

S.J. RES. 27

At the request of Mrs. DOLE, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S.J. Res. 27, a joint resolution proposing an amendment to the Constitution of the United States relative to the line item veto.

S. RES. 178

At the request of Mr. BINGAMAN, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. Res. 178, a resolution expressing the sympathy of the Senate to the families of women and girls murdered in Guatemala, and encouraging the United States to work with Guatemala to bring an end to these crimes.

AMENDMENT NO. 3857

At the request of Mrs. FEINSTEIN, the names of the Senator from Maine (Ms. SNOWE) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of amendment No. 3857 intended to be proposed to S. 2248, an original bill to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

AMENDMENT NO. 3863

At the request of Mr. KENNEDY, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of amendment No. 3863 intended to be proposed to S. 2248, an original bill to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INHOFE (for himself, Mr. CRAIG, Mr. DEMINT, Mr. BARRASSO, Mr. BOND, Mr. ALEXANDER, and Mr. CRAPO):

S. 2551. A bill to provide for the safe development of a repository at the Yucca Mountain site in the State of Nevada, and for other purposes; to the Committee on Environment and Public Works.

Mr. INHOFE. Mr. President, today I rise to introduce the Nuclear Waste Policy Amendments Act of 2008.

I have said many times on this Senate floor that we do have a crisis in energy and that we need all of the following: We need nuclear energy, but we also need clean coal technology, we need oil and gas, we need renewables. We need all of the above. I feel very strongly about this, and I know there is a disagreement on that issue, even within our committee. But I am concerned about the continued delays in opening our Nation's repository at Yucca Mountain, that it would hinder the resurgence of nuclear energy in the United States. It seems as though right now we are making a major breakthrough. People who were objecting to nuclear energy just a few years ago are now realizing that it is clean, it is safe,

it is abundant. Not that I use France as our model very often, but in this case, they are between 80 and 90 percent nuclear, and they have done the right thing.

A bit of history on this. The Nuclear Waste Policy Act of 1982 established a program to locate and develop a repository for nuclear waste, including both Defense waste, a legacy from the Cold War, and civilian spent fuel. In 2002, after 20 years of research, the President recommended to the Congress that Yucca Mountain should be developed as the repository. The State of Nevada objected. I wasn't surprised to see that happen, and it did. It certainly is their right to do so under the Nuclear Waste Policy Act. However, Congress passed a joint resolution affirming or reaffirming the administration's recommendation of Yucca Mountain with strong bipartisan majorities in both Houses.

The location has been decided. The debate is no longer in existence of whether a repository should be built at Yucca Mountain. That decision was made in 2002. The task that remains is to develop a repository that protects public health and safety and the environment, a permanent solution for our Nation's nuclear waste. It is high time we accomplish these tasks now. This is very serious. We passed laws and resolutions to do it. We have collected over \$27 billion—that is with a “b”—\$27 billion for electricity from consumers to pay for it. The courts have affirmed and reaffirmed that we have the obligation—not the legal right to do it, the legal obligation.

Now, I am frustrated that the Department of Energy is 20 years behind schedule. However, I am pleased that DOE appears to have made significant progress in the past few years and will hopefully file a license application this year, despite the persistent assault on program funding.

I understand that opposition to Yucca Mountain remains, advocating that we abandon it in favor of interim storage. There have been many proposals on interim storage, and I expect there will be more in the future, but we have interim storage right now at 121 locations in 39 States. Make no mistake, interim storage is a temporary fix. It forces future generations to solve a problem that we ought to be resolving today. It is time to move forward with a permanent solution at Yucca Mountain.

I have visited the site. I have a question for those who would want to abandon Yucca Mountain: If you can't build a repository in the middle of a mountain in the middle of a desert, where should it be?

Let's think about this for a minute. The logical first step to finding a new repository site is to begin by reevaluating sites that have been considered before. I have a map—which is not here, but it will be here before I finish talking—showing the 37 States that DOE and its predecessor, the Energy

Research Development Administration, have evaluated in the past based on the presence of favorable geologic formations. Those States are Arizona, Arkansas, Colorado, Connecticut, Georgia, Idaho, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, and it goes on and on, including my State of Oklahoma—37 of the 50 States. Now, 37 States have been considered as possible candidates for developing a repository. Does it really make sense to abandon a site where we have already invested 25 years and \$8 billion before the Nuclear Regulatory Commission even considers it, only to turn around and start from scratch, reevaluating sites in 37 States? I don't think so.

As the generation that has benefited from the use of nuclear energy and the resulting spent fuel, I believe it is incumbent upon us to manage spent fuel in a manner that is fair to current generations and generations to come, and the bill I am introducing now will do just that.

DOE has indicated there are legislative provisions they need to complete the licensing process and begin construction of the repository our electricity consumers have paid some \$27 billion for already. Senators DOMENICI and CRAIG introduced their NU-WAY bill, S. 37, which includes those provisions within the jurisdiction of Environment and Public Works. My bill includes the remaining DOE provisions that are within the jurisdiction of the Environment and Public Works Committee. My bill goes beyond that. My bill will incorporate a flexible framework for future generations to apply their knowledge and innovations to improve the repository.

The task at hand is to develop a safe repository using state-of-the-art technology and cutting-edge science. The trouble is technology that is state of the art now won't be 50 years from now, much less 100 years from now. When you are making decisions on how to develop a facility that will be safe for up to a million years, we should not limit ourselves to science and technology that is available today. We should establish a flexible framework that incorporates technological advances into the facility design over time, one that allows our grandchildren and great-grandchildren to improve on the project we have started. In other words, we know that even though we are using the million-year benchmark, things are going to happen next year and the year after and the year after where we can have dramatic improvements. But the one thing we have to do is make the decision today—or keep the decision that has already been made.

Several international bodies, including the National Academy of Sciences and the International Organization for Economic Cooperation and Development's Nuclear Energy Agency, have advocated repository development in stages that will incorporate technological advances over time—just what

we are talking about. The reformed licensing process in this bill integrates that concept into the current licensing process. My bill reforms the licensing process for authorizing construction, operation, and closure of the repository.

I have to say we have come a long way already on this. When I became chairman of the Subcommittee on Clean Air within this committee, we had not had an oversight committee hearing on the Nuclear Regulatory Commission for 12 years. I don't care what the bureaucracy is, you have to have oversight. Well, we have come a long way.

The threshold for approval of construction of a repository is based on a determination that the facility could be safely operated for 300 years. During this time, a long-term science and technology program will be established to monitor and analyze the repository's performance and to conduct research into technologies that would improve the facility. The repository license will be amended every 50 years at a minimum to incorporate these improvements. During this phase, waste would remain retrievable so that future generations may recover valuable material or upgrade disposal systems, for example.

When the DOE applies to permanently close the repository, it must then demonstrate compliance with EPA's radiation standard before ceasing operations at the site. Until then, the facility will be subject to the strict NRC regulation and oversight as an operating facility.

Today, this program has been litigated into a corner. After several lawsuits, the EPA has responded by drafting a radiation standard for 1 million years. That is right, based on what we know today, DOE must prove a reasonable expectation that Yucca Mountain will be safe for 1 million years before DOE can even begin building a repository. This is a ridiculous and arrogant requirement that assumes we know right now all that will ever be known about the management of spent nuclear fuel and its impact on public health and safety. That compliance decision only makes sense when DOE decides to close the repository and cease operations. Until that time, repository enhancements reflecting 300 years of scientific innovation will improve its protection of public health and safety and, I might add, the environment.

Now, my approach is not about kicking the can down the road and forcing future generations to solve the problem. That is what concerns me about a lot of the things we do around here. My wife and I have 20 kids and grandkids, and they are the ones who are going to be doing a lot of the things we should be doing today. My approach is about meeting a legal and moral obligation to build the best facility we can now, laying a solid foundation for future generations to improve it based on what they learn.

I am confident we can build a repository that will protect public health and safety and the environment, but I am equally confident that 50 years from now our grandchildren could build a better one. Fifty years from now, they will have learned a lot about the actual performance of repositories; something we can only predict right now, they will know by that time. Fifty years from now, the waste placed in the repository may require isolation for a few hundred years instead of a million.

Lastly, my bill includes provisions necessary to support new nuclear plant construction. Before receiving a license, nuclear plants must meet two requirements. The first is that companies must sign a contract with DOE to provide for the disposal of spent fuel. My bill modifies those provisions in the Nuclear Waste Policy Act to make them current. The second is known as waste confidence. Nuclear plants must demonstrate there is confidence that the spent fuel will be managed and disposed of in a manner that protects health and safety. My bill clarifies that the repository program meets this requirement for disposal.

So when a society takes on the task of building a complex, first-of-a-kind facility envisioned to remain robust for a million years, it immediately raises questions about generational equity. As Senators, we must balance fairness to the future generations that haven't been born yet with fairness to the generations we currently represent. Finding that balance must be based on several principles, including protecting the health and safety of current generations; protecting the health and safety of future generations; minimizing the impact on the environment; meeting the need for reliable, cost-effective energy; meeting legal obligations; minimizing taxpayer liability; and the costs are covered by those who benefit from the waste. My bill adheres to these principles and strikes that balance.

Rumors of Yucca Mountain's demise have been highly exaggerated. It is time we focus on developing the safest state-of-the-art repository we can, one step at a time. We owe it to our generation and to the generations that follow.

I have to say, regarding all of the emphasis recently on the concern we have for the environment, nothing is cleaner, nothing has been shown better for the environment than this type of energy, which we have to have in our mix.

By Mr. KENNEDY (for himself, Mr. LEAHY, Mr. DODD, Mr. BINGAMAN, Mr. KERRY, Mr. HARKIN, Ms. MIKULSKI, Mr. AKAKA, Mrs. BOXER, Mr. FEINGOLD, Mrs. MURRAY, Mr. DURBIN, Mr. SCHUMER, Ms. CANTWELL, Mrs. CLINTON, Mr. LAUTENBERG, Mr. OBAMA, Mr. MENENDEZ, Mr. CARDIN, and Mr. BROWN):

S. 2554. A bill to restore, reaffirm, and reconcile legal rights and remedies

under civil rights statutes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, I am honored to join my colleagues Senators LEAHY, DODD, BINGAMAN, KERRY, HARKIN, MIKULSKI, AKAKA, BOXER, FEINGOLD, MURRAY, DURBIN, SCHUMER, CANTWELL, CLINTON, LAUTENBERG, OBAMA, MENENDEZ, CARDIN, and BROWN in introducing the Civil Rights Act of 2008. This legislation is vital to realizing the full promise of our civil rights laws and labor laws to protect all of America's people.

Civil rights is still the unfinished business of America. Prejudice, discrimination, and outright bigotry continue to limit the lives of large numbers of our people. Unfortunately, in recent years, the Supreme Court has rolled back some of the core statutory protections for civil rights and workers' rights. The Civil Rights Act of 2008 will strengthen existing civil rights protections and restore the bedrock principle that individuals may challenge all forms of discrimination in public services.

It has long been clear that effective enforcement of civil rights and fair labor practices is possible only if individuals themselves are able to seek relief in court. Our legislation will strengthen existing protections in cases where the courts have let us down by narrowing individuals' right to demand accountability for discrimination.

Key elements of our proposals will make it easier for working women to enforce their right to equal pay for equal work. Our bill enhances protections against discrimination in federally funded services, and enacts needed safeguards for students who are harassed because of their national origin, gender, race, or disability.

We make sure that victims of discrimination and unfair labor practices can receive meaningful damages where appropriate. Our legislation will also enable members of our Armed Forces to enforce their Federal right to be free from discrimination by States because of their military status.

In addition, our legislation will ensure that older workers who suffer age discrimination are not denied the chance to seek relief because they work for a State government. It will also prevent employers from requiring workers to sign away their right to bring discrimination claims and fair labor claims in court, in order to obtain a job or keep a job.

This bill is a needed step in restoring the effective remedies that our civil rights laws and fair labor laws must have in order to ensure accountability for discrimination. America will never be America until we do.

Mr. LEAHY. Mr. President, our great Nation was founded on the fundamental principle that all persons are created equal. We have long committed, and recommitted, ourselves to ensuring that all persons have the

right to prosper through hard work and ingenuity. However, for many Americans, those rights still remain illusory. Today, we introduce a comprehensive bill to vindicate our founding principles and make the promise of equal opportunity in the workplace a reality for all Americans.

I am proud to cosponsor the Civil Rights Act of 2008, and I thank Senator TED KENNEDY for his leadership in the Senate on this issue, and Representative JOHN LEWIS for his leadership in the House. I have been a long-time supporter of efforts to rid the workplace of unlawful discrimination, and I believe the Civil Rights Act of 2008 is critical to achieving that important goal. We must continue to fight to end all workplace discrimination, including discrimination based on sexual orientation.

This legislation we are introducing today responds to several disappointing decisions by conservative courts. These court rulings have misconstrued congressional intent, and have had the effect of limiting important civil rights protections provided by Congress.

A 2000 decision from the Supreme Court of the United States greatly restricted the capacity of workers who suffer age discrimination to sue for full relief. In *Kimel v. Florida Board of Regents*, the Supreme Court ruled that, contrary to Congress's original intent, State employers do not have to provide back pay or other monetary damages when workers are discriminated against based on age. As a result, millions of State workers who are 40 or over lost the right to back pay. This bill would restore Congress's original intent that State employers give workers full relief for age discrimination, including back pay.

The bill would clarify the standard for challenging employment practices that have an unjustified discriminatory impact on older workers. It would make clear that the standard of proof in cases alleging a disparate impact based on age is the same as in cases alleging a disparate impact based on race, color, gender, national origin, or religion.

The bill would also restore the rights of victims of discrimination—in the workplace or otherwise—to challenge practices that have a disparate impact on certain communities based on race, national origin, sex, age, or disability. Since the Supreme Court's decision 7 years ago in *Alexander v. Sandoval*, individuals can no longer challenge discrimination by entities that receive Federal funding without facing the high burden of proving purposeful discrimination.

Currently, only the Federal Government has the right to challenge sophisticated forms of discrimination—by federally funded entities—that fall disproportionately on certain minority groups. So if a State decided to administer a driver's license exam only in English, rather than administering the exam in multiple languages, a non-

English speaker would be denied his or her right to have their day in court. This measure returns the Federal law to our original intentions by allowing individuals a right to challenge such practices:

These added protections provide a significant step forward in the fulfillment of our goal to eliminate the footprint of unlawful discrimination from the workplace and broader society. Civil rights legislation over the last 44 years—including antidiscrimination in the workplace laws—represents some of Congress's greatest achievements. With the passage of the Civil Rights Acts of 1964 and 1991, the Age Discrimination Act of 1975, and the Rehabilitation Act of 1973, Congress gave victims of discrimination a way to address the wrongs that they have suffered and put teeth into the sanctions faced by those who unlawfully discriminate against their victims.

Despite these gains, efforts to eliminate bias from the workplace and larger society have been largely eroded by decisions from conservative jurists on the Supreme Court and other Federal courts. Year after year, conservative courts have rolled back rights by denying certain types of relief and taking certain tools—designed to fight intentional and sophisticated forms of workplace discrimination—from individual workers. This bill would reverse that rollback, and restore the rights of victims to have their day in court and to have meaningful remedies when those rights are violated.

Discrimination on the basis of certain personal characteristics has no place in any workplace or in any State in America. It is long overdue for Congress to reinforce Americans' protections against bias in the workplace and eradicate barriers to full and equal participation in our society.

The time for this bill is now. It is particularly important that, on the week our Nation observes and honors the legacy of Dr. Martin Luther King, Jr., Congress has introduced this bill. We must remain vigilant in ensuring our precious civil rights, which generations of Americans fought and bled to protect, remain available for our children and grandchildren.

By Mr. REID:

S. 2556. A bill to extend the provisions of the Protect America Act of 2007 for an additional 30 days; read the first time.

Mr. REID. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be placed in the RECORD, as follows:

S. 2556

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

#### SECTION 1. EXTENSION OF THE PROTECT AMERICA ACT OF 2007.

Subsection (c) of section 6 of the Protect America Act of 2007 (Public Law 110-55; 121 Stat. 557; 50 U.S.C. 1803 note) is amended by striking "180" and inserting "210".

#### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 425—MAKING PARTY APPOINTMENTS FOR THE 110TH CONGRESS

Mr. MCCONNELL submitted the following resolution; which was considered and agreed to:

S. RES. 425

*Resolved*, That the following be the minority membership on the following committees for the remainder of the 110th Congress, or until their successors are appointed:

Committee on Armed Services: Mr. McCain, Mr. Warner, Mr. Inhofe, Mr. Sessions, Ms. Collins, Mr. Chambliss, Mr. Graham, Mrs. Dole, Mr. Cornyn, Mr. Thune, Mr. Martinez, Mr. Wicker.

Committee on Banking, Housing, and Urban Affairs: Mr. Shelby, Mr. Bennett, Mr. Allard, Mr. Enzi, Mr. Hagel, Mr. Bunning, Mr. Crapo, Mrs. Dole, Mr. Martinez, Mr. Corker.

Committee on Commerce, Science, and Transportation: Mr. Stevens, Mr. McCain, Mrs. Hutchison, Ms. Snowe, Mr. Smith, Mr. Ensign, Mr. Sununu, Mr. DeMint, Mr. Vitter, Mr. Thune, Mr. Wicker.

Committee on Finance: Mr. Grassley, Mr. Hatch, Ms. Snowe, Mr. Kyl, Mr. Smith, Mr. Bunning, Mr. Crapo, Mr. Roberts, Mr. Ensign, Mr. Sununu.

Committee on Rules and Administration: Mr. Bennett, Mr. Stevens, Mr. McConnell, Mr. Cochran, Mr. Chambliss, Mrs. Hutchison, Mr. Hagel, Mr. Alexander, Mr. Ensign.

Committee on Veterans' Affairs: Mr. Burr, Mr. Specter, Mr. Craig, Mr. Isakson, Mr. Graham, Mrs. Hutchison, Mr. Wicker.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 3907. Mr. DODD (for himself, Mr. FEINGOLD, Mr. LEAHY, Mr. KENNEDY, Mr. HARKIN, Mr. WYDEN, Mr. SANDERS, Mr. OBAMA, Mrs. CLINTON, Mr. BIDEN, and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill S. 2248, to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes; which was ordered to lie on the table.

SA 3908. Mr. WHITEHOUSE (for himself, Mr. ROCKEFELLER, Mr. LEAHY, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill S. 2248, supra; which was ordered to lie on the table.

SA 3909. Mr. FEINGOLD (for himself and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 3911 proposed by Mr. ROCKEFELLER (for himself and Mr. BOND) to the bill S. 2248, supra.

SA 3910. Mrs. FEINSTEIN (for herself, Mr. ROCKEFELLER, Mr. LEAHY, Mr. NELSON of Florida, Mr. WHITEHOUSE, Mr. WYDEN, Mr. HAGEL, Mr. MENENDEZ, Ms. SNOWE, and Mr. SPECTER) submitted an amendment intended to be proposed by her to the bill S. 2248, supra; which was ordered to lie on the table.

SA 3911. Mr. ROCKEFELLER (for himself and Mr. BOND) proposed an amendment to the bill S. 2248, supra.

SA 3912. Mr. FEINGOLD (for himself and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 3911 proposed by Mr. ROCKEFELLER (for himself and Mr. BOND) to the bill S. 2248, supra; which was ordered to lie on the table.

SA 3913. Mr. FEINGOLD (for himself, Mr. MENENDEZ, and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 3911 proposed by Mr. ROCKEFELLER (for himself and Mr. BOND) to the bill