never allow humanity to forget the awful truth of the Holocaust, for if we do, we risk unleashing the horror of that time on the world once again. The act of remembrance becomes more difficult with each passing year, for there remain fewer and fewer eyewitnesses to history. Fewer survivors of the Holocaust remain. Fewer