

lays out for the Department of Energy in its negotiations with the utilities over taking title to spent nuclear fuel. The only reason to have a take-title mechanism is to respond to DOE's non-performance with respect to specific contracts. Yet, the language of the chairman's substitute contains several changes to what the committee reported last spring on these lines. All these changes are in the direction of clouding the issue of what DOE is responsible for. The probable result of this blurring of responsibility is that numerous utilities will claim that the Congress intends for DOE to go beyond making them whole for specific non-performance on specific contracts. The bill for this extra scope for DOE's relief of the utilities will be borne by either the general taxpayer or the Nuclear Waste Fund, and both sources of funds are a problem. In the former case, it is not fair. In the latter instance, the Waste Fund is already supposed to pay for the repository and the legitimate costs of taking title. It is not reasonable to create a scenario where utilities can claim that Congress intended DOE to pay more than those legitimate costs associated with contractual breaches.

A fourth major flaw in the bill is its authorization for DOE to spend taxpayer dollars to fund foreign reprocessing and transmutation activities in countries that are not willing to pay for such activities themselves. I do not know why we should have blanket authority for DOE to spread reprocessing technology worldwide in this manner. Most other countries that have looked at the sort of reprocessing and transmutation that would be supported by this bill have concluded that there are serious technical challenges that will take decades to resolve. Our own National Academy of Sciences agreed in its 1996 report on "Nuclear Wastes: Technologies for Separations and Transmutation."

Finally, the fifth major flaw in the bill is its lack of attention to the most critical problem facing the Yucca Mountain program—the lack of funding to characterize the mountain properly, or to build the repository, if authorized. The chairman's substitute does nothing either to make the balances in the Nuclear Waste Fund more readily available to fund the work needed to demonstrate the mountain's suitability and licensability, or even to make a special one-time fee under current law for certain utilities directly available to the program. The latter provision would not score under our budget rules, since it is currently outside the 10-year scoring window. If DOE took title to fuel from certain utilities, it might be able to collect the one-time fee early, but without special legislation, the fee would vanish into the Treasury without a trace, and without helping the program.

Let me get to a conclusion so others can speak before we go into recess for our caucuses. I do think this issue of

adequate funding so the program can go forward, so the site can be characterized, is absolutely crucial. I hope very much the Senate will address that before we pass a bill or before we conclude action on an amendment on the Senate floor in the form of a substitute.

Let me conclude my remarks by reiterating the basic principles behind my opposition to the substitute amendment. These are things which I hope very much can be resolved in the alternative that is now being prepared and is going to be available for us to review this afternoon. We ought to focus, in this legislation, on making the current program work. That means, No. 1, giving the Department of Energy the tools it needs to resolve current litigation over its failure to meet past contractual obligations. I hope we can do that in an effective way.

Second, it means upgrading transportation standards for spent nuclear fuel and high-level waste. Again, I hope we can do that in the legislation we finally act on.

Third, it means making the needed funds available to characterize Yucca Mountain, and to build Yucca Mountain if it is licensed by the NRC. I hope we can act on that.

The fourth item is, the program does not need to suffer a loss of public legitimacy by legislatively stacking the deck against EPA's ability to carry out its statutory authority on protecting health and safety. We can find a solution to that. I hope very much we do.

Finally, the fifth item I want to mention is the program does not need extra doses of paper-pushing bureaucracy and bureaucracy related to transportation of nuclear waste, accompanied with unrealistic deadlines for putting waste on the road.

We found that we, American taxpayers, have incurred substantial liability because of our writing into law deadlines which turned out to be unrealistic before. Let's not make that same mistake again in legislation on the Senate floor this week.

I did not support the chairman's amendment even though I appreciate his attempts to improve it.

He has been negotiating in good faith to improve this amendment, and I greatly appreciate that. We have not seen that alternative substitute provision, so I cannot say whether we have reached agreement or not on the various items I have identified, but I hope we have made progress on each of them.

It is important to move the process forward. It is important to come to closure on this bill in a bipartisan way. This is not a partisan matter. I hope all Senators will support the effort to invoke cloture so we can move ahead, and then I hope we can all work in good faith to improve the basic bill we are considering before we have to vote on a final bill.

Obviously, I could not support a vote in favor of the final bill on which we

are invoking cloture, but I hope before the process concludes I can support a piece of legislation that will solve the problems I have enumerated.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, Senator HARKIN and I came to the floor 40 minutes ago with the expectation of introducing legislation. We found we were already on the bill. I have checked with the managers, Senator MURKOWSKI and Senator BINGAMAN, who have no objections—nor does Senator BRYAN—to Senator HARKIN and myself proceeding for approximately 10 minutes. I ask unanimous consent that Senator HARKIN and I be permitted to speak for 10 minutes as in morning business for the purpose of introducing legislation.

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

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER and Mr. HARKIN pertaining to the introduction of S. 2038 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SPECTER. Mr. President, I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will now stand in recess until 2:15 p.m.

Thereupon, at 12:32 p.m., the Senate recessed until 2:16 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. INHOFE).

NUCLEAR WASTE POLICY AMENDMENTS ACT OF 1999—Continued

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending amendment to S. 1287, the Nuclear Waste Policy Amendments Act of 1999:

Trent Lott, Frank H. Murkowski, Slade Gorton, Don Nickles, Tim Hutchinson, Conrad Burns, Michael Crapo, Phil Gramm, Thad Cochran, Richard Shelby, Larry E. Craig, Jim Bunning, Judd Gregg, Charles Grassley, Wayne Allard, and Bob Smith of New Hampshire.

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

The question is, Is it the sense of the Senate that debate on substitute amendment No. 2808 to S. 1287, a bill to provide for the storage of spent nuclear fuel pending completion of the nuclear

waste repository, and for other purposes, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Nebraska (Mr. KERREY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "aye."

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

The yeas and nays resulted—yeas 94, nays 3, as follows:

[Rollcall Vote No. 7 Leg.]

YEAS—94

Abraham	Feingold	Mack
Akaka	Feinstein	McConnell
Allard	Fitzgerald	Mikulski
Ashcroft	Frist	Moynihan
Baucus	Gorton	Murkowski
Bayh	Graham	Murray
Bennett	Gramm	Nickles
Biden	Grams	Reed
Bingaman	Grassley	Robb
Bond	Gregg	Roberts
Breaux	Hagel	Rockefeller
Brownback	Harkin	Roth
Bunning	Hatch	Santorum
Burns	Helms	Sarbanes
Byrd	Hollings	Schumer
Campbell	Hutchinson	Sessions
Chafee, L.	Hutchison	Shelby
Cleland	Inhofe	Smith (NH)
Cochran	Inouye	Smith (OR)
Collins	Jeffords	Snowe
Conrad	Johnson	Specter
Coverdell	Kerry	Stevens
Craig	Kohl	Thomas
Crapo	Kyl	Thompson
Daschle	Landrieu	Thurmond
DeWine	Lautenberg	Torricelli
Dodd	Leahy	Voinovich
Domenici	Levin	Warner
Dorgan	Lieberman	Wellstone
Durbin	Lincoln	Wyden
Edwards	Lott	
Enzi	Lugar	

NAYS—3

Boxer	Bryan	Reid
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NOT VOTING—3

Kennedy	Kerrey	McCain
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The PRESIDING OFFICER. On this vote, the yeas are 94, the nays are 3. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I believe the Senator from Arkansas is going to request unanimous consent there be a few minutes in morning business so he can introduce a bill. I will be happy to accommodate him if there is no objection.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent to speak for up to 10 minutes as in morning business.

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

Mr. HUTCHINSON. I thank the Chair.

(The remarks of Mr. HUTCHINSON pertaining to the introduction of S. 2039 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, it is my intention to continue the debate on the manager's amendment to S. 1287, the Nuclear Policy Act Amendments of 1999. It is appropriate to highlight a couple more charts before I explain what this manager's substitute does.

I will reiterate the purpose of addressing the responsibility we have as the Senate to resolve what we are going to do to dispose of this high-level waste in conformance with the contractual commitment that the Department of Energy and the Federal Government entered into to take the waste beginning in January of 1998.

As I indicated earlier today, the Federal Government is derelict in not meeting its fiduciary responsibility. It is appropriate to point out that the ratepayers in this country have paid \$15 billion to the Federal Government to take that waste beginning in 1998. Damages for nonperformance to the contractual commitment by the power industry in this country against the Federal Government suggests the liability is somewhere between \$40 billion and \$80 billion. The longer this body delays in addressing its responsibility of disposal of this waste, the greater the obligation to the American taxpayer, which currently is estimated to be about \$1,400 per family.

As a consequence, we have the responsibility, in a bipartisan manner, to come together and resolve the obligation we were elected to address, and that is to meet contractual commitments, honor the sanctity of the contract, and resolve the waste problem and not allow the nuclear industry to, basically, choke on its own waste.

There are a couple of charts with which I want to proceed. First of all, I want to identify, again, the locations of the waste for those who may have missed it earlier. Around this country, there are approximately 80 sites. One can see the sites on the map: the commercial reactors, the shut down reactors with spent fuel onsite; and they will not be removed unless we proceed with this legislation to address one site at Yucca Mountain in Nevada for a permanent repository. It also includes the commercial spent nuclear fuel storage, the non-DOE research reactor, the naval reactors, and the DOE-owned spent nuclear fuel. My point is simply to show we have 80 sites in 40 States. It is an obligation we have to universally address this with appropriate resolve.

The next chart shows radiation exposure. This is very important and very germane to the debate because we are all concerned about the manner in which the radiation exposure will be addressed and by what agency.

I am not here to promulgate who has the best science, but I think it is fair

to say this issue deserves the very best science. Traditionally, the Nuclear Regulatory Commission addresses licensing, examination, and conformance of nuclear plants. They are pretty good at it. They probably have more Ph.D.s than any other agency dealing with nuclear radiation.

However, the National Academy of Sciences also has a great deal of expertise, and we are suggesting that their scientific contribution be part of a determination on setting a radiation level that will conform to, as well as achieve, our objective, and that is to put the waste in a permanent repository at Yucca Mountain.

There is a lot of concern about radiation. I think it has to be put in some perspective that is understandable.

For those working in this Capitol, they get 80 millirems of exposure each year.

If one is living in a brick house, they get 70 millirems per year.

The exposure from cosmic radiation to residents in Denver is 53 millirems.

The average annual radiation exposure from the ground is 26 millirems.

Diagnostic x-rays are 20 millirems.

Dental x-rays are 14 millirems.

If one flies from New York to Los Angeles, they get 6 millirems.

Exposure for half an hour from a transport container on a truck 6 feet away—let's assume they are moving this in a prescribed cask, transporting it by rail or by highway with an escort—the exposure is 5 millirems.

These are accurate measurements. The EPA's proposed radiation exposure level is 4 millirems, and that is a ground water standard.

I am not going to argue the merits of EPA other than to say that their exposure level, from the standpoint of its relationship with these other exposure levels, seems a little out of line. We will let it go at that because I want to move on. I want to make the point, as we look at radiation exposure levels, it is important to keep in perspective what we are exposed to already.

Let's look at transportation because that is going to be debated extensively. We have been transporting used fuel from 1964 through 1997, as this chart shows. These are the routes used for 2,913 shipments. Obviously, they have been going through all the States. They have been going by railroad through Minnesota, Iowa, Illinois, a portion of Nebraska, I believe Missouri, and a couple of other States, as indicated in red. We are and have been moving these shipments. The significance of this is that the public health has never been exposed to radiation from spent fuel cargo. We have never had an exposure. That does not mean it cannot happen; it means we have taken practical safeguards to ensure the exposure is at a minimum.

I learned a long time ago in my State of Alaska when we had the Exxon Valdez accident that these accidents can occur. That ship went aground in a 10.5-mile-wide channel simply because

of the incompetence of those on the bridge. You can have accidents, and you can prevent them.

We have a pretty good record here. Between 1971 and 1989, the Department of Transportation tells us there have been seven minor accidents that have occurred involving nuclear waste, but no radioactivity was released at any of the accident sites simply because of the containment of the vehicles that enclose the waste. Those, of course, are the canisters which are built to withstand exposure. Some time ago when we were talking about moving nuclear waste by aircraft, there was the assurance that we have the technology to build a canister that would survive a free-fall from an aircraft at 30,000 feet.

As evidence of the thousands of safe used-fuel shipments since 1964, this is the type of cask that is used, and the waste is stored in that. These are required to survive a 30-foot drop onto a flat, unyielding surface, a drop of 40 inches on a steel plate, being engulfed in a 1,475-degree fire for 30 minutes, submersion under 3 feet of water for 8 hours, and on and on. We have taken safeguards to construct these casks in such a way as to ensure there is a minimum of risk associated with transportation.

I have been to Great Britain, Sweden, and I have seen in France the manner in which they move high-level waste. They move it by ship, by rail, by road, and they take safeguards to ensure that it is properly contained.

We have transportation safety concerns. We have provisions in this bill to deal with them. It involves the Department of Energy developing comprehensive shipping and transportation plans under the same guidelines as we currently move the WIPP. That is the waste isolation project in New Mexico. These are the same guidelines we are going to be using to move this waste.

We have been moving waste to New Mexico. That is basically low-level waste. I have been there and been in the salt caverns and observed the process down there. There is great care taken to ensure there is no exposure that cannot be rectified through adequate engineering technology.

The used fuel is going to have to travel as designated by the States, they having a determination of what the most appropriate route is. Clearly, the material has to move; otherwise, you cannot get it out of the States—280 sites and 40 States—and you cannot move it to one area that we have predesignated, which is Yucca Mountain in Nevada.

Then we are going to have training which would meet Department of Transportation standards so that we have people who are adequately trained to move this waste and cover whatever emergency response readiness is necessary before the shipments begin.

So what we have done—perhaps we can do more and perhaps we should and I certainly am open to that—is taken every precaution to try to ensure the exposure is taken out of the process.

Let me show you a couple other charts that I think are relevant. For those of you who missed it, this is the location out in the Nevada Test Site that has been chosen to be the permanent repository. This site has been already pretty well bombarded as a consequence of over 50 years and 800 nuclear weapons tests. If you buy the theory that you kind of desecrated one area so maybe that is the best area for a permanent repository, this site should certainly fit.

Let me show you one other chart that shows another aspect. As I have indicated earlier, about 20 percent of our energy comes from nuclear power. You see on the chart, shown in red, nuclear power accounts for 18 percent of our energy use in the country. In any event, this chart shows the mix: Coal is 53 percent; nuclear is 18 to 20 percent; natural gas is 14 percent; hydroelectric is 10 percent; other is 2.7 percent; oil is 2 percent; wind is .08 percent; and solar is .02 percent.

It is obvious we are going to be dependent on these sources for some time. If we do not address the nuclear waste issue, we are going to pick up 20 percent of our power generation some other way. I think those who are critical of the effort to address our responsibility are a bit irresponsible in not suggesting where we are going to pick up this differential.

On this next chart we look at air quality. If we look at our concern over global warming, if we look at our concern over Kyoto, we have to recognize that there is significant avoidance of emissions by the contribution of nuclear power. You can see shown on this chart the regions that were subject to caps from 1990 to 1995 and the emissions avoided by having nuclear generation and where these States would be without it.

It is a pretty tough set of facts. The reality is, a good portion of the Northeast corridor would no longer meet its mandate for emission reductions if, indeed, we had to sacrifice the nuclear power industry.

Approximately 80 of the 103 currently operating nuclear energy plants are located in or adjacent to areas that are unable to meet the Clean Air Act standards for ozone. Any use of emitting generation in these areas in place of the existing nuclear capacity moves the region further away from attainment of these standards. So I encourage my colleagues from these States to recognize that the nuclear power industry makes a significant contribution, and without it you are going to be looking to some other unidentifiable means to offset the loss of power from the nuclear industry.

Let me turn to the substitute that is before us and briefly reflect on where we have been. We have passed bills in this body by a broad bipartisan margin. The last time the vote was 65 to 34—pretty close to overcoming a veto but not quite.

I think these bills mark a historic pattern of trying to meet the objec-

tives of the administration through compromise, through changes, and through accommodations. Those bills were a complete substitute for the existing Nuclear Waste Policy Act of 1982 that gave authority to build an interim storage facility for nuclear waste, a temporary above-ground storage pad adjacent to the Yucca Mountain site. It contained extensive provisions on licensing for Yucca Mountain and the interim storage facility, including NEPA radiation protection standards and transportation safety. But the administration was not satisfied. They saw fit to veto the legislation because it opposed the interim storage before the viability assessment was made about the permanent repository.

We still think we were doing the responsible thing by trying to address the difficulty of those plants that were about out of license time and would either have to shut down or seek additional relief under State licensing by allowing them to move their waste and store it at Yucca Mountain until such time as a permanent repository was completed.

Obviously, there was a fear from Nevada that if that were adopted, the waste would end up in Nevada. Of course, today we are faced with the concerns of various Governors that if we adopt the take-title issue, and title is indeed taken, the waste will go into canisters and be stored onsite in those States, the Government would have title and the waste would still be in the States, that it would not move.

The point is that we are either committed as a body to resolve this problem and get on with addressing the transportation of that waste to a permanent repository, or we are going to be faced with the reality that we will simply put it off for another day, put it off for another administration. If we do that, I think we are acting irresponsibly.

What we have attempted to do in this bill is a different approach in the manager's amendment. It is not a complete substitute for the old act. It is a minimalist approach. It does not contain an interim storage provision. So we responded to the administration. We responded to the minority. We left that out. We said: It doesn't move until it is licensed.

We propose to do two major things. We propose to give the Department of Energy the tools it needs to meet its commitment to move the spent fuel by opening a permanent repository at Yucca Mountain. Secondly, we think it provides fair treatment by permitting utilities to enter into voluntary settlements with those who have fulfilled their end of the bargain by paying over some \$15 billion which the ratepayers have paid over the contract.

What has the Department of Energy done? It left them holding the bag because the Department of Energy and the administration have not seen fit to lift the terms of the contractual agreement to take the waste. So the manager's amendment to S. 1287 clarifies

the existing unconstitutional White House veto for raising the fee and states that Congress can vote to raise the existing 1 million per kilowatt fee, if necessary, to pay the expenses of the program. It allows plaintiffs in the lawsuits and the DOE to reach voluntary settlements of the Department of Energy's liability for failing to take the waste in 1998.

I still have to refer to the example the Federal Government sets when it doesn't honor the sanctity of a contractual commitment. They simply ignore it. They simply ignore the liability of the taxpayer, which, as I have indicated, is something in the area of \$40 billion to \$80 billion in damages. We, as elected representatives, have an obligation to address and correct that. That is what we are attempting to do in this legislation.

Further, it permits the EPA to continue with its rulemaking—and it is the appropriate agency—on radiation standards as long as we have the best science. Where is the best science? As I have indicated, it is in the Nuclear Regulatory Commission in consultation with the National Academy of Sciences. That is the best science we have in this country. If that isn't good enough to set a radiation standard, I don't know what is.

Obviously, that standard will protect the public health and safety and the environment, but it has to be attainable. If the EPA has a policy of non-attainment that we come up with ultimately, we will waste a lot of time and money, and it will cost the taxpayers a lot of dollars. It will allow fuel to be accepted when the NRC authorizes construction of the permanent repository in the year 2007. Further, it allows the Department of Energy to begin moving fuel as soon as possible after Yucca Mountain is licensed.

Transportation provisions are based on those used for the waste isolation plan, as I have indicated. Furthermore, we have moved that fuel in the United States around the world. So S. 1287 builds on existing safe systems by adding money for education, emergency response, local communities, transportation personnel, and provisions for allowing the State to determine the routes and rules for population areas. Who is better qualified than the States? Also, there is advance notification for local government.

As I have indicated, we have attempted to compromise, and we continue to try to meet the concerns of the administration and the minority. But in order to do that, we have to agree on our objective, and that is to meet our obligation to address, once and for all, some finality to the nuclear waste storage dilemma. We have eliminated the source of the administration's opposition to our previous bills on interim storage.

EPA, secondly, may proceed with its rulemaking. All they have to do—all we want them to do—is be reasonable in the sense of using sound science and

participating in peer review with both NRC and the National Academy of Sciences. And in this existing proposal, we have allowed the utilities to enter into a voluntary settlement with the DOE. This was the idea of Secretary Richardson.

The manager's amendment to S. 1287 gives us an opportunity, I think, for a triumph of substance over process, safety of people over politics. As I have indicated, the Senate has twice passed this legislation by large, bipartisan margins.

Where does the administration stand on this? Well, I have a letter from the administration called "statement of policy." I think it should be "statement of administrative mixed policy." It states that the administration has reviewed the February 4 manager's amendment and they find it unacceptable. Although the amendment appears to allow the EPA to exercise its existing authority, they still believe it would allow another entity to block EPA's authority. I don't know whether they have read the bill or not, but that isn't what the bill says. Consequently, one can only assume the administration is opposed to it because it always has been, regardless of what we have attempted to compromise. Furthermore, I think it is appropriate to recognize that.

Again, the administration seems to be working to create a problem that really we can address. The rationale is, I assume, only that they could object to the legislation. That really isn't an adequate excuse. I encourage my friends who have the same responsibility as I do to recognize that the administration has an obligation to come forward and say how we can meet this obligation collectively, the Congress and the administration.

The administration, as I indicated, basically objects to a provision that requires EPA to consult with scientists before adopting a standard. What is wrong with the best science? The administration talks about good science and making decisions based on sound science. In fact, the administration's position on science is that it is good. But I wonder if it is good only when it supports a predetermined policy decision.

That is kind of where I think we are. I think that is unreasonable. I think that is irresponsible. I think it deserves a greater explanation than the one offered. The only reason for the administration to object to having EPA consult with scientists at the National Academy of Sciences, or with the participation of the NRC, is that they know it is possible to adopt a reasonable standard but they simply don't want to do it. I have a hard time with that because I think that in itself is somewhat irresponsible.

I have some other examples that concern me. I will not take the time now, but maybe I will later. The EPA is an extraordinary agency. They carry a big responsibility, but one questions the

balance they use. I am going to cite a couple of instances with which I have had personal experience, and I invite my colleagues to share those. As we question the legitimate authority of the EPA, which is statute—that is in law—EPA does have authority for final rulemaking; we just want them to use the best science available.

In my hometown of Fairbanks, it snows. With snow, you have one of two options: You either leave it there or you move it. Several years ago, they had a heavy snowfall where the city and school buses park. This was a paved lot. They moved the snow off the lot. The buses cooperated and they put it on the back lot, which was determined by EPA to be a wetlands. Well, the EPA notified the city of a violation of the wetlands permit. Now, there was snow that came naturally on that other lot where they pushed the snow. It makes no sense. The snow was frozen water. How can wetlands be damaged by more snow? I don't know.

We had a problem in Anchorage, AK. This was a storm water treatment: when it rains, the rain goes off the highway into the gutters. In the particular community of Anchorage, it was charged into Cook Inlet; this is water off the streets. Cook Inlet has some of the highest tides in the world, next to the Bay of Fundy, nearly 30 feet, almost twice a day.

However, EPA Clean Water Act regulations interpreted that the city was in violation because it had to remove 30 percent of the organic matter from the untreated water. The problem was it was rain water. There was no organic matter to remove. Yet they were still in violation. But the water was too clean to begin with. The city appealed to the EPA. The EPA denied the appeal and told the city they were subject to a fine. One of the city council members suggested they go down to the fish plant and add some fish guts to the drain water so there would be some organic matter to remove and thus meet the national discharge standard. This got notoriety all over the country. It made no sense to pay to contaminate pure rain water and then pay to remove the contamination. We were finally able to convince them as a consequence of public opinion and public notoriety of the impracticality of EPA.

In this instance, I have one more little item that I will share with you. In 1993, the EPA proposed to take pepper spray bear repellent off the market until its safety could be certified. The spray was at that time the only effective nonlethal repellent that Alaskans could use to protect themselves against bears. I say nonlethal. You can take a gun or you can take some pepper spray. While the EPA reconsidered the decision and allowed the pepper spray repellent to remain while it permitted a speeded up regulatory review, the preliminary decision to recall the spray was idiotic, to say the least. Alaskans or anyone who wants to can put cayenne pepper in their chili. They could

legally throw the pepper at a charging bear, if they wanted to. It was insane to say that could not be placed within the spray can; namely, the chili spray.

What was really insane was that EPA initially argued they couldn't speed up registration of the pepper spray until it was field tested and on, do you know what? Wild bears—a difficult and rather dangerous thing to do. It was especially odd that the bear undoubtedly would much rather be sprayed by the pepper spray than the alternative 30.06 bullet.

I have recycling asthma inhalant examples, vehicle gasoline rules, ozone standards, background contamination on MTBE, battery enterprise examples, mining examples, and recycling center examples.

I am not going to bore my colleagues with that other than to say what we want is the best science. We want EPA to take advantage of that science and then come down with their rule-making. But very particularly, we don't want EPA to set an attainment standard that is unattainable for the nuclear waste to be disposed of.

I know my friends want to be heard from, and there will be amendments forthcoming. But I want to conclude with a reference on what we can do.

Again, I point out that it is the obligation of the Government—that includes those of us in the Congress and the administration—to solve this problem. This bill is the congressional solution, and the administration has an obligation as well.

We voted out this legislation in the last two Congresses by bipartisan votes—65 to 34 in the Senate, and in the House of Representatives 307 to 120—again, not enough to override a veto.

This year, we introduced the interim storage legislation, S. 608. The legislation had votes to be favorably reported. I proposed that the committee consider a new approach to accommodate the Secretary and the administration. We hoped to find a solution to the nuclear waste dilemma to gain full consensus and avoid procedural problems of the past. Senate bill 1287 was approved in the committee by a bipartisan vote of 14-6.

Here are the five essential points that I believe have to be addressed if we are going to have anything meaningful when we are through.

We need congressional approval before there is any increase in the nuclear waste figure. We simply cannot give the executive branch carte blanche. It has to have congressional approval; second, authorize settlement of lawsuits for DOE's failure to perform; third, the radiation protection standards, as I stated, for the repository to be set by the agencies that have the expertise—the NRC, National Academy of Sciences working with the EPA.

I compromised on this point in my manager's amendment. The EPA may now go ahead with its standard-setting regulations provided that they take ad-

vantage of the best science available, and that the NRC in consultation with the National Academy of Sciences and the EPA agree that the standard is attainable.

Some suggest that the EPA cannot have the last word. That is not the intent. If we have to rephrase it, we will do it. The intent is authority by statute to belong to the EPA, but clearly the best science should include input from the National Academy of Sciences and the Nuclear Regulatory Commission.

The fourth prerequisite: Operation of a repository fuel acceptance facility key to the Nuclear Regulatory Commission authorization for the permanent repository in the year 2007, and a transportation system based on the Waste Isolation Pilot Plant model, which is WIPP.

Those are the five principles that we outlined. Those are the principles that we worked on with the minority to try to achieve a consensus.

I think the bill reflects significant concession by the supporters of the past legislation. I believe this new approach still gives the DOE the tools it needs. I still don't know why the administration seems so possessed, policy-wise, to oppose it. But that is what we have before us.

I conclude this portion of my statement by again identifying where I think we are in the differences we have. That, again, is the radiation standard.

As you heard me state time and time again, I think the Nuclear Regulatory Commission is the appropriate determiner of that standard. But the manager's amendment now contains new language that would permit the EPA to go ahead as long as the National Academy and the Nuclear Regulatory Commission are consulted. Obviously, that interest is a science that will protect health, safety, and welfare. As to the objective, it is most important that we have an objective of achieving the radiation standard that is attainable.

This is a reasonable approach. It provides the best science after peer review. Yet it does allow EPA to ultimately complete the rule after we have had the input of the best minds on the subject and have consulted with one another.

If the EPA and the NRC cannot agree, then the EPA is not permitted, obviously, to adopt any rule until after June 1, 2001. But after June 1, 2001, the EPA may go ahead and adopt a rule pursuant to existing authority under section 801 of the Energy Policy Act.

Part of the problem with the EPA standard that was detailed in the proposed rules that came out last August was that it applied unrealistic standards to ground water. They proposed 4 millirems for ground water. This is a standard that comes from the Safe Drinking Water Act, which I support.

This chart shows the levels of radiation. For those working in the Capitol, we get 80 millirems; anyone living

in a brick house, 70 millirems; annual exposure from cosmic radiation, 53 millirems; annual average radiation from the ground, 26 millirems; x ray, 20 millirems; dental x ray, 14 millirems; round-trip flight from New York to Los Angeles, 6 millirems; exposure from a transport container carrying high level waste 6 feet away, 5 millirems. But the EPA proposal is 4 millirems for the drinking water standard.

This chart shows the proposed site: 800 nuclear weapon tests over 50 years. They are going to come down and propose a 5 millirem level; remember, 4 millirems is the level for drinking water.

Is that really in the interests of proceeding with this legislation or is it to set an unattainable standard? No one will drink the ground water that comes from this site. I hope not.

The Safe Drinking Water Act should not be applied to ground water. However, if the water becomes tap water, the act should apply; but not while the water is in the ground. The EPA wants to take extremely low standards that were designed to apply to drinking water out of a tap and apply to water in the ground, whether people drink it or not.

Let me be very clear. This dispute has nothing to do with a level of protection for the people in Nevada. Whether or not the drinking water standard is applied to ground water has nothing to do with how much additional radiation, if any, Nevadans would be exposed to from the facility. The EPA applied similar regulations to the WIPP Transuranic Nuclear Waste Disposal Facility in New Mexico. The drinking water standard was not an issue when WIPP was licensed by EPA because WIPP is a salt mine. Obviously, there is no potable water around it. Maybe EPA thinks all nuclear waste should be disposed of in a salt cavity, but I am not sure everybody in the country or in this body would agree.

The National Academy of Sciences did not recommend that the Safe Drinking Water Act be applied to ground water. Instead, they addressed "requirements necessary to limit risks to individuals" as required by law. In fact, the National Academy specifically said they don't make such a recommendation.

Finally, the National Academy concluded that the decision regarding the acceptable level of risk for Yucca Mountain is a policy decision. What does that mean? That means a decision for Congress, not the scientists. In our legislation, we propose the best scientists come up with a recommendation to EPA and EPA be part of that process. I think it is appropriate that Congress make a decision regarding the level of risk.

Finally, the ultimate myth. I think everyone would agree, this administration says it cares about clean air and preventing climate change. Here is where our electricity comes from: 53 percent comes from coal; 18 to 20 percent is nuclear; 14 percent is natural

gas; 10 percent is hydroelectricity; the remaining few percent is oil, wind, and solar.

DOE's Energy Information Administration says the Kyoto treaty would require a 30-percent reduction of CO₂ emissions from the predicted 2010 level.

How do we do this without nuclear power? We cannot get there from here. There are no nuclear emission-free sources that can economically take its place. For the moment, forget about the Kyoto treaty and think of the present.

This chart shows the emissions avoided from increased nuclear generation. This is a reduction in SO₂ from nuclear power generation. From 1990 to 1995, 37 percent of the sulfur dioxide reductions required by the Clean Air Act came from increased generation from existing nuclear powerplants. That is where it came from. These were sulfide reductions.

Is that not ironic? They gave credit for the reductions to the nuclear plants. They don't have any emissions. That is where they get the reductions. Clever. Even with nuclear power, it is difficult and expensive to meet the new regs; without nuclear power it is impossible.

As this body addresses the broad obligation of reality, we have to focus in on the difficulty we have. That is, that the nuclear industry is choking on its own waste. We have the responsibility to come up with a solution.

This chart shows an overlay of nuclear plants in noncontainment areas. In fact, almost all nuclear plants are located in or near areas that have significant air quality problems. What happens when the nonemitting sources are replaced with emitting sources—the only realistic alternatives?

EPA can pass all the regulations in the world, but if the President and Vice President really did care about clean air, they would get behind this bill. This contributes more to clean air than any possible thing we could do in the area of increasing dependence on hydrocarbons.

The administration has a policy: Delay and more delay, for the American people who care for their safety, their environment, and their pocketbook. Let's look at the pocketbook. The litigation goes on. The \$15 billion has been paid by the ratepayers. The liability associated with nonperformance to the contractual commitment, \$40 to \$80 billion, or \$1,400 per family.

Is the President concerned about clean air, about climate change or is this some kind of a cynical diplomatic/political exercise? I don't know. Previously, the administration said it objected to siting a temporary storage facility before 1998 when the viability assessment for Yucca Mountain would be completed. At that time, I said anyone who believes that the availability of the viability assessment will make passing legislation easier is out of touch with reality. I take no pleasure in the fact that I was right. The reality

is no one wants nuclear waste stored in their State. I am sensitive to that. I understand the position of my Nevada friends. However, we have it in 40 States. Do we want to leave it there or put it in one area that has been determined to carry a repository for our high level waste?

At the committee hearing on S. 1287 in February, all four members of the Nevada delegation stated that no level of scientific proof would lessen their objection to this project. Let me repeat that: All four members of the Nevada delegation stated that no level of scientific proof would lessen their opposition to this project. I understand that and I accept that. It doesn't make any difference what level of scientific proof is available, they are going to oppose it. A further reality is that this administration apparently will not support a solution to this problem as long as the Nevada delegation opposes it. I can understand that.

Let's call the shots as they really are. The ultimate reality is that the Federal Government had an obligation to start taking the waste in 1998 and it violated the sanctity of the contract. We have reached a crossroad. The job of fixing this program is ours. Time for fixing the program is now. Much progress has been made at Yucca. Much money has been spent at Yucca. We can build on this progress.

The bill contains the tools that the Department of Energy needs to make the permanent repository work. Every day we wait to move the fuel, the liability of the American taxpayer increases. We can choose whether the Nation needs 80 various storage sites in 40 States or just one: the arid, remote, Nevada Test Site where we exploded scores of nuclear bombs during the cold war. Is that not the most safe and most remote location for nuclear waste storage? Over 800 nuclear tests were conducted at this site.

Mr. President, the time clearly is now. I note my colleagues from Nevada are on the floor seeking recognition. I have taken a good deal of time and look forward to their statement. I am happy to respond, I might add, to any questions they may pose. Obviously, we are going to be on this for some time. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. Mr. President, as is so often the case when it comes to debating the various legislative proposals related to nuclear waste that have been advanced since I have been a Member of the Senate, the issues generate more heat than light. With all due respect to the distinguished chairman of the Senate Energy Committee, much of what he had to say was utterly irrelevant to the situation we confront today. The chairman would have us believe that unless this legislation is enacted, nothing will occur with respect to going forward and siting a high-level nuclear waste repository.

Let me be clear. The process that was used to select that site is one to which

I am strongly opposed. But in reality, if this legislation never leaves this Chamber—and it is my view it will never become law—the process by which Yucca Mountain is to be studied—or the scientific term, “characterized”—goes forward. The time line that has been laid out is that sometime next year there will be a site recommendation; sometime in the year 2002 there will be an application for license; sometime thereafter there will be a construction authorization; and ultimately licensure will be approved if, indeed, all of the scientific questions that have been raised are satisfactorily resolved.

That is a process that began its course back in 1983. We continually revert to the history of this process to illuminate those who have not followed it and lived with it as long as I and my fellow Nevadans have, to try to explain the context in which this debate is occurring.

In 1983, the Nuclear Waste Policy Act was signed into law by President Reagan. It contemplated—and I must say I think the scientific approach was reasonable—that we would search the Nation; that we would look for various kinds of geological formations in which high-level nuclear waste might be buried; that we would balance the burden, in terms of the storage of the nuclear waste, with some sense of regional equity. Three sites would be studied, or characterized, those three sites would be presented to the President of the United States, and the President would make that decision.

I was a newly elected Governor in 1983, and I believe the broad outline of that process, the approach, was reasonable; that is to say, a national search would be conducted, and among the geological formations that were uppermost to be considered were granite formations in the northeastern part of the country, salt dome formations in the Southeast, and in our part of the country the so-called welded tuff.

That was a piece of legislation that, by and large, sought to deal with this issue. I think, to use the chairman's terminology, that was a responsible approach. That was an inquiry that, although we in Nevada were apprehensive about it because welded tuff was being considered, nevertheless represented science, it represented a fair approach, and it represented some regional balance and equity.

May I say, from that point on, what has occurred with respect to the siting process should be referred to as an antiscience approach. It is blasphemy to discuss any kind of scientific orthodoxy in terms of what has occurred. Let me remind my colleagues what occurred that in no sense of the word could be justified as in the interest of science.

Early on, some of my colleagues expressed concern they did not want it to go to the northeastern part of the country. I fully understand that. That had nothing to do with science, everything to do with politics. I have been in

the business a while. I understand that. And what occurred? The Department of Energy, in its own internal documentation, unilaterally decided we ought not to look at the Northeast.

Was that science? Was that responsible? I think any person who had an associate of arts degree in some area of science would conclude by no standard could that be considered a scientific approach. It was politics.

In the 1984 Presidential election, the issue came up as to those salt dome formations in the Southeast. What was said at that time? The President said: Look, not to worry, not to worry; we will not site it in a place where the salt dome formations are.

Does that have anything to do with science? Not even to look at it? To, in effect, blind ourselves and say we ought not to look at the salt dome formation? We ought not to look at granite? Of course not. And no sensible person and no scientist worthy of being called a scientist would ever assert for a moment that that had anything to do with science. Was it responsible? Of course not. Was it political? Yes, indeed.

Then 1987 comes along, and a bill which shall live forever in the infamy of congressional actions in our own State—the so-called “Screw Nevada” bill. Let’s call it what it is. Remember, I indicated the original legislation contemplated there would be three sites that would be studied or characterized? What occurred in 1987?

In 1987, a decision was made to look only at one site, Yucca Mountain—exclude any other consideration in any other region of the country. Was that science? Was that responsible? You do not have to have a political science degree from Oxford to recognize that is politics—politics, not science. So when I hear this great paean to science and responsibility, I am compelled to revisit the history of this process which has been corrupted and perverted in every stage in the process where science ought to have prevailed. In every instance, it has been politics that prevailed.

So if I speak with some energy and if I speak with some anger, it is because we have been victimized, not by a scientific process but by a political process in which Nevada has been victimized, and I strongly object to that as a Nevadan, as a citizen. I hope my colleagues will reflect in a broader sense that what has occurred to us could occur to them in another context.

Having said that, the reality in which we deal today is that Yucca Mountain is being considered. This process we have talked about, these milestones, continues forward. So all this talk about nuclear waste piling up and responsibility, we have to do something—hopefully, we will do the responsible thing; hopefully, we will do the scientifically prudent thing. But in no sense is this legislation necessary for this process. I do not like its origin, in terms of the “Screw Nevada” bill,

but it is going forward. That is, currently, as we are debating on the floor of the Senate, the steady process goes forward. The final environmental impact study is being finalized—not yet final.

Sometime late next year, we are going to have a site recommendation and sometime in the year 2002, or thereafter, an application for a license.

I say to my friends, no decision has been made at this point that, in fact, Yucca Mountain is suitable. That decision is yet to be made. Hopefully, it will be made not in the political way in which other decisions have been made, but it will be made in a scientific way.

The first thing I want to disabuse my colleagues of and those listening is that somehow there is a compelling necessity to have this piece of legislation enacted, that if it is not enacted, somehow this process I have described to you will stop. That simply is not true. From a Nevada perspective, I am not happy with that process, but it is going forward and will continue to go forward.

Let me, as a sidebar, try to address the red herring that is raised every time that somehow there is going to be some insurmountable problem in providing onsite storage. That simply is not the case. Those utilities that need to provide additional onsite storage can do so in a manner which is consistent with what the scientific community acknowledges, with a dry cask storage system, will be available.

In terms of dealing with the equities, about the ratepayers who have paid a lot of money, yes, they have paid a lot of money. That is not the fault of people in my own State. That is part of a process which has been very difficult, and I must say, rather ineptly handled by the Department of Energy over a number of years.

It is true, as the chairman pointed out, that 1998 was promised as the date in which a permanent repository or a waste dump would be opened. We have passed 1998. It is now 2000. That permanent repository, the dump at Yucca Mountain, will not, as I indicated in these guidelines, be available if ever—if ever—for some years to come.

Early on, as a new Member in the Senate, I recognized there was an equity argument, that to the extent ratepayers would have to pay for additional storage as a result of the permanent waste dump not being opened in the year 1998, there ought to be some kind of relief and compensation. I introduced legislation that said, in effect, to the extent that such delays occur, if they do, and if, indeed, as a result of those delays additional storage is required, the dry cask storage system is required, that whatever those expenses are ought to be deducted from the amount of money the ratepayers are required to pay into the nuclear waste fund. It strikes me as being fair.

That is where we begin to scratch the surface and find out that what is really involved in that kind of discussion is

not fairness or equity, but the nuclear energy industry, through the Nuclear Energy Institute, has a very different agenda because, incredibly, they oppose that legislation.

Let me repeat that. For those who are listening who are ratepayers in States that have nuclear utilities, I was prepared and remain prepared today and agree with those parts of the bill that provide such compensation to any ratepayer who has been subjected to additional expense as a result of the permanent waste dump not being available ought to be compensated in some way, and the compensation should be reducing the amount of money the ratepayers are required to pay into the nuclear waste fund by an amount equal to the expense they have incurred.

That is equity. That is fairness. Let me repeat, that is not what the nuclear industry is all about. They have no interest in that.

We have heard a good bit about responsibility and science. What we want is the best science, we are told. I do not believe that is what they want at all. Let me try to frame the issue and let me use the chairman’s own words.

The chairman has said—and I appreciate his candor; we disagree very strongly about this, but I want to make it clear to him and others that this is not a matter of personal acrimony; it is a major policy difference. This is what the chairman said in the last go-round we were about to have. This is an article that appeared in the Las Vegas Sun, December 6, 1999:

What we want is to make sure that the measuring is under a regulation that allows waste to go to Yucca.

“What we want is to make sure that the measuring is under a regulation that allows waste to go to Yucca.”

Not one word is expressed about public health and public safety, and that is precisely what they want. As my colleagues know, I will not be a Member of this august body this time next year, but I predict that if the nuclear utilities feel they need more legislation, they will be attempting to reduce the standards further.

S. 1287, which is the vehicle we are debating, as it came out of committee had these kinds of standards. Let’s talk about that because that is pretty important for our consideration.

S. 1287 provided that 30 millirems per year would be the authorized dosage each individual can receive. For most of us who are not scientists—and I acknowledge that I am not—I do not know that I would recognize a millirem if I ran into one. Suffice it to say that millirems are the way in which we measure radioactivity, radioactive exposure. We all know that.

Many of us who are getting a bit long in the tooth—and I exempt the distinguished occupant of the Chair from that categorization—can remember in our youth when we would go to the shoe store and there would be a little fluoroscope there. Your mom would be there, and that fluoroscope would flash

on and your bones in your feet would be exposed. The shoe salesman would say: I think those are the right size for Richard because he can move his toes freely.

As a kid, I revelled in it because I could see my feet—exposure, radioactivity. Do we do this today? The distinguished occupant of the Chair and I not only are parents but grandparents and are proud of that fact and are interested in their health and safety. That was abandoned a generation ago. Why? Because there are risks involved.

In less than a decade after Roentgen developed the x ray, there had been a fatality. That process indicates that radiation poses some very real risks to human health and safety. The experience in my own lifetime has been that, by and large, those standards are tight. We do not have fluoroscopes for fitting shoes on youngsters or adults, there is a constant effort to reduce the amount of exposure, and x rays we get when we go to the dentist are much less invasive than they were a generation ago. Why? Because the cumulative impact of all of that has a profound impact on health and safety.

We are not talking about some theoretical concern that might happen. That is the experience of more than a century, and although not completely applicable to this piece of legislation, we now know that workers who were a part of the nuclear industrial development that made it possible for us to produce the atomic weapons upon which our security has been predicated for more than half a century, the Department of Energy now acknowledges they were exposed to radiation and their health has been potentially impacted. They have acknowledged that for the first time decades later.

We are talking about something that can have a profound, even a potentially deadly impact. Yet our friends in the Nuclear Energy Institute and their allies shoehorn the standard so that it fits Yucca Mountain, irrespective of what good scientists say about health and safety.

Does that make me angry? You bet it does. Any parent, any grandparent, any responsible citizen should be absolutely appalled at the notion that this is being politicized, and it is. I will have more to say about that.

In 1983, the year the legislation was signed into law by President Reagan, the Environmental Protection Agency was established as the individual Federal agency to set the standard. Nobody challenged that.

In my first 6 years in the Senate, we had a decision with respect to the WIPP facility, a nuclear repository dealing with transuranic waste located in the State of New Mexico.

The Environmental Protection Agency set the standard. What was the standard they set? It was 15 millirems. Was there an objection from the nuclear industry? No. Was there a contention that somehow this was an outrageous and unreasonable standard?

Was it suggested somehow this was wild science? No. It was set at 15 millirems.

At about that time, however, the nuclear energy crowd's interest in locating a high-level waste dump in our State began to be a little fretful. Could Yucca Mountain, which was developing a number of problems—a question of seismic activity, a question of volcanic activity, a question in terms of water table or thermoloids that were greater than expected, an earthquake which visited the site and created some damage—all of this began.

So in the energy bill of 1992—never debated on the floor of the Senate or the House—that was going forward, all of a sudden a provision was inserted into the bill that sought in some way to maybe bracket or to limit the EPA in setting the standard. In effect, what was requested was that the National Academy of Sciences ought to take a look and see if whatever the Environmental Protection Agency came up with, to use a metaphor from the street, was in the ballpark: Are they being reasonable?

That was the first assault upon the EPA and its standard-setting capability advocated by the proponents of the high-level nuclear waste dump at Yucca Mountain. This was not something the Senators from Nevada and those of us who have been concerned about health and safety advocated. This was what the nuclear utilities argued for.

Let's go over the verdict. What was the cycle? The National Academy of Sciences did, in fact, take a look at the EPA standard that was proposed for us at Yucca Mountain. The EPA standard: 15 millirems, the same as WIPP. Pretty reasonable.

The National Academy of Sciences, in looking at that standard, said: We think the standard with respect to the millirem exposure rate per person per year is somewhere between 2 and 20. We think that is the range.

So those are the brackets you see there on the chart: 2 and 20. Frankly, the EPA came right down in the middle. For those of us in Nevada, we would much prefer that they would be at 2 or 5 or 10 millirems. But it was set at 15. It was consistent with what had been done in WIPP.

Let's talk about the agenda. What does the nuclear utility crowd want? They don't want the 15-millirem standard. That is science. What they want to do is to game the system—to, in effect, shoehorn in any kind of a standard that makes it possible for them to dump nuclear waste in Nevada.

Their most recent iteration of this is S. 1287, the underlying vehicle, although the substitute amendment we are debating does have some changes. I want to make that clear for the record.

What did they propose? Thirty millirems—twice as much. A moment ago, I stated it is my belief that next year, the year thereafter, we get to 2002, and all of a sudden they will say:

Look, we can't build that site with a 30-millirem standard. They would be rushing onto the floor of the Senate, as they have year after year, to say: Look, we need a standard that allows an exposure rate of 60 millirems, or 90 millirems, or 100 millirems—whatever it takes.

That is the underlying basis for this statement right here. This reflects the policy: What we want is to make sure that the measuring is under a regulation that allows waste to go to Yucca. There is not one reference to health, to safety, or to science. The shorthand view is: Look, whatever it takes to get it there, devil be whatever the standards will be, that is what we want.

That is the risk we have. That is not responsible. I exhort my colleagues to be responsible. That is not scientific. I urge my colleagues to be scientific. That is not scientific.

Why should there be a different standard set for WIPP than there is for Yucca? Why? Why is that necessary? No objection was raised to the WIPP standard. Why shouldn't it be the same? Logically, the EPA reached the scientific conclusion that it should be the same.

The National Academy of Sciences—and there is nobody in Nevada who was part of that review process—said: Look, that is within the recommended range; that is fair. But fairness and science and responsibility is not what this bill is all about. Any fair-minded person would look at this and understand that it has a political overtone.

In the last few days, the process has been extremely frustrating. On Friday, we received two different versions of the substitute. By 4:45 on Friday afternoon, we had received the version that has been offered today.

Based upon that version, here is what we know: The EPA strenuously objects to the language as it relates to standards that are in the draft before us today. The Council of Environmental Quality strongly objects to that standard as set forth in the substitute. And the President of the United States has indicated he will veto such legislation if, indeed, the bill in that form reaches his desk.

This Statement of Administration Policy is dated February 8, 2000:

The Administration has reviewed a February 4, 2000, manager's amendment to S. 1287—

That is the substitute we are talking about now—

and understands that this amendment will be brought to the Senate floor.

Indeed, it has and is what we are debating.

Unfortunately, this amendment undermines EPA's existing statutory authority to set standards to protect public health and the environment from radioactive releases; therefore, it is unacceptable to the Administration. Although the amendment appears to allow EPA to exercise its existing authority to set appropriate radiation release standards for the Yucca Mountain repository, it will allow another entity to block EPA's authority until June 1, 2001.

This may not be readily apparent to everyone, but the thrust of this new language would be to strip the EPA of the authority to promulgate, in final form, this 15-millirem standard and kick it over until next year. Why? Why would they do that? Is that science? Is there some scientific reason for that? No.

This rule has been in the gestation process since the early 1980s.

It has been out for public comment, which is certainly appropriate—those who criticize it or support it make recommended changes to it; all of that has occurred. That is part of the process. That is not only good science but it is responsible public policy. Is it responsible to suggest that? No.

What is involved? Well, as we all know—and I must say it has begun far too early for most of us, even those of us who have had a lifelong fascination with politics—this is about Presidential election politics. We are going to have a new President next year. President Clinton is constitutionally precluded from succeeding himself. We all know that we are going to have a new President. So this is a political, cynical effort to deprive EPA of the authority to do its job in accordance with science and in a responsible fashion, and to inject what into the process? Politics. That began in 1983 with the Northeast being taken out of the dialog, and in 1984 with the salt dome formations in the Southeast being taken out in 1987—if we look at the one-site and put-all-the-nuclear-eggs-in-one-basket approach.

Again—it should come as no surprise to those who have followed the process—we have politics as usual. Kick this into next year, to a new President who may take a less protective view of health and public safety and responsibility and take a different approach. That is what we are being asked to do.

This draft is replete with politics. Let me mention one of these provisions to give you an idea. This draft has no more to do with science or public responsibility; this is a political instrument; this is a political deal. Let's be honest about it. What do we have here? We have a little sentence that talks about transportation. Let me say that the concerns about transportation, shipping 77,000 metric tons of high-level nuclear waste on the interstate highway systems in America, on the rail transportation corridors of America, that will go through 43 States, 51 million Americans live within a mile or less. So lest those of you who may be observing this debate are thinking this only affects the good people of Nevada, let me assure you that your backyard can be affected, as well as your church and schools that may lie within that mile or less of the Interstate Highway System or rail.

In looking at what those routes might be, one would think we ought to try to take the safest, most direct route. But no, no, we have politics in this. We are told we should avoid high-

ways with downgrades of more than 7 percent. I know why that was put in there. He is a very good friend of mine, but the able Senator from Colorado, who voted with us last year in opposing this ill-conceived attempt—this is an attempt to acquire his support. I do not criticize him for it. He is trying to protect his State. I offer no criticism. But that is the cynicism that is involved. No science. No public responsibility. This is politics.

Now, look, I happen to love politics. It has been a lifetime of mine. I am proud of my involvement. I have had experience at the local level and the State level, and I am proud to have been a Member of this august body. This is my twelfth year. So I do not shirk from or blanch at the thought that we are talking about political issues and public policy. That is why I came to the Senate. This is why I have devoted my career in public service to policy formation. But this is not public policy; this is public cynicism. That is what this is all about. We ought to reject this.

So I guess I will simply return to the premise I began with, which is, is this piece of legislation necessary? The answer is no. If this legislation fails to be enacted into law, does it in any way impede the process occurring at Yucca Mountain? The answer is no. Parenthetically, I wish it did. But it does not impede it. That process goes forward. Does it do anything with respect to these guidelines in the sense of when the decisions are going to be made in the year 2001 and site recommendations? Does it deal with that guideline or the site application for licensure process? No. That all goes forward. That is in the law now and that is part of the planning process. It is not necessary. It is totally unnecessary.

What we are talking about is a very artful attempt to circumvent the process in which good science and good public policy ought to be used in making these decisions. That will not be allowed to happen in this piece of legislation in this form.

This is a moving target. I am talking about the substitute before us today. I alluded a bit ago to the frustration I have. This piece of legislation affects my State more than any other State, although—let me be clear—43 States will be affected by the transportation corridors. Yet we have largely been in the dark in terms of what kind of a substitute amendment we might face.

Friday afternoon, we received the version that we are debating today. We are prepared to debate it. We are prepared to accept the President's veto, the support of all the environmental community, support of the EPA and Council on Environmental Quality, and all those charged with that responsibility. We are prepared.

As we speak, a new substitute is being worked up. Whether or not there will be agreement, we don't know. Perhaps some of these comments, in the context of the new substitute, may

have to be modified. But that is a sense of frustration I share with colleagues. Imagine, if you will, something that was particular to your own State, and the negotiations affecting your State excluded you from the process. And you kind of waited with bated breath each morning. You have a proposal; can we see it? What is it going to be? That, Mr. President, is where we in Nevada have been.

I am deeply offended by that process. I was not sent to Washington by the people whom I represent to sit on the sidelines and be that potted plant somewhere in the back part of the Senate Chamber. I want to know what is going to happen because I know from bitter experience that good science and good public policy have absolutely nothing to do with the way this process has been implemented since its earlier auspicious beginning in January of 1983.

So I recognize in these kinds of debates, I am sad to say, that unlike the days when the giants of the Senate took the floor and we saw each other and debated back and forth, that is not the way the process works. I understand that, in numbers, we are no match for the phalanx of lobbyists from the nuclear utilities. We do not have their financial resources; I acknowledge that. All we have is our honor, our integrity, and what is good science and public responsibility.

I hope that argument will prevail because it ought to be the way we in this Chamber make the decision. It ought to be the process by which every piece of legislation is dealt with on the floor of the Senate and in its various standing committees. We are here debating the substitute. We will wait and see what other pieces of legislation there might be. But I implore my colleagues to look at this carefully and understand what is coming about. This is not necessary. It is not science. It is simply not responsible public policy.

I urge you to oppose this legislation.

I yield the floor. 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. WELLSTONE. 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. WELLSTONE. Mr. President, first of all, I have been coming to the floor every day because of a commitment I made. I will just take a couple of minutes on this.

The PRESIDING OFFICER. We are in a postcloture situation.

Mr. WELLSTONE. I ask unanimous consent that I be allowed to speak in morning business for 15 minutes.

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

Mr. WELLSTONE. I thank the Chair.