

West Valley Demonstration Project Act

Legislative History

Committee Reports

**Senate Report (Energy and Natural Resources Committee)
No. 96-787, May 15, 1980 [To accompany S. 2443]**

**House Report (Science and Technology Committee) No. 96-1100(I)
June 18, 1980 [To accompany H.R. 6865]**

**House Report (Interstate and Foreign Commerce Committee)
No. 96-1100(II), Sept. 15, 1980 [To accompany H.R. 6865]**

Dates of Congressional Consideration and Passage

Senate June 12, 1980

Senate September 17, 1980

House September 15, 1980

House September 17, 1980

**The West Valley Demonstration Project Act
Public Law 96-368, Oct. 1, 1980**

96TH CONGRESS : : : : 2D SESSION

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SENATE

{ REPORT
No. 96-787

WEST VALLEY DEMONSTRATION PROJECT ACT

MAY 20 (legislative day, JANUARY 3), 1980.—Ordered to be printed

Mr. JACKSON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 2443]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2443) to authorize the Department of Energy to carry out a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, New York having considered the same, reports favorably thereon with amendments to the text and recommends that the bill as amended do pass.

The amendments are as follows:

1. On page 3, lines 1 to 6, strike subsection 2(b)(3) and insert in lieu thereof the following:

(3) Shall enter into a cooperative agreement with the State of New York pursuant to the "Federal Grant and Cooperative Agreement Act of 1977", Public Law 95-224, to provide for the conduct of the demonstration project, without transfer of title to the United States to the high level liquid wastes or to the project site, and for the following activities:

"(A) demonstration of vitrification technology or technologies which can be replicated for other applications in the United States;

"(B) submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration;

"(C) application of the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, to all aspects of the demonstration project; and

"(D) conduct of other activities at the project, as determined to be appropriate by the Secretary, to protect public

health and safety and to be in the national interest regarding the safe management of nuclear wastes in the United States."

2. On page 3, lines 15 to 16, strike subsection 3(a) and renumber subsections 3(b), 3(c), and 3(d) as subsections 3(a), 3(b), and 3(c) respectively.

3. On page 4, line 23, strike the word "section" and insert in lieu thereof the words "sections 2 and".

PURPOSE OF THE MEASURE

The purpose of the measure is to authorize the Department of Energy to carry out a high-level, liquid nuclear waste management demonstration project at the Western New York Center in West Valley, New York.

SUMMARY OF MAJOR PROVISIONS

The bill directs the Secretary of Energy to carry out a project to solidify the high-level nuclear waste currently stored in tanks at the Western New York Service Center in West Valley, New York. The Secretary is also directed to transport such solidified waste to a long-term Federal repository and to decontaminate facilities used in the project. With the \$5 million authorized to be appropriated in Fiscal Year 1980 the Secretary is to prepare a plan for the safe removal and immobilization of the waste. The Secretary is to enter into contracts and cooperative agreements to permit the joint conduct with the State of New York of the cost-shared project.

BACKGROUND AND NEED

In November 1978, the Department of Energy submitted to the Congress the Western New York Nuclear Service Center Study, which was prepared pursuant to Section 105 of Public Law 95-238. The following paragraphs are excerpted from the History contained in that report:

A stated purpose of the Atomic Energy Act of 1954 was to promote "wide-spread participation in the development and utilization of atomic energy for peaceful purposes." The Atomic Energy Commission (AEC) actively encouraged private industry to enter the field of nuclear power. By the end of 1955, the AEC concluded agreements for the first few demonstration power reactors.

In 1954, the AEC began a program to encourage private participation in the reprocessing of irradiated nuclear fuel as part of its program to commercialize the entire nuclear fuel cycle. To have commercial reprocessing services available for the first irradiated fuel in 1961, the AEC offered to make available the reprocessing technology developed for the defense program.

In 1959, New York State's interest in attracting atomic development culminated in the formation of the Office of Atomic Development (OAD) as an independent agency responsible for coordination of atomic regulatory and develop-

ment functions within the State. To encourage nuclear development the OAD acquired the West Valley site in 1961, which became designated the Western New York Nuclear Service Center (WYNNSC). The purpose of the Center was to store nuclear fuels and radioactive wastes and to be available for related industrial development.

The Davison Chemical Co. was sufficiently encouraged by the developments in the late 1950's to consider the feasibility of constructing a reprocessing facility. In 1961, Davison expressed interest in operating the WYNNSC. In January 1962, Davison outlined its plans to the AEC for constructing a private reprocessing plant. To pursue the reprocessing venture, Davison set up Nuclear Fuel Services, Inc. (NFS), whose stock was owned by the W. R. Grace Co. (78 percent) and American Machine and Foundry (22 percent). NFS, in its proposal, indicated its willingness to provide and maintain storage for a limited period of time for the high-level liquid wastes (HLLW) resulting from the reprocessing operations. Subsequently, the wastes would become the responsibility of the AEC. NFS also said it was willing to collect and return to the AEC an amount calculated to provide the estimated full costs for perpetual storage at the point of turnover. NFS was simultaneously negotiating to make New York State responsible for perpetual care of the wastes. The proposed, and eventually approved, method of waste disposition was to store them in liquid form in underground storage tanks, similar to the method being used at AEC production facilities.

During the following years, a complex series of negotiations took place among the AEC, NFS, and OAD. In 1962, the OAD became the New York Atomic Research and Development Authority (NYARDA). These negotiations culminated in four contractual agreements. NFS entered into a contract with the AEC under which the AEC would provide a baseload for the first five years of the reprocessing plant operation. NFS also entered into three contracts with NYARDA: (1) a lease for the WYNNSC; (2) a facilities contract under which NFS would build storage facilities for nuclear fuel and radioactive wastes; and (3) a waste storage agreements which provided the terms for NFS to maintain the wastes for a period of time, limited by the duration of the lease, thereafter, turning them over to NYARDA along with a fund for perpetual care. New York State through NYARDA provided assurance (as amendment No. 1 to the Application for License) too the Federal Government that the State would be responsible for the wastes in perpetuity.

In May 1963, the AEC issued a permit authorizing construction of the NFS plant. Construction was completed in early 1966, and on April 19 of that year, the AEC issued a license to NFS for operation of the first commercial nuclear fuel reprocessing plant.

On November 14, 1970, the AEC amended its regulations (10 CFR 50, Appendix F) to require that high-level liquid wastes generated at licensed fuel reprocessing facilities be

solidified within five years after separation, and shipped to a Federal repository within ten years after separation. The existing NFS wastes were specifically excepted from these regulations pending a future rule-making proceeding by the AEC. The Nuclear Regulatory Commission (NRC), since 1974 the successor to the regulatory arm of the AEC, is still in the process of making this rule.

From 1966 to 1972, about 640 metric tons (MT) of nuclear fuel were processed at the WYNSC. Approximately 380 MT of AEC's production reactor and 100 MT of commercial reactor fuel were supplied under the baseload contract. The remainder was supplied directly to NFS by public utilities. In 1972, the plant was shut down to expand its capabilities and to make modifications to reduce radioactive effluents and radiation exposure levels to plant personnel. At the time, NFS estimated this modification program would cost about \$15 million and take two years to complete.

The proposed modification program involved a significant alteration, as determined by the AEC, of a licensed facility and, therefore, required a complete licensing review. This included review of the plant's ability to mitigate the consequences of natural phenomena (earthquakes and tornadoes). When the NFS facilities were constructed, the need to withstand certain natural phenomena was recognized and the facilities were built to the specifications of the Uniform Building Code for earthquake zone 3. These were construction specifications which did not require that the ability of the plant to withstand a certain magnitude of earthquake be demonstrated. However, during the licensing review, the AEC stipulated that new facilities must also be able to withstand the effects of the highest magnitude tornado that can be expected to occur at least once in ten million years and the highest magnitude earthquake that can be expected to occur at least once in one million years. AEC also requested that NFS assess the capability of the existing structures to withstand these phenomena. By 1976, NFS judged that over \$600 million would be required to complete the proposed modification program if these and other criteria, actively being considered at the time, were imposed.

In April 1976, NFS notified the New York State Energy Research and Development Authority (NYSERDA), the successor to NYARDA, of its intention to exercise its right under the Waste Storage Agreement to surrender the responsibility for all wastes at the WYNSC to NYSERDA. On September 22, 1976, NFS announced its decision to withdraw from the nuclear fuel reprocessing business, citing rising costs and uncertain regulatory requirements as key factors. The biggest reason was stated to be a "drastic increase" in the seismic criteria for the plant. On November 30, 1976, NYSERDA advised the Federal Government that ownership of the WYNSC and responsibility for its contents should, in their opinion, be transferred to the Energy Research and Development Administration.

While there is no current threat to the public health and safety from the storage of the commercial high-level nuclear waste in tanks at the Western New York Nuclear Service Center, there is historical precedent for carbon steel tanks to develop leaks after they have been in use a number of years. Thus the West Valley tanks constitute a potential for uncontrolled migration of the high-level nuclear waste at some future date. It is therefore timely to begin consideration of how to solidify these high-level commercial nuclear waste at some commercial nuclear wastes are stored at a commercially-owned facility on land leased from the State of New York with responsibility for the long-term management of the waste vested in the State of New York (after expiration of the lease), the solidification of these commercial nuclear wastes might be delayed for a considerable period of time prior to resolution of the source of funding to put the waste into a form suitable for disposal in a long-term Federally operated repository. Since a full-scale demonstration facility for solidifying high-level nuclear waste has never been operated in the United States, there is a potential for significant technical knowledge to be gained from such a project in addition to licensing information which would be obtained if such a demonstration facility were to require licensing. On this basis the Federal government should derive sufficient benefit to pay 90 percent of the cost associated with this solidification demonstration project. This bill gives the Department of Energy the requisite authority and direction to enter into such a demonstration project based on a cooperative agreement with the State of New York as specified in the bill and subject to future authorization and appropriation acts.

LEGISLATIVE HISTORY

Section 105 of Public Law 95-238 required the Secretary of Energy to prepare a report on options available for the decommissioning or the further use of the Western New York Nuclear Service Center. The text of section 105 is as follows:

SEC. 105. (a) The Administrator of the Energy Research and Development Administration shall prepare and submit to the Congress within one year after the date of the enactment of this Act a study, which considers the available options, including, but not limited to—

(1) Federal technical and financial aid in support of decommissioning high level waste disposal operations at the Western New York Nuclear Service Center;

(2) Federal operation of the Western New York Nuclear Service Center for the purposes of decommissioning existing facilities and disposing of existing high level wastes, including a demonstration program for the solidification of high level wastes for permanent burial;

(3) permanent Federal ownership of and responsibility for all or part of the Western New York Nuclear Service Center, and Federal receipt of the license from the present co-licensees; and

(4) use of the Western New York Nuclear Service Center for other purposes.

(b) Preparation of such study shall be in cooperation with the Nuclear Regulatory Commission and other Federal agencies, the State of New York, the industrial participants, and the public, and the Administrator shall conduct informational public hearings (in lieu of any formal administrative hearings) prior to completion of the study. The study shall recommend allocation of existing and future responsibilities among the Federal Government, the State of New York, and present industrial participants in the Western New York Nuclear Service Center.

(c) Ninety days prior to submission of the study to the Congress the Administrator shall release the proposed study for comment by interested parties, and such comments as are received shall be submitted as attachments to the final study submitted to the Congress.

(d) Nothing in this section shall be construed as intending to commit the Federal Government to any new assistance or participation in the Western New York Nuclear Service Center, nor as relieving any party of any duties or responsibilities under any law, regulation, or contract to provide for the safe storage of nuclear waste.

(e) For the purpose of carrying out the provisions of this section, there is included in subsection 101(20) of this Act authorization of appropriations in the amount of \$1,000,000.

As a result of the DOE report which was submitted in February, 1979, Section 107(B) (3) was added to H.R. 3000 (FY 1980 DOE Authorization for Civilian Programs) as an amendment adopted in the House Committee on Science and Technology. However, H.R. 3000 was not enacted. Again this year the House Committee on Science and Technology adopted an amendment for a West Valley Demonstration Project in H.R. 6627.

In 1979, the Senate approved a Nuclear Waste Demonstration Project at West Valley in Section 308 of S. 673, the DOE National Security and Military Application of Nuclear Energy Authorization Act of 1980. Section 308, however, was deleted in the committee of conference, because it was considered to be a program which should be funded for civilian waste management.

On March 19, 1980, Senators Moynihan and Javits introduced S. 2443, the West Valley Demonstration Project Act. The bill was discussed as part of the hearings on the nuclear energy programs with S. 2443, the DOE Authorization Act for Fiscal Year 1981—Civilian Applications.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on May 14, 1980, by unanimous vote with a quorum present, recommends that the Senate pass S. 2443 as amended, as described herein.

COMMITTEE AMENDMENTS

The Committee adopted an amendment and approved conforming amendments to the bill as introduced. The bill before the Committee provided that the United States should take title to the high-level

nuclear waste stored at the Western New York Service Center upon payment of an appropriate fee, as determined by the Secretary, for the perpetual care and maintenance of such waste. An amendment was offered to strike section 2(b) (3) and insert a new text. The new text requires the Secretary to enter into a cooperative agreement with the State of New York pursuant to the Federal (Grant and Cooperative Agreement Act of 1977 (Public Law 95-224)).

Public Law 95-224 limits a cooperative agreement to the provision of federal funding, assistance, and other support without the federal government taking title to or direct responsibility for any property or real estate in a demonstration project. The amendment requires the cooperative agreement to provide for the conduct of the demonstration project without transfer to the United States of title to the high-level nuclear waste or to the project site. The cooperative agreement is also to provide for the demonstration of vitrification technology or technologies which can be replicated for other applications in the United States.

If necessary for conduct of the demonstration project the Secretary, pursuant to the cooperative agreement, is to submit, with the State of New York, an application to the Nuclear Regulatory Commission for a licensing amendment to the license held by Nuclear Fuel Services. The cooperative agreement is to provide for application of the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, to all aspects of the demonstration project. Further, the cooperative agreement is to provide for the conduct of other activities at the project as determined by the Secretary to be appropriate to protect the public health and safety and to be in the national interest regarding the safe management of nuclear waste in the United States.

The intent of the Committee in adopting this amendment is to insure that a joint activity is pursued by the State of New York and the Department of Energy to immobilize the commercial wastes. The Committee believes that it is not desirable to relieve completely the parties currently responsible for the wastes from future involvement in the project by enactment of this legislation. The intent is not to transfer title of the waste or any facilities at the Western New York Service Center to the federal government at this time.

Conforming amendments were necessary in section 3(a), which was stricken, and in section 5 by inserting reference to section 2 in the last sentence of such section.

SECTION-BY-SECTION ANALYSIS

Section 2. Subsection (a) directs the Secretary to carry out subject to this Act a demonstration project at the Western New York Service Center to vitrify or to solidify with the most effective technology high-level nuclear waste stored at such Center in tanks. The Secretary is also directed to transport the solidified waste to a long-term federal repository and to decommission facilities used in the demonstration project.

In subsection (b) the Secretary is directed to prepare a plan for moving the high-level waste from storage tanks and to identify immobilization and waste handling techniques, including initiation of related engineering design, cost estimates, safety analyses, and environ-

mental impact analyses. Subsection (b) further directs the Secretary to enter into a cooperative agreement with the State of New York for the conduct of the demonstration project. In keeping with Public Law 95-224, title to the high-level waste and to the project site is not to be transferred to the United States. The cooperative agreement is to provide for:

- (1) demonstration of waste solidification technology which can be replicated for other applications;
- (2) if required by law, submission of a joint licensing amendment with the State of New York to the NRC;
- (3) observance of applicable federal law; and
- (4) conduct of other activities at the Project as determined by the Secretary.

Section 3. This Section authorizes \$5 million for Fiscal Year 1980. Expenditure of such funds by the Secretary must be preceded by contracts and agreements to enable the Secretary to utilize property and facilities at the Center for the project, to share the cost of the project with a limit of not more than 10 per centum for the non-federal share, and to provide otherwise for the timely conduct of the project. The Committee notes that the provisions of the Uranium Mill Tailings Radiation Control Act of 1978 provides for a 90/10 federal/non-federal cost sharing for the cleanup of radioactive hazards resulting from commercial nuclear activities and may be a useful precedent.

Section 4. Section 4 directs the Secretary in the conduct of the project to consult with certain other federal agencies, the State of New York, and the commercial operator of the Center. The Committee intends that the Secretary, however, have the decision authority among federal agencies except as limited elsewhere by law.

Section 5. Section 5 requires the Secretary to submit an up-to-date report to the Congress annually during the project, including a detailed description of activities. The Committee specifically directs that the Secretary, in keeping with the practice related to all construction projects, submit a Schedule 44 form for this Plant and Capital Equipment Project. This submission is to include a total estimated cost at the time of completion of the project, including estimated date of completion and all ancillary costs associated with the project. This submission should be forthcoming at the earliest possible date but in no event later than completion of the detailed engineering design. The Committee intends that the project will be conducted in a manner to ensure reasonable costs consistent with applicable law and regulation.

Section 6. This Section provides that nothing in this Act shall be construed to affect any rights, obligations, or liabilities of any party under any legal instrument relating to the Center or any waste at the Center. The Section further disclaims any effect on applicable licensing requirements pursuant to the Atomic Energy Act of 1954 or the Energy Reorganization Act of 1974. The provisions of this Act are not intended to extend to any facilities or property at the Center which are not used in the conduct of the project. However, they are not intended to prevent the Secretary from entering into cooperative agreements and contracts for other use of facilities at the Center.

COST AND BUDGETARY CONSIDERATION

In compliance with section 403 of the Budget Reform Act, the Congressional Budget Office has furnished the following estimate:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., May 15, 1980.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate,
Dirksen Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 2443, the West Valley Demonstration Project Act, as ordered reported by the Senate Committee on Energy and Natural Resources, May 14, 1980. This bill authorizes the Secretary of Energy to demonstrate the vitrification of high-level liquid nuclear waste at the Western New York Service Center in West Valley, New York. The project must also include transporting the solidified waste to a long-term storage site and decontaminating equipment used in the project. By the end of fiscal year 1980, the Secretary must prepare a plan for the safe handling and removal of the waste, enter into a cooperative agreement with the State of New York for conducting the project, and submit jointly with the State an application for licensing to the Nuclear Regulatory Commission. The bill authorizes the appropriation of \$5 million for the project for fiscal year 1980. Because this amount has already been appropriated for 1980, this bill would result in no additional cost to the government.

Sincerely,

C. G. NUCKOLS

(For Alice M. Rivlin, Director).

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2443.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals or businesses. Other than studies and corresponding reports to the President and to Congress, little if any additional paperwork would result from enactment of S. 2443.

EXECUTIVE COMMUNICATION

The committee received no executive communication on bill S. 2443.

CHANGES IN EXISTING LAWS

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by bill S. 2443, as ordered reported.

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WEST VALLEY DEMONSTRATION PROJECT ACT

JUNE 18, 1980.—Ordered to be printed

Mr. FUQUA, from the Committee on Science and Technology,
submitted the following

REPORT

[To accompany H.R. 6865 which on Mar. 19, 1980, was referred jointly to the
Committees in Interstate and Foreign Commerce, Interior and Insular Affairs,
and Science and Technology]

[Including cost estimate of the Congressional Budget Office]

The Committee on Science and Technology, to which was referred
the bill (H.R. 6865), to authorize the Department of Energy to carry
out a high-level liquid nuclear waste management demonstration proj-
ect at the Western New York Service Center in West Valley, New
York, having considered the same, reports favorably thereon with
amendments and recommends that the bill do pass.

I. AMENDMENTS AND BILL

The amendments are as follows:

1. On Page 3, strike out lines 1 through 6 and insert in lieu thereof
the following:

(3) enter into a cooperative agreement with the State of
New York pursuant to the "Federal Grant and Cooperative
Agreement Act of 1977", Public Law 95-224, to provide for
the conduct of the demonstration project without transfer
of title to the high level liquid wastes or to the project site
and for the following activities:

(A) demonstration of vitrification technology or tech-
nologies which can be replicated for other applications
in the United States;

(B) submission jointly by the Department of Energy
and the State of New York of an application for a licens-
ing amendment as soon as possible with the Nuclear
Regulatory Commission allowing for the demonstration;

(C) application of the Atomic Energy Act of 1954, as
amended, and the Energy Reorganization Act of 1974, as

amended, to all aspects of the demonstration project; and

(D) conduct of other activities at the project, as determined to be appropriate by the Secretary, to protect public health and safety and to be in the national interest regarding the safe management of nuclear wastes in the United States.

2. On Page 3, strike out lines 15 and 16 (and redesignate the succeeding subdivisions accordingly).

3. On Page 4, line 23, strike the word "section" and insert in lieu thereof the words "section 2 and".
The text of the amended bill is as follows:

[H.R. 6365, 96th Congress, second session]

A BILL

To authorize the Department of Energy to carry out a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, New York

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "West Valley Demonstration Project Act".

SEC. 2. (a) The Secretary of Energy (hereinafter in this Act referred to as the "Secretary") shall carry out, in accordance with the provisions of this Act, a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, New York (hereinafter referred to as "the project"). The Secretary shall carry out the project by vitrifying the high-level liquid nuclear wastes located at such Center or by employing the most effective technology for solidification available. The Secretary shall, as part of the project, also (1) as soon as feasible transport such solidified wastes, in accordance with applicable provisions of law, to an appropriate Federal repository for long term burial, and (2) decontaminate and decommission facilities, materials, and hardware used in connection with the project.

(b) During the fiscal year ending September 30, 1980, the Secretary shall—

(1) prepare a plan for safe removal of such wastes from tank numbered 8D-2 and any other storage tank at the Center containing such wastes including safely breaching the tanks, operating waste removal equipment, and sluicing techniques,

(2) determine the feasibility of immobilization and waste handling techniques required by the unique situation of such wastes at the Center, including initiation of detailed engineering and cost estimates as well as safety analyses and environmental impact analyses, and

(3) enter into a cooperative agreement with the State of New York pursuant to the "Federal Grant and Co-

operative Agreement Act of 1977", Public Law 95-224, to provide for the conduct of the demonstration project without transfer of title to the high level liquid wastes or to the project site and for the following activities:

(A) demonstration of vitrification technology or technologies which can be replicated for other applications in the United States;

(B) submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission allowing for the demonstration;

(C) application of the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, to all aspects of the demonstration project; and

(D) conduct of other activities at the project, as determined to be appropriate by the Secretary, to protect public health and safety and to be in the national interest regarding the safe management of nuclear wastes in the United States.

SEC. 3. There is authorized to be appropriated to the Secretary not more than \$5,000,000 for the fiscal year ending September 30, 1980, for the project. Funds authorized and appropriated in subsequent fiscal years for the project shall not be used by the Secretary for such purpose until the Secretary, the State of New York, and other appropriate persons, enter into such contracts and agreements as may be required—

(a) to enable the Secretary to utilize property and facilities at the Center for the project,

(b) to share the costs of the project, except that the non-Federal share of such costs shall be limited to no more than 10 per centum thereof and in determining such share the Secretary shall consider the utilization of such Center by the Secretary for the project, the amount of money in the existing perpetual care position fund originally designated to provide, for ultimate disposal of the high-level liquid nuclear waste at the Center, and such other factors as the Secretary deems appropriate, and

(c) to otherwise provide for the conduct of the project in a timely manner.

SEC. 4. In carrying out the project, the Secretary shall consult with the Nuclear Regulatory Commission, the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Director of the Geological Survey, the State of New York, and the commercial operator of the Center.

SEC. 5. Not later than February 1, 1981, and on February 1 of each calendar year thereafter during the term of the project, the Secretary shall transmit to the Committee on Science

and Technology, the Committee on Interior and Insular Affairs, and the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate an up-to-date report containing a detailed description of the activities of the Secretary in carrying out the project, including the costs incurred, and the activities to be taken in the next fiscal year and the costs thereof. Any contract or agreement executed under sections 2 and 3 of this Act, together with summaries thereof, shall be promptly transmitted to such committees for their information and review.

SEC. 6. Other than the costs and responsibilities established by this Act for the project, nothing in this Act shall be construed as affecting any rights, obligations, or liabilities of the commercial operator of the Center, the State of New York, or any person, as is appropriate, arising under the Atomic Energy Act of 1954 or under any other law, contract, or agreement for the operation, maintenance, or decontamination of any facilities or property at the Center or for any wastes at the Center. Nothing in this Act shall be construed as affecting any applicable licensing requirements of the Atomic Energy Act of 1954 or the Energy Reorganization Act of 1974. The provisions of this Act shall not apply or be extended to any facility or property at the Center which is not used in conducting the project.

II. PURPOSE OF THE BILL

The bill authorizes the Department of Energy to carry out an integrated production scale research, development and demonstration project utilizing the alkaline and acidic high-level liquid nuclear wastes at the Western New York Nuclear Service Center at West Valley, New York.

III. COMMITTEE ACTIONS

HEARINGS

The Committee on Science and Technology, Subcommittee on Energy Research and Production, held hearings on high-level radioactive waste management including the waste at the Western New York Service Center on June 13, 20, 28, 1978, May 15, 16, 17, 1979, February 5 and 12, 1980, March 6, 1980 and May 29, 1980.

Testimony was received from Congressman Barry M. Goldwater (R-Calif.); Congressman Stanley N. Lundine (D-N.Y.); Dr. George W. Cunningham, Assistant Secretary for Nuclear Energy, U.S. Department of Energy; Dr. John Deutch, Director of Energy Research, U.S. Department of Energy; Mr. Sheldon Myers, Deputy Assistant Secretary for Waste Management, U.S. Department of Energy; Dr. Worthington Bateman, Acting Deputy Assistant Secretary for Energy Technology, U.S. Department of Energy; Mr. Sheldon Myers, * Division of Fuel Cycle and Materials Safety, Office of Nuclear Materials

*Mr. Meyers held positions first at NRC and then at DOE during the period covered by these hearings.

Safety and Safeguards, U.S. Nuclear Regulatory Commission; Mr. John Davis, Deputy Director of Nuclear Materials Safety and Safeguards, U.S. Nuclear Regulatory Commission; Dr. William Bishop, Assistant Director for Waste Management, Division of Fuel Cycle and Materials Safety, U.S. Nuclear Regulatory Commission; Mr. Allison N. Platt, Manager, Nuclear Waste Technology Program, Battelle Pacific Northwest Laboratory; Mr. Larry Stephen Price, Engineer, Measurement Technology Department, Hanford Engineering Development Laboratory.

Also, Dr. Thomas Ellsworth Michaels, Manager, Measurement Technology Department, Hanford; Dr. Raul A. Deju, Director, Basalt Waste Isolation Program, Rockwell Hanford Operations, Richland, Washington; Dr. Neal E. Carter, General Manager, Office of Nuclear Waste Isolation, Battelle Memorial Institute; Gus Speth, Member, Council on Environmental Quality; S. David Freeman, Chairman, Tennessee Valley Authority; Governor James B. Edwards, State of South Carolina; Dr. Alan D. Pasternak, Commissioner, California Energy Resources Conservation and Development Commission; Mr. James L. LaRocca, Chairman, New York State Energy Research and Development Authority; Dr. Larry L. Hench, Department of Materials Science and Engineering, University of Florida; Dr. Ernest F. Gloyna, Dean, College of Engineering, University of Texas; Dr. Lynn E. Weaver, Coordinating Energy, and Director, School of Nuclear Engineering, Georgia Tech; Roger W. Boom, University of Wisconsin; Dr. Rustum Roy, Director, Materials Research Laboratory, Pennsylvania State University; Dr. Bernard L. Cohen, Director, Scaife Nuclear Laboratories, University of Pittsburgh; Dr. Margaret Maxy, Associate Professor, Department of Bioethics, University of Detroit; Dr. Larry Hench, Professor, Materials Science Department, University of Florida; Dr. Frank Parker, Professor, Environmental Engineering Department, Vanderbilt University, Nashville, Tennessee; Dr. Konrad B. Krauskopf, Geology Department, Stanford University; J. Edward Howard, Vice President-Nuclear, Boston Edison Company; Dr. Milton Levenson, Director, Nuclear Power Division, Electric Power Research Institute; Dr. Charles Hebel, Manager of Research Planning, Xerox Corporation; Peter S. Van Nort, Wisconsin Power and Light Company; Mr. David Berick, Environmental Policy Center, Washington, D.C.; Carol Mongerson, Director, West Valley Coalition on Nuclear Waste; Kenneth H. Duframe, Director, New York Voice of Energy; Dr. John Bartlett, Group Leader, Energy and Environment Group, The Analytic Sciences Corporation; and Dr. Floyd Culler, President, Electric Power Research Institute.

IV. RELEVANT LAWS

On February 28, 1978, the Secretary of Energy was directed by law to study the options for using West Valley and decommissioning the site (P.L. 95-238 "Department of Energy Act of 1978—Civilian Applications"). In November 1978 the Department released the results of their study which was then discussed at later hearings, noted above. The study acknowledges Federal responsibility in regard to the high level radioactive liquid wastes. The study indicates that this project will be a ten year effort costing about \$130 million in 1978 dollars to complete.

Full committee mark-up sessions, during which the substance of H.R. 6865 was considered, were held on April 24, 1979 and April 23, 29, 1980, and May 8, 1980. The Subcommittee on Energy Research and Production took mark-up action on March 8, 1980. The full Committee mark-up sessions during 1979 related to the U.S. Department of Energy FY 1980 Authorization Bill. At that time the text of H.R. 6865 was offered as an amendment to Title I, the research, development and demonstration section of the fiscal year 1980 authorization bill, H.R. 3000. The Committee adopted this amendment and reported H.R. 3000 on May 15, 1979, which included the substantive provisions of H.R. 6865. H.R. 3000 passed the House with the West Valley provision unamended on October 24, 1979. H.R. 3000 was ordered placed on the Senate calendar on October 29, 1979. Whereafter, the Senate took no action on this bill.

The substantive provisions of H.R. 6865 were also added to the Department of Energy FY 1981 annual authorization act, H.R. 6627, during consideration by the Subcommittee on Energy Research and Production on April 1, 1980. No changes to this bill were made during full Committee mark-up on H.R. 6627, and it was ordered reported by the Committee on Science and Technology on May 8, 1980.

The substantive provisions of H.R. 6865 were also contained in bill, H.R. 7449, the "Department of Energy Civilian Research and Development Programs, 1981 Authorization Act". H.R. 7449 is essentially Title I of H.R. 6627, "Department of Energy Civilian Programs, 1981 Authorization Act", but contains only the research and development programs of the Department of Energy. During mark up of H.R. 7449 on June 4, 1980, the Committee on Science and Technology removed the West Valley language from the bill, and ordered reported H.R. 6865, the "West Valley Demonstration Project Act", with amendments.

V. BACKGROUND AND NEED FOR THE LEGISLATION

HISTORY

The Western New York Nuclear Service Center, located about 30 miles south of Buffalo, is the earliest effort in commercial nuclear fuel reprocessing and the closing of the back end of the nuclear fuel cycle in the United States. Nuclear Fuel Services, Inc., and the State of New York are co-licensees of the facility. Nuclear Fuel Services, Inc. leases the site from the State of New York, the actual owner of the site.

The undertaking was conceptualized and encouraged by the Atomic Energy Commission. Negotiations in the early 1960's between the Atomic Energy Commission, Nuclear Fuel Services, and the New York Atomic Research and Development Authority resulted in contractual agreements for the construction, and operation of the first commercial nuclear reprocessing facility and for perpetual care of the nuclear wastes resulting from the operation. The agreements provided that Nuclear Fuel Services would maintain the wastes during the terms of their lease with the State. At termination of Nuclear Fuel Services' lease with the State of New York, the State was to assume responsibility for the wastes. A perpetual care fund was established to provide the necessary funds for this purpose.

During plant operations between 1966 and 1972, 625 metric tons of spent nuclear fuel were reprocessed, with about 60 percent of the reprocessed fuel being supplied under contract by the Atomic Energy Commission coming in large part from the N reactor operations at the Hanford, Washington site and the remainder from public utilities under contract with Nuclear Fuel Services. Plant operations were shut down in 1972 for the purpose of plant design modifications made necessary by upgraded regulations of the Nuclear Regulatory Commission. In April 1976, Nuclear Fuel Services notified the New York State Energy Research and Development Authority of its intention to withdraw from the nuclear fuel reprocessing business and terminate its lease with the Authority on December 31, 1980. In announcing their decision, Nuclear Fuel Services cited changing regulatory requirements as primary factors.

Existing facilities located at the Western New York Nuclear Service Center include: a spent fuel receiving pool, nuclear fuel reprocessing plant, high-level liquid nuclear waste storage facility, N.R.C. licensed waste burial ground, and a New York State licensed burial ground.

NEED FOR DEMONSTRATION PROJECT

Existing federal regulations require that new, commercially reprocessed high-level liquid nuclear wastes be solidified for ultimate disposal within five years after production. Various solidification technologies and handling techniques have been under development for sometime to fulfill this requirement. However, technical information and first hand experience, which can only be obtained from data collected from the proper scaling of demonstration projects utilizing solidification technologies, is lacking and is necessary to provide an important link in the ultimate implementation of an overall national nuclear waste management program. The Committee believes that the technological base is adequate to proceed with such a scaled up demonstration of solidification, handling, and disposal techniques.

The United States nuclear waste management program is most experienced with calcination, a process which utilizes high temperatures to dry high-level liquid waste into a powder. However, state of the art calcination technology is satisfactory only for interim storage of high level radioactive wastes. An important additional step in development of solidification technologies occurred in 1979 at the Battelle Pacific Northwest Laboratories when six commercial spent fuel elements were reprocessed and the wastes vitrified.

The West Valley project offers the next logical step in efforts to demonstrate existing technological capability in the nuclear waste area, as well as providing a valuable opportunity for additional research and development. Two types of high-level liquid nuclear waste are currently stored at West Valley. The first is 560,000 gallons of high level liquid waste at West Valley, which were produced as a result of reprocessing uranium fuel using the Purex process. These wastes were neutralized before being transferred into the current storage tank (8D2). The second type of waste, about 12,000 gallons, was produced from processing thorium-uranium fuel using the Thorex process. These wastes were not neutralized and still remain in an acidic state in tank (8D4).

Although the major benefit from this project will accrue to the Federal Government and the national nuclear waste management program through advancement of research and development of handling, processing, solidification, and decontamination techniques for high level nuclear waste, the committee recognizes that the State of New York and commercial operator of the facility, Nuclear Fuel Services, Inc., will also benefit from the conduct of this project. For this reason, the committee requires that the costs of the project shall be shared among the Federal Government, State of New York, and other appropriate persons. The legislation provides for a non-Federal cost share of not more than 10% of the costs of carrying out the project.

VI. EXPLANATION OF THE BILL

OVERVIEW

The West Valley Demonstration Project Act authorizes the Department of Energy to carry out a high level liquid nuclear waste research development and demonstration project at the Western New York, Nuclear Service Center in West Valley, New York. The Secretary is directed to solidify the high level liquid nuclear waste currently being stored at the West Valley site utilizing a vitrification process or any other process that he deems to be the best available technology at the time of implementation of the project. The Secretary is further directed to transport the solidified wastes to a federal repository for ultimate disposal as soon as possible, and decontamination and decontaminate the facilities used in connection with the project. The Committee intends this project to demonstrate technologies available for handling, processing, and solidifying high level liquid nuclear wastes as well as for decontamination and decontamination on everything contaminated as a result of the solidification process towards the end of this project.

The Secretary is specifically directed in Section 2 (b) (1) and (2) to develop a plan during Fiscal Year 1980 for the safe removal of all the high level liquid radioactive waste being stored at the West Valley site. Presently, tanks 8D-2 and 8D-4 contain such wastes. The Secretary is further directed to initiate the required engineering, safety, and environmental analyses necessary to enable the project to proceed in a timely fashion.

SUBPARAGRAPH 2(b)(3)—COOPERATIVE AGREEMENT

The Secretary is required to enter into a cooperative agreement with the State of New York, the current owner of the Western New York Nuclear Service Center, pursuant to the provisions in P.L. 95-224 entitled "Federal Grant and Cooperative Agreement Act of 1977" to provide for the orderly conduct of the demonstration project. In doing so, the Secretary shall make arrangements to utilize existing facilities at the site with the State of New York and other appropriate persons to insure that the project proceeds in a timely, cost-effective, and orderly manner. The terms of the cooperative agreement shall not provide for the transfer of title to the high level liquid nuclear waste during the solidification operation or transfer of ownership

of the Western New York Nuclear Services Center to the federal government.

The cooperative agreement, among other things will insure that the project proceeds to demonstrate technologies which can benefit and advance the national nuclear waste management program and be utilized and applied consistent with the other nuclear waste management programs carried out by the Secretary. The Committee recognizes that vitrification is the most likely candidate waste form to be utilized for the West Valley wastes and believes substantial technical benefit will result from such a demonstration of this technology at West Valley.

The cooperative agreement shall also require, if necessary, the submission jointly by the Department of Energy and New York State of an amendment to the existing license held by Nuclear Fuel Services, Inc. for the purposes of carrying out the demonstration project. The Committee does not intend to require contravention of any of the applicable provisions of the Atomic Energy Act of 1954, as amended for the purposes of the demonstration project.

The Secretary shall also be permitted, under the terms of the cooperative agreement, the authority to take necessary actions he deems appropriate to protect the public health and safety during the conduct of the demonstration project and to otherwise provide for the conduct of any other activities during the course of the solidification project that are within the scope of the project and necessary to provide for the safe handling of nuclear wastes in the United States.

SECTION 3—UTILIZATION OF FUNDS

\$5 Million is authorized to be appropriated under this bill for Fiscal Year 1980. Funds that are authorized and appropriated by the Congress in subsequent fiscal years cannot be spent until the Secretary, the State of New York, and other appropriate persons have entered into the cooperative agreement mandated in Section 2(b) (3), until provision is made for utilization of property and facilities at the Center, and until a cost-sharing of the project whereby the non-federal share shall not exceed ten per-cent of the project costs is agreed upon. In determining the appropriate cost share, the Secretary is permitted to take into consideration the amount of money in the Perpetual Care Fund originally established to provide for ultimate disposal of the nuclear wastes at the Center and any other factors the Secretary finds appropriate in this instance.

SECTION 4—CONSULTATION WITH FEDERAL AGENCIES

With the intent of encouraging comity between DOE and other federal agencies who may have some interest in the project, this section requires that the Secretary consult throughout the project with the Nuclear Regulatory Commission, Environmental Protection Agency, Department of Transportation, Geological Survey, New York State, and commercial operator of the site. However, the committee intends the Secretary to have the ultimate decision-making authority pertaining to the timely conduct of the demonstration project authorized under this Act.

SECTION 5—REPORT TO CONGRESS

The Committee requires that the Secretary shall transmit to the appropriate committees of Congress having jurisdiction over this matter a yearly report not later than February 1st of each calendar year describing at a minimum the progress on the project, all activities undertaken as a result of enactment of this legislation, and a detailed description of the costs incurred in carrying out the project and containing any relevant contracts signed by the Secretary. The Committee intends that all relevant information concerning this project be submitted to Congress.

SECTION 6—DEFINITION OF LIABILITIES

The Committee intends that the costs of carrying out the demonstration project as defined in Section 2 of this Act shall be shared between the federal government, the State of New York, and other appropriate persons. The non-federal share shall not exceed ten percent of the total cost of solidifying, transporting, and disposing of the high level liquid nuclear wastes, and decommissioning and decontaminating the facilities, hardware, and property used in connection with the project. However, the conduct of the project is not intended to affect any of the rights, obligations, or liabilities of the commercial operator of the Center, State of New York, or any other person arising under the Atomic Energy Act of 1954, as amended, or under any other law, contract, or agreement relating to the operation, maintenance or decontamination of any facilities or property at the Center. The provisions of this Act are not intended to alter any of the applicable licensing requirements under existing law that may apply to the demonstration project at the Center. Furthermore, the Committee does not intend the provisions of this Act to apply to any facilities, hardware, or property at the Center that are not part of or utilized in conducting this demonstration project.

VII. SECTION-BY-SECTION ANALYSIS

Section 2: Subsection (a) directs the Secretary to carry out a nuclear waste management demonstration project at the Western New York Nuclear Service Center in West Valley, New York. The Secretary, as part of the project, shall solidify the high-level liquid nuclear wastes located at the Center by vitrifying them or employing the most effective technology available at the time of implementation of this project. The Secretary is then directed to transport the solidified wastes to an appropriate federal repository for long term burial and to decommission and decontaminate all facilities at the Center used in connection with the project.

In Subsection (b) the Secretary is directed, during Fiscal Year 1980, to prepare a plan for the safe removal of such wastes from the existing tanks in which they are currently being stored and to initiate engineering, safety analyses, and environmental impact analyses to immobilize the wastes. Subsection (b) also directs the Secretary to enter into a cooperative agreement with the State of New York for the conduct of the demonstration project. The cooperative agreement shall provide for the demonstration of waste solidification technologies which can

be replicated elsewhere in the United States for a joint licensing amendment, if required under law, with the State of New York to the Nuclear Regulatory Commission, for observance of the applicable provisions of federal law, and for the conduct of other activities within the scope of the project as determined by the Secretary. The cooperative agreement may not provide for the initial transfer of the high level liquid nuclear wastes to the federal government or transfer to the federal government of ownership of the site.

Section 3: This Section authorizes \$5 Million for Fiscal Year 1980. Expenditure of such funds by the Secretary must be preceded by contracts and agreements to enable the Secretary to utilize property and facilities at the Center for the project, to share the cost of the project with a limit of not more than 10 per centum for the non-federal share, and to provide otherwise for the timely conduct of the project.

Section 4: Section 4 directs the Secretary in the conduct of the project to consult with certain other federal agencies, the State of New York, and the commercial operator of the Center. The Committee intends that the Secretary shall have decision authority among federal agencies except as limited elsewhere by law.

Section 5: Section 5 requires the Secretary to submit an up-to-date report to the Congress annually during the project, including a detailed description of activities. The Committee specifically directs that the Secretary, in keeping with the practice related to all construction projects, submit a Schedule 44 form for this Plant and Capital Equipment Project. This submission is to include a total estimated cost at the time of completion of the project, including estimated date of completion and all ancillary costs associated with the project. This submission should be forthcoming at the earliest possible date but in no event later than completion of the detailed engineering design. The Committee intends that the project will be conducted in a manner to ensure reasonable costs consistent with applicable law and regulation.

Section 6: This Section provides that nothing other than the costs and responsibilities established in this Act for the project shall be construed to affect any rights, obligations, or liabilities of any party under any legal instrument relating to the Center or any waste at the Center. The Section further disclaims any effect on applicable licensing requirements pursuant to the Atomic Energy Act of 1954 or the Energy Reorganization Act of 1974. The provisions of this Act are not intended to extend to any facilities or property at the Center which are not used in the conduct of the project. However, they are not intended to prevent the Secretary from entering into cooperative agreements and contracts for other use of facilities at the Center.

VIII. COMMITTEE RECOMMENDATIONS

In compliance with Clause 2(1)(2)(B) of Rule XI of the Rules of the House of Representatives, the bill was ordered reported with amendments by the Committee on Science and Technology on June 4, 1980, by a voice vote, a quorum being present.

IX. COST AND BUDGET DATA

The bill will authorize appropriations for fiscal year 1980 in the amount of \$5,000,000 net in new obligational authority.

Pursuant to Rule XIII, Clause 7, the Committee estimates that this bill will result in no additional costs to the Government, because funds have already been appropriated for fiscal year 1980 for this purpose.

The total estimated cost of this project in 1978 dollars is \$130,000,000 over the period 1982 to 1990 pursuant to DOE preliminary estimates. Total cost in real dollars spent over this 8 year period is over \$300,000,000, with the Federal Government paying at least 90 percent of this cost.

X. EFFECT OF LEGISLATION ON INFLATION

In accordance with Rule XI, Clause 2(1) (4) of the Rules of the House of Representatives, this legislation is assessed to have no adverse inflationary effect on prices and costs in the operation of the national economy.

XI. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

No oversight findings and recommendations pursuant to Clause 2(1) (3) (A), Rule XI, under the authority of Rule X, Clause 2(b) (1) of the Rules of the House of Representatives are included, in addition to those comments and views contained elsewhere in this report.

COMMITTEE ON GOVERNMENT OPERATIONS

No findings or recommendations on oversight activity pursuant to Clause 2(b) (2), Rule X, and Clause 2(1) (2) (D) of Rule XI of the Rules of the House of Representatives have been submitted by the Committee on Government Operations for inclusion in this report.

XII. COST ESTIMATE, CONGRESSIONAL BUDGET OFFICE AND CONGRESSIONAL BUDGET ACT INFORMATION

The Congressional Budget Office (CBO) has provided the Committee the letter printed below pursuant to section 403 of the Congressional Budget Act of 1974 (CBA). No information pursuant to section 308(a) of the CBA has been provided to the Committee by the CBO because H.R. 6865 provides for new authorization rather than new budget authority.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., June 10, 1980.

Hon. Don Fuqua,
Chairman, Committee on Science and Technology, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 6865, the West Valley Demonstration Project Act, as ordered reported by the House Committee on Science and Technology, June 4, 1980.

This bill authorizes the Secretary of Energy to demonstrate the vitrification of high-level liquid nuclear waste at the Western New York Service Center in West Valley, New York. The project must also include transporting the solidified waste to a long-term storage

site and decontaminating equipment used in the project. By the end of fiscal year 1980, the Secretary must prepare a plan for the safe handling and removal of the waste. In addition, the Department of Energy is required to enter into a cooperative agreement with the State of New York for conducting the project and for submitting a joint application for licensing to the Nuclear Regulatory Commission.

The bill authorizes the appropriation of \$5 million for the project in fiscal year 1980. Because funds have already been appropriated for 1980 and the Department of Energy is planning to spend approximately \$5 million of these funds for the West Valley project, this bill would result in no additional costs to the government. Based on preliminary information from the Department of Energy, the total cost of the project over the period of 1982-1990 is estimated to be over \$300 million, with the federal government paying at least 90 percent of this cost.

Sincerely,

ALICE M. RIVLIN, *Director.*

XIII. ADMINISTRATION POSITION

The Department of Energy has forwarded the following letter concerning their views on the West Valley Demonstration project authorized in H.R. 6865:

DEPARTMENT OF ENERGY,
Washington, D.C., April 23, 1980.

Hon. STANLEY N. LUNDINE,
House of Representatives,
Washington, D.C.

DEAR MR. LUNDINE: In response to your recent letter, I am pleased to provide the views of the Department of Energy (DOE) on the value to the national waste management program of conducting a demonstration project to solidify the liquid high-level nuclear waste by utilizing the former reprocessing plant at West Valley, New York. As you know, the Department is defining and planning the West Valley solidification project under authority derived from the FY 1980 Energy and Water Development Appropriation Act. The Department has requested funds to continue the project definition phase in FY 1981. We are preparing to carry out the project upon enactment of the authorizing legislation introduced by Senators Moynihan and Javits, and by yourself.

The proposed solidification project at West Valley would be of significant value to the national waste management program. It would demonstrate the removal, processing, and solidification of alkaline and acid high-level wastes in an integrated production scale plant. We have never demonstrated the solidification of alkaline high wastes on a significant scale. The acidic high-level wastes at West Valley are derived from thorium fuel. We have little experience with such thorium wastes. We have demonstrated the solidification of acidic uranium based high-level waste on a limited scale but have not operated a production scale system for that purpose either. The operation of such an integrated demonstration provides valuable information

that is not attainable either from small-scale or limited radioactive tests, or from full-scale "cold" tests.

Specifically, the West Valley Solidification Program will provide valuable information to the national waste management program in a number of ways. A significant decontamination effort will be required including the removal of old equipment from the reprocessing plant so that the solidification project equipment can be installed. This initial decontamination of the plant and the disposition of the old equipment will give us more experience for future decontamination and decommissioning (D&D) activities.

Second, the project includes the removal of the dense sludge layer from the bottom of the tank, and the D&D of the storage tanks. The West Valley tanks have a complex structure that will give us operational experience that is not attainable at our sites and may advance waste removal technology. The D&D of the tanks will represent the first cleanup and disposal of a high-level waste storage tank.

Third, the project will demonstrate the operation of a full-scale solidification system. We have immobilized waste on a laboratory scale and have calcined Idaho's wastes for over seventeen years. Acidic waste from six commercial spent fuel assemblies has been vitrified. Mockups and small scale "cold" and "hot" process operations are being performed at several facilities; however, the West Valley program will represent the first fully integrated, sustained operation of a "hot" high-level waste (HLW) solidification system. The West Valley project represents a logical next step towards the larger facility that we are planning for immobilizing the defense high-level wastes at Savannah River, and it may utilize one of the advanced waste forms we are developing as alternatives to borosilicate glass.

Certain environmental analyses and the environmental impact statement for West Valley will be the first for a high-level waste solidification project and will be valuable for future projects.

Finally, the project will demonstrate solidification of high-level wastes from the thorium fuel cycle. Such wastes has been solidified in the laboratory on a very small scale. A plant scale demonstration at West Valley would be a major advance.

For budget purposes, our West Valley activities were classified as a remedial action pending a definition of the scope of DOE's involvement. The project definition has clearly shown that the project will have considerable value as a demonstration of high-level waste technology. We are, therefore, managing the project along with our technological and defense waste operating programs rather than as a remedial action, and will request any future authority under a separate category in the commercial waste management budget.

Please let me know if I can be of additional assistance.

Sincerely,

WORTHINGTON C. BATEMAN.

XIV. CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, there are no changes in existing law made by the bill, as reported.

96TH CONGRESS : : : : 2D SESSION

JANUARY 3-DECEMBER 16, 1980

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WEST VALLEY DEMONSTRATION PROJECT ACT

SEPTEMBER 15, 1980.—Ordered to be printed

Mr. STAGGERS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

together with

SUPPLEMENTAL VIEWS

[To accompany H.R. 6865 which on March 19, 1980, was referred jointly to the Committee on Interstate and Foreign Commerce, the Committee on Interior and Insular Affairs, and the Committee on Science and Technology.]

[Including Cost Estimate of the Congressional Budget Office]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 6865) to authorize the Department of Energy to carry out a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, N.Y., have considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. This Act may be cited as the "West Valley Demonstration Project Act".

SEC. 2. (a) The Secretary shall carry out, in accordance with this Act, a high level radioactive waste management demonstration project at the Western New York Service Center in West Valley, New York, for the purpose of demonstrating solidification techniques which can be used for preparing high level radioactive waste for disposal. Under the project the Secretary shall carry out the following activities:

(1) The Secretary shall solidify, in a form suitable for transportation and disposal, the high level radioactive waste at the Center by vitrification or by such other technology as the Secretary may, in his discretion, prescribe.

(2) The Secretary shall develop containers suitable for the permanent disposal of the high level radioactive waste solidified at the Center.

(3) The Secretary shall, as soon as feasible, transport, in accordance with applicable provisions of law, the waste solidified at the Center to an appropriate Federal repository for permanent disposal.

(4) The Secretary shall, in accordance with applicable licensing requirements, dispose of low level radioactive waste and transuranic waste produced by the solidification of the high level radioactive waste under the project.

(5) The Secretary shall decontaminate and decommission—
 (A) the tanks and other facilities of the Center in which the high level radioactive waste solidified under the project was stored,

(B) the facilities used in the solidification of the waste, and

(C) any material and hardware used in connection with the project,

in accordance with such requirements as the Commission may prescribe.

(b) Before undertaking the project and during the fiscal year ending September 30, 1981, the Secretary shall carry out the following:

(1) The Secretary shall hold in the vicinity of the Center public hearings to inform the residents of the area in which the Center is located of the activities proposed to be undertaken under the project and to receive their comments on the project.

(2) The Secretary shall consider the various technologies available for the solidification and handling of high level radioactive waste taking into account the unique characteristics of such waste at the Center.

(3) The Secretary shall—

(A) undertake detailed engineering and cost estimates for the project,

(B) prepare a plan for the safe removal of the high level radioactive waste at the Center for the purposes of solidification and include in the plan provisions respecting the safe breaching of the tanks in which the waste is stored, operating equipment to accomplish the removal, and slicing techniques,

(C) conduct appropriate safety analyses of the project, and

(D) prepare required environmental impact analyses of the project.

(4) The Secretary shall enter into a cooperative agreement with the State in accordance with the Federal Grant and Cooperative Agreement Act of 1977 under which the State will carry out the following:

(A) The State will make available to the Secretary the facilities of the Center and the high level radioactive waste at the Center which are necessary for the completion of the project. The facilities and the waste shall be made available without the transfer of title and for such period as may be required for completion of the project.

(B) The Secretary shall provide technical assistance in securing required license amendments.

(C) The State shall pay 10 per centum of the costs of the project, as determined by the Secretary. The State may not use Federal funds to pay its share of the cost of the project, but may use the perpetual care fund to pay such share.

(c) Within one year from the date of the enactment of this Act, the Secretary shall enter into an agreement with the Commission to establish arrangements for review and consultation by the Commission with respect to the project. The agreement shall provide for the following:

(1) The Secretary shall submit to the Commission, for its review and comment, a plan for the solidification of the high level radioactive waste at the Center, the removal of the waste for purposes of its solidification, the preparation of the waste for disposal, and the decontamination of the facilities to be used in solidifying the waste. In preparing its comments on the plan, the Commission shall specify with precision its objections to any provision of the plan. Upon submission of a plan to the Commission, the Secretary shall publish a notice in the Federal Register of the submission of the plan and of its availability for public inspection, and, upon receipt of the comments of the Commission respecting a plan, the Secretary shall publish a notice in the Federal Register of the receipt of the comments and of the availability of the comments for public inspection. If the Secretary does not revise the plan to meet objections specified in the comments of the Commission, the Secretary shall publish in the Federal Register a detailed statement for not so revising the plan.

(2) The Secretary shall consult with the Commission with respect to the form in which the high level radioactive waste at the Center shall be solidified and the containers to be used in the permanent disposal of such waste.

(3) The Secretary shall submit to the Commission safety analysis reports and such other information as the Commission may require to identify any danger to the public health and safety which may be presented by the project.

(4) The Secretary shall afford the Commission access to the Center to enable the Commission to monitor the activities under the project for the purpose of assuring the public health and safety.

(d) In carrying out the project, the Secretary shall consult with the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Director of the Geological Survey, and the commercial operator of the Center.

(e)(1) If the Commission determines that any activity of the Secretary under the project or the failure of the Secretary to take specified actions under the project presents a danger to the public health and safety, the Commission shall issue an order directing the Secretary to cease such activity or to take such actions, and if the Commission determines that any activity proposed to be undertaken by the Secretary under the project may present a danger to the public health and safety, the Commission shall issue an order directing the Secretary to not undertake such activity.

(2) If the Commission issues an order under paragraph (1), it shall publish the order in the Federal Register, give notice of a public hearing on the order, and, as soon as practicable, hold such hearing. Upon completion of the hearing, the Commission shall affirm, revise, or rescind, as appropriate, the order with respect to which the hearing was held.

(3) The Secretary may not conduct any activity which is prohibited by an order of the Commission in effect under this subsection and shall take such actions as may be required by an order in effect under this subsection.

Sec. 3. (a) There are authorized to be appropriated to the Secretary for the project not more than \$5,000,000 for the fiscal year ending September 30, 1981.

(b) The total amount obligated for the project by the Secretary shall be 90 per centum of the costs of the project.

(c) The authority of the Secretary to enter into contracts under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

Sec. 4. Not later than February 1, 1981, and on February 1 of each calendar year thereafter during the term of the project, the Secretary shall transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate an up-to-date report containing a detailed description of the activities of the Secretary in carrying out the project, including agreements entered into and the costs incurred during the period reported on and the activities to be undertaken in the next fiscal year and the estimated costs thereof.

Sec. 5. (a) Other than the costs and responsibilities established by this Act for the project, nothing in this Act shall be construed as affecting any rights, obligations, or liabilities of the commercial operator of the Center, the State, or any person, as is appropriate, arising under the Atomic Energy Act of 1954 or under any other law, contract, or agreement for the operation, maintenance, or decontamination of any facility or property at the Center or for any wastes at the Center. Nothing in this Act shall be construed as affecting any applicable licensing requirement of the Atomic Energy Act of 1954 or the Energy Reorganization Act of 1974. This Act shall not apply or be extended to any facility or property at the Center which is not used in conducting the project.

(b) This Act does not authorize the Federal Government to acquire title to any high level radioactive waste at the Center or to the Center or any portion thereof.

Sec. 6. Within one year from the date of the enactment of this Act the Attorney General of the United States shall complete a study to determine the identity of, and the legal responsibility which, any person, other than the United States or the State, may have under any law or rule of law for the decontamination and decommissioning of the Western New York Service Center in West Valley, New York. The study shall be conducted without regard to the project prescribed by section 2(a). The Attorney General shall publish the results of such study, and provide copies thereof to the Congress, as promptly as practicable following the date of the completion of the study. The Attorney General, based on such study, shall, to the extent he deems it appropriate and in the public interest, take such action under any provision of law to require payment by such person of all or any part of the costs incurred by the United States under the project for decontamination and decommissioning.

SEC. 7. For purposes of this Act:

(1) "the State" means the Government of the State.

- (2) The term "Commission" means the Nuclear Regulatory Commission.
- (3) The term "State" means the State of New York.
- (4) The term "high level radioactive waste" means the high level radioactive waste which was produced by the reprocessing at the Center of spent nuclear fuel. Such term includes both liquid wastes which are produced directly in reprocessing, dry solid material derived from such liquid waste, and such other material as the Commission designates as high level radioactive waste for purposes of protecting the public health and safety.
- (5) The term "transuranic waste" means material contaminated with elements which have an atomic number greater than 92, including neptunium, plutonium, americium, and curium, which have a half life greater than 5 years, and which are in concentrations greater than 10 nanocuries per gram, or in such other concentrations as the Commission may prescribe to protect the public health and safety.
- (6) The term "low level radioactive waste" means radioactive waste not classified as high level radioactive waste, transuranic waste, or byproduct material as defined in section 11 e. (2) of the Atomic Energy Act of 1954.
- (7) The term "project" means the project prescribed by section 2(a).
- (8) The term "Center" means the Western New York Service Center in West Valley, New York.

PURPOSE OF THE BILL

The purpose of the bill is to authorize the Department of Energy to carry out a high level liquid nuclear waste management demonstration project at the Western New York Nuclear Service Center in West Valley, New York.

LEGISLATIVE BACKGROUND

On March 19, 1980, the Honorable Stanley N. Lundine introduced H.R. 6865, which was referred jointly to the Committees on Interstate and Foreign Commerce, Interior and Insular Affairs and Science and Technology.

On June 18, 1980, the Committee on Science and Technology reported the bill with amendments.

COMMITTEE ACTION

On March 19, 1980, the bill, H.R. 6865, was introduced by the Honorable Stanley N. Lundine, and was referred jointly to the Committees on Interstate and Foreign Commerce, Interior and Insular Affairs and Science and Technology.

On July 28, 1980, the Subcommittee on Energy and Power conducted a hearing on the bill. On August 19, 1980, the Subcommittee considered the bill and ordered it reported to the Committee, as amended, by voice vote. On August 27, 1980, the Interstate and Foreign Commerce Committee met in open session and considered the bill. Then, a quorum being present, the Committee by voice vote ordered the bill reported with an amendment.

The Committee hearings on this legislation are discussed *infra* at the section entitled "Committee Hearings".

SUMMARY OF H.R. 6865

H.R. 6865 authorized the Secretary of Energy to establish a high-level radioactive liquid waste solidification project at the Western New York Service Center in West Valley, New York. Under the program, the Secretary is to solidify, in a form suitable for transportation and disposal, the high-level liquid radioactive waste

which presently exists at the Center. The project is to include the development of containers suitable for the permanent disposal of the solidified waste, and the transportation of the waste from the site to an appropriate Federal repository. Furthermore, the Secretary, subject to such requirements as the Nuclear Regulatory Commission may prescribe, is to decontaminate and decommission all the facility's equipment, hardware and materials used in the course of the project. Before initiating the project, the Secretary is required to hold public hearings in the vicinity of the Center in order to inform residents of the area of the purpose of the activities which would be undertaken at the site. During the course of the fiscal year ending September 30, 1981, the Secretary is to develop a plan establishing the cost of and the methods for conducting the program authorized by this Act.

The Secretary is directed to enter into a cooperative agreement under the provisions of the Federal Grant and Cooperative Agreement Act of 1977 with the State of New York whereby the State will agree to make available to the Secretary the facilities and high-level radioactive waste at the Center which are necessary for the completion of the project. The facilities and the waste are to be made available without the transfer of title to the facility or the waste. The agreement is also to provide that the Secretary will make available technical assistance to the State in securing the required license amendments. Finally, the agreement is to provide that the State will pay 10 percent of the cost of the project as determined by the Secretary. In determining the cost of the project, the Secretary is authorized to consider the value of the use of the Center for the project.

The Secretary is directed to enter into an agreement with the Nuclear Regulatory Commission to establish procedures by which the Commission will review and be consulted regarding the activities of the Secretary relating to the project. Specifically, the Secretary is required to submit to the Commission for its review and comment a plan for the solidification of high-level radioactive waste at the Center. The Commission is given the authority to specify with precision its objections to any provision of the plan. The Secretary is required to publish in the Federal Register a detailed statement for not accepting any provision in the Commission's comments. The Secretary is also to consult with the Commission regarding the form in which the high-level radioactive waste will be solidified and the containers to be used in the permanent disposal of the waste. The agreement is also to include a provision under which the Secretary will submit to the Commission safety analysis reports and any other information the Commission may require. Finally, the agreement is to insure that the Secretary afford the Commission access to the Center at all times.

The Secretary is required to transmit to the Congress annual reports on the project. Nothing in the Act is to be construed as affecting any rights, obligations, or liabilities of the commercial operator of the Center, the State, or any person, as is appropriate, arising under the Atomic Energy Act of 1954, or any law, contract, or agreement for the operation, maintenance, decommissioning of any facility or property at the Center. The bill also states that nothing in the Act shall be construed as affecting any applicable licensing requirements of the Atomic Energy Act of 1954 or the Energy D.

organization Act of 1974. Nothing in the Act is to be construed as authorizing the Federal government to acquire title to any high-level radioactive waste at the Center, or to the Center itself, or any portion thereof. The Attorney General of the United States is directed to conduct a study of the potential liability of any person other than the State of New York regarding the responsibility for the present status of the waste at the site and to submit a report to the Congress within one year of the date of enactment. If the Attorney General deems it appropriate, he is authorized to initiate a suit on behalf of the United States to recover any cost incurred by the United States which would be the responsibility of another party. The bill authorizes \$5 million for fiscal year 1981.

COMMITTEE HEARINGS

Committee consideration

On Monday, July 28, 1980, the Subcommittee on Energy and Power held a hearing on H.R. 6865. The first witness to appear before the Subcommittee was the sponsor of the bill, the Honorable Stanley N. Lundine. Congressman Lundine discussed the extensive past Federal involvement in the initiation and operation of the West Valley site, and pointed out that almost 70 percent of the waste were produced as the result of Federal contracts. This past Federal involvement, he asserted, made West Valley a unique situation. "It does not", he stated, "build on or create any precedence that would be applicable in other situations." The Congressman went on to say that West Valley "has borne more than its fair share of the problems associated with the nuclear program in this country . . . and represents a challenge to this country reflective of the broader nuclear waste management problems awaiting us."

The next witness was the Honorable Hugh Carey, Governor of the State of New York. Governor Carey stressed the contribution that the West Valley project could make towards the establishment of a comprehensive nuclear waste program. The United States, he asserted, has never demonstrated that solidification of alkaline waste on a scale proposed for West Valley. The State of New York, he stated, was willing to meet its responsibilities and play an appropriate role, including cost sharing. But, he argued, "We cannot carry this alone. It was never contemplated by any of the parties, including the United States, that the State alone would bear the cost and burdens of the failure of this risky venture. Clearly, over all support, direction and management responsibility must be housed with the only original partner—the Federal government—capable of caring and managing a successful demonstration." Governor Carey stressed the dangers of delaying the project by saying that "While the wastes at West Valley, including the liquid waste . . . appear to be secure at the present, posing no immediate threat to the health and safety, I nevertheless feel a strong sense of urgency. The right time to initiate an immobilization project for that waste is now before we are faced with a crisis. Like Mount St. Helens, we cannot know when the present status would change." The Governor stressed that the tanks could deteriorate and leak and that waste in liquid form offers a far more serious potential for dispersal into the environment.

The design life of the West Valley tanks, the Governor noted, is forty years, and they have been filled for ten years or more. The project will take at least ten years to complete. It is, he stressed, clearly not too early to act. The ten years since AEC policy pronouncement that liquid wastes should be solidified has been an adequate period of time for study and deliberation, and now is the time to act. The Governor was asked if the State intended to request any assistance from the Federal government regarding other waste at the site. In response, the Governor stated, "That is not the subject of the legislation and it is not now our contemplation the State will be asking for Federal help in that regard."

The next witness was J. Dexter Peach, Director, Energy and Minerals Division, General Accounting Office. In a report requested by the Subcommittee on Energy and Power entitled Status of Efforts to Clean Up the Shut-Down Western New York Nuclear Service Center, (EMD-80-60, issued June 6, 1980), the General Accounting Office urged that the most practical solution to the West Valley question should involve a cooperative program between the Federal government and the State of New York designed to deal with the full range of waste management concerns present at West Valley. The GAO recognized that solid wastes are safer to store and, because of this, urged that a program to convert the existing liquid wastes into a final form should begin now. The GAO stated that such a program be viewed from both a national and state point of view and that a Federal-State effort would provide a mutually beneficial solution. Mr. Peach said, "We believe that the Federal government should pay a part of the cleanup cost for West Valley because it encouraged the initial development of the site, took steps to increase the operating costs through increased safety requirements, and then indefinitely deferred commercial reprocessing through the national policy decision." However, the GAO went on to recommend that in return the State should agree to reopen the fuel storage facility at West Valley if it is found to be technically adequate because the State and surrounding states have a near term need for spent fuel storage. The GAO also recommended that the State should agree to reopen the low-level waste burial ground, recognizing that New York is one of the largest generators of low-level waste and that neither it nor the entire northeastern quarter of the United States has an operating low-level commercial waste burial site.

The GAO went on to state that "In our view, the proposed project at West Valley should more logically be described as a remedial action program with some demonstration value than as a demonstration project where they have full Federal support. While dealing with West Valley's high-level liquid waste may help build public confidence of how commercial high-level liquid waste can be permanently disposed of, the technical demonstration benefits of this project are limited."

The Nuclear Regulatory Commission witnesses testified in support of the bill from the standpoint of public health and safety. Mr. William J. Dircks, the Director of the Nuclear Regulatory Commission's Office of Nuclear Materials and Safeguards urged that the bill clarify the Nuclear Regulatory Commission's role:

NRC's regulations permit us to act upon virtually any conceivable project proposed by the commercial nuclear

sector. . . . The present language of Congressman Lundine's proposed bill requires that the Department of Energy consult with the NRC in carrying out this project. Our understanding of the word "consult" means that the Department must submit safety analysis reports for independent review and evaluation and provide such information as we may require. In addition, we interpret the word "consult" to mean that the Department must take some sort of action based upon our comments and recommendations. They should either accommodate our comments or explain why any such comments are not accommodated. Furthermore, all documentation associated with submissions by the Department of Energy and the evaluations by the NRC would be available in the public record. Finally, we interpret the word "consult" to mean that the NRC would not issue the license to DOE. Any hearings regarding the solidification process itself would not be NRC hearings. We suggest that the Committee consider the issue of NRC's role in this project and the preparation of the Commission's report on this bill. The Commission feels some clarification of the NRC's role is necessary and that it may be appropriate for the Committee to state in the report the Congressional intent of the NRC's consultative role.

Director Dircks went on to state that:

If the Department of Energy chooses to solidify the waste in final form suitable for emplacement in the repository, then this form must meet our developing regulation, 10 CFR, Part 60. The final regulatory aspect that needs mentioning is the fact that the West Valley facility is currently licensed pursuant to 10 CFR, Part 50, of our regulations. As a minimal, even if the Department were to take over the entire facility, the NRC would have to take some sort of action to terminate, modify, or amend the existing license. Findings regarding public health and safety would be an integral part of the termination action. However, the scope of our analysis to make such findings is not clear at this time because we do not know the extent to which the DOE will assume responsibility for the site.

Ralph W. Deuster, President, Nuclear Fuel Services, Incorporated, testified on behalf of the commercial operator of the facility. In his statement Mr. Deuster stated that approximately 625 metric tons of spent fuel were reprocessed at West Valley, of which approximately 480 metric tons, or 75 percent, was processed under the baseload contract with the Atomic Energy Commission. Of that amount, approximately 380 tons, or 60 percent, was government-owned fuel. Even though the remainder of the spent fuel was reprocessed under commercial contracts, Mr. Deuster pointed out that it was spent fuel that the Federal government had previously obligated itself to reprocess. Thus, he asserted all the spent fuel reprocessed at West Valley was carried out either directly or indirectly on behalf of the Federal government.

C. Worthington Bateman, Acting Under Secretary of the Department of Energy, appeared on behalf of the Department. Dr. Bateman asserted that the Federal responsibility for this program de-

derived from its interest in promoting and commercializing the nuclear fuel sector a number of years ago. In the Department's view, he stated, the condition of the waste did not impose an immediate health and safety hazard, but the problem must be considered as serious and requiring attention now as opposed to some indefinite time in the future. The program, he stated, does offer some substantial benefits to the Department and to its waste management program from the research and development perspective. But, he said ". . . from the Department's view as well as from the residents in the area and the citizens in the State of New York, the project clearly has a remedial action element which is undeniable." With respect to the ability of the Department to take title to all or part of this site for the purposes of storing spent fuel away from reactors, Dr. Bateman stated "We simply don't have that authority." When asked if the Department had any information which would indicate any further requirements for activities by the Federal government in connection with either of the two burial grounds located at the site in the area, Dr. Bateman stated "No sir."

The Department of Energy witnesses noted that the activities encompassed by this bill may create problems regarding any use of the spent fuel storage facilities at the site. The Department's witnesses noted that during the demonstration phase, people would be working with high-level waste in the same building as the spent fuel storage facility, and, as a result, there could be work interference. Consequently, during the course of the program authorized by this legislation, it would be difficult, in the Department's view, for the spent fuel storage facilities to be used, and it was the Department's preference that they not be used.

The last witness to appear before the Subcommittee was Dr. Marvin Resnikoff, Co-Director of the Sierra Club Radioactive Waste Campaign. On behalf of the Sierra Club, Dr. Resnikoff stated that the Sierra Club strongly supports the solidification of the high-level liquid waste at West Valley on the basis of the public health and safety. While supporting the solidification project, however, Dr. Resnikoff opposed the providing of financial assistance for the project to any conditions regarding the use of the low-level burial grounds because he believed that their present condition did not make them suitable for such use.

BACKGROUND AND NEED

The Western New York Nuclear Service Center site is owned by the State of New York and was established in the early 1960's as a part of a program which was designed to attract industries to the area, especially those in the then developing atomic energy field, in the hope that such industries would increase employment opportunities and to expand the tax base.

In 1959 the State of New York established the Office of Atomic Development (OAD) which was to coordinate the state's nuclear regulatory and developmental programs. In 1961 OAD acquired the West Valley site through condemnation, and established the Western New York Nuclear Service Center for the purpose of storing nuclear fuels and radioactive waste with the intention that it subsequently would be expanded to accommodate the state's nuclear

Prior to the establishment of the West Valley site, the Atomic Energy Commission had offered to make available to the commercial sector reprocessing technologies which had been used in the defense program. The Davidson Chemical Company was interested in utilizing this technology for the commercial reprocessing of spent fuel and established the Nuclear Fuel Services, Inc. which was owned by W. R. Grace Company and American Machine and Foundry. In a proposal to the Atomic Energy Commission, Nuclear Fuel Services, Inc. indicated a willingness to provide and maintain storage for a limited period of time for the high-level liquid waste resulting from the reprocessing operations, with the provision that the waste would ultimately become the responsibility of the Atomic Energy Commission. NFS also stated that it was willing to collect and return to the Atomic Energy Commission a sum calculated to provide the estimated full cost for perpetual storage at the point of turnover. NFS was simultaneously negotiating with the State of New York to make the State responsible for the perpetual care of the waste. It was subsequently agreed that the method of waste disposal would be to store the waste in liquid form in underground storage tanks, which was similar to the method being used at Atomic Energy Commission production facilities.

In order to encourage the construction and operation of commercial nuclear fuel reprocessing plants and to provide some economic incentive to the developing industry, the Atomic Energy Commission agreed to provide Nuclear Fuel Services with sufficient fuel from defense reactors to support the first five years of reprocessing operations at the site. This was necessary because the commercial sector was not producing sufficient quantities of spent fuel to support the operations of the facility. NFS also entered into agreements with the New York Atomic Research and Development Authority (NYARDA), which had replaced the OAD, that provided for the lease of the WYNSC. NFS also negotiated a contract which provided that NFS would build storage facilities for nuclear fuel and radioactive waste at the site and separate waste storage agreement which provided the terms for NFS to maintain the waste for a set period of time, limited by the duration of the lease, thereafter turning the waste over to the NYARDA along with the fund for perpetual care. New York State through NYARDA provided assurance (as amendment No. 1 to the application for a license from the Atomic Energy Commission) to the Federal government that the State would be responsible for the waste in perpetuity.

In May 1963, the Atomic Energy Commission issued a permit authorizing construction of the Nuclear Fuel Services plant. Construction was completed in 1966, and on April 19 of that year, the Atomic Energy Commission issued a license to Nuclear Fuel Services, Inc. for the operation of the first commercial nuclear fuel reprocessing plant in the United States.

On November 14, 1970, the Atomic Energy Commission amended its regulations (10 CFR 50, Appendix F) to require that high-level liquid waste generated at licensed fuel reprocessing facilities be solidified within five years after separation and shipped to a federal repository within ten years after separation. The existing NFS waste was specifically exempted from these regulations pending a future rulemaking proceeding by the Atomic Energy Commission. The successor to the AEC, the Nuclear Regulatory Commission, has

not completed its rulemaking on this issue. From 1966 to 1972, about 642 metric tonnes of nuclear fuel were reprocessed at the WYNSC. Approximately 380 metric tonnes of AEC's production reactor and 100 metric tonnes of commercial reactor fuel were supplied under the base load contract. The remainder was supplied directly to Nuclear Fuel Services by public utilities. In 1972, the plant was shut down to expand its capabilities and to make modifications to reduce radioactive influence and radiation exposure levels to plant personnel. At the time, NFS estimated this modification program would cost about \$15 million and take two years to complete.

The proposed modification program involved a significant alteration of a licensed facility, as determined by the Atomic Energy Commission, and therefore, required complete licensing review. Because the regulatory requirements had substantially improved since the initial plant was constructed, the Atomic Energy Commission stipulated that new facilities must be capable of meeting new regulatory requirements; the most difficult of these related to seismic requirements. The AEC also requested that Nuclear Fuel Services assess the capability of the existing structures to withstand natural phenomena. By 1976, NFS judged that over \$600 million would be required to complete the proposed modification program if these and other criteria, actively being considered at the time, were imposed. In April 1976, NFS notified the New York State Energy Research and Development Authority, the successor to NYARDA, of its intention to exercise its rights under the waste storage agreement and to surrender the responsibility for all waste at the WYNSC to NYSERDA. On September 22, 1976, NFS announced its decision to withdraw from the nuclear fuel reprocessing business, citing rising costs and uncertain regulatory requirements as key factors. On November 30, 1976, NYSERDA advised the federal government that ownership of the WYNSC and reprocessing facilities should, in their opinion, be transferred to the U.S. Energy Research and Development Administration.

When the plant was operating, Nuclear Fuel Services received spent fuel encased in tubular metal rods from the Atomic Energy Commission and from utilities which were placed in storage pools until needed. The first step was to mechanically chop the spent fuel rods into two inch pieces in order to expose the pellets of fuel contained inside. The pellets were then dissolved in nitric acid, leaving the chopped hulls as undissolved waste.

The dissolved solution was chemically processed to separate the uranium and plutonium from other fission products, then the separated uranium and plutonium were purified, concentrated through evaporation, and sent to storage tanks for subsequent packing and shipping.

The acid waste from the separation and extraction processes was then transferred to high-level waste evaporation to be concentrated, after which it was transferred to storage tanks. The waste at West Valley was neutralized with sodium hydroxide, in order to store the normally acidic high-level waste in a tank constructed with carbon steel. In retrospect, neutralizing the waste may have been unfortunate, since it created several serious problems.

For example, plutonium and strontium 90 are insoluble in the neutralized waste and eventually settle in a sludge at the bottom of

the storage tanks. Removing the sludge from the storage tank is currently the most difficult technological problem.

Additionally, the neutralized waste requires further treatment to produce a more acceptable solid form of disposal. However, a technology to convert this waste to a suitable form for a long-term storage of disposal has only been demonstrated at a laboratory scale.

Description of the site

The existing facilities at the site include:

A. A spent fuel receiving storage facility which is currently operable and is filled to about two-thirds of capacity with 750 spent fuel assemblies.

B. A reprocessing plant encompassing approximately 80,000 square feet of floor space which is presently being maintained in a shutdown condition.

C. A high-level liquid waste storage facility consisting of two 750,000 gallon alkaline waste storage tanks, one containing about 560,000 gallons of high-level liquid waste and the other serving as a spare, two 15,000 gallon acidic waste storage tanks, one of which contains about 12,000 gallons of waste solution, with the other serving as a spare, and associated ventilation, surveillance and heat transfer systems. There is no indication that the tanks at NFS have ever leaked and their design life is for fifty years and corrosion sampling to date indicates that the corrosion levels are far below the designed allowance.

D. An NRC licensed high level waste burial ground consisting of approximately seven acres of the site and containing about 139,000 cubic feet of spent fuel hardware and other solid waste which are buried in up to fifty feet of soil. Also located in this burial ground are a number of ruptured fuel assemblies encased in concrete. This facility was licensed by the Atomic Energy Commission to accept waste generated from the reprocessing operation and is currently being used to dispose of the small amounts of waste generated at the plant.

A New York State licensed burial waste ground consisting of approximately 22 acres, containing about 2.4 million cubic feet of contaminated waste. About 23 percent of the wastes were generated at the reprocessing plant, with the remaining coming from schools, hospitals, pharmaceutical companies, research institutes, waste disposal companies, nuclear reactors and federal installations. Operation of these burial grounds ceased in 1975, primarily because of the overflow from some of the older trenches.

During the period of storage in the tanks, approximately 30,000 gallons of sludge has accumulated in the bottom of the tank, and it is estimated that all of the long-term fission products, such as strontium 90, and almost all of the transuranic elements, such as plutonium, have settled at the bottom. The most difficult problem will be the removal of this sludge. Efforts to remove sludge from defense waste at Hanford and Savannah River have been only partially successful, and the problem will be more difficult at West Valley because the waste tanks contain certain obstructions, such as latticed support structures at the bottom of the tank, which could impede removal. Moreover, the longer the sludge sits at the

bottom of the tank, the greater the probability that hardening will take place.

Although the Nuclear Regulatory Commission believes that the method of storing the waste at West Valley poses no immediate danger to the public health and safety, the Commission does not regard the storage of liquid high-level waste in tanks as constituting an acceptable method of long-term storage because of the long-term integrity of the tanks in which the waste is presently stored is uncertain.

There is general agreement that the liquid waste should be removed, although it is recognized that the removal of the waste in the sludge in the tanks at West Valley will be difficult because of the character of the sludge and because of the structural obstacles on the bottom of these tanks. The Department of Energy is presently considering a number of options which include: solidification to a final form for shipment to a final repository; solidification to immediate form suitable for off-site shipment for conversion to a final form; intank solidification for permanent disposal at West Valley; and continued storage as is, indefinitely, or until a repository has been decided on.

NEED FOR THE LEGISLATION

There are presently almost 600,000 gallons of liquid radioactive high-level waste stored in tanks at the West Valley site. Although the Nuclear Regulatory Commission believes that the method of storing the waste at West Valley poses no immediately danger to the public health and safety, the Commission does not regard the storage of liquid high-level radioactive waste in tanks as constituting an acceptable method for long-term storage because the long-term integrity of the tanks in which the waste is presently stored is uncertain. Thus, there is danger that the tanks may leak, and the longer the waste is stored in the tanks, the greater the danger. Moreover, over time, the liquid in the tank separates, and increasing amounts of sludge are accumulating at the bottom of the tanks. Efforts to remove sludge from defense waste tanks at the Hanford and Savannah River facilities have been only partly successful, and the problem will be more difficult at West Valley because the waste tanks contain certain obstructions, such as lattice support structures at the bottom of the tank, the greater the probability that hardening will take place, making removal even more difficult.

For some time now, the Federal government has been experimenting with various solidification technologies and handling techniques for dealing with liquid high-level radioactive waste. These, however, have been small scale demonstration programs and a large scale effort has never yet been attempted. These demonstration programs, however, do constitute a technical base for establishing a large program as envisioned by this legislation. The liquid waste at the West Valley site provides the government with an opportunity for proceeding with a full-scale project.

Although the Federal government would derive substantial benefit from proceeding with the project to solidify the waste at the West Valley site, the overriding concern of this Committee is directed towards the health and safety issues posed by the continued

storage of the high-level liquid radioactive waste at the present tanks. While the Committee recognizes the demonstration value of this program, it essentially considers the project to be a remedial action program design to convert the waste to a more acceptable form, in order to reduce the immediate danger to the public health and safety. Because of the remedial action aspects of this program, the Committee believes that the State of New York should make a contribution towards the cost of the program. Because of the benefits which will be derived from this program by the citizens of New York State, the Committee requires that the State provide 10 percent of the cost of this project.

The Committee recognizes that a substantial quantity of this waste was produced in the course of fulfilling contracts with the Atomic Energy Commission and that most of such contracts were related to the military program. Because of the extensive past Federal involvement, the Committee is willing to have the government pay 90 percent of the cost of the project. In view of the unique circumstances regarding the Federal government's past extensive involvement at the West Valley site, the Committee believes that it is a special situation, and does not intend that the share provided by the Federal government constitute precedent for any subsequent remedial actions which may be performed by the Federal government. An additional factor in determining the Federal government's contribution was the consideration of the substantial value of the program to the overall nuclear waste management program. Because of the value this project may have towards a long-term nuclear waste management program, and because of the concern over health and safety issues caused by the existing situation at the site, the Committee believes it is important that the project proceed expeditiously.

COMMITTEE COMMENTS

Nature of the program

For the past two years, the Committee on Science has reported an authorization bill for the Department of Energy which included a provision establishing a high-level radioactive waste solidification project at the Western New York Nuclear Service Center. Consistent with past practices, the staffs of the Committees on Science and Technology, Interior and Insular Affairs and Interstate and Foreign Commerce worked together to resolve differences in the Department of Energy's authorization bill as reported by each Committee regarding matters within the respective jurisdiction of the involved Committees. As the high-level radioactive waste solidification project was added as an amendment in the Committee on Science and Technology, this Committee had never previously considered the legislation, even though it involves substantial remedial action aspects. The introduction of what had previously been an amendment as a separate piece of legislation afforded this Committee the opportunity to consider the merits of the project in its proper context.

Although the bill, as introduced, reflects the results of prior negotiations among the Committee's staffs, this Committee, in the course of its consideration of the proposal, substantially revised the bill. This Committee believes that its amended version incorporates

substantial improvements which more narrowly define the scope of the project and which more equitably apportion the responsibilities for the cost of the project between the Federal government and the State of New York.

This Committee recognizes that the program authorized under this bill has an important demonstration value, in that past high-level liquid radioactive waste activities have been confined to small scale projects. Consequently, a program of the magnitude of the West Valley project has significant demonstration implications, expanding the waste solidification program beyond its present research and development stage. Moreover, the large scale demonstration of waste solidification technology has important implications for the establishment of a comprehensive national nuclear waste management program.

However, the basis for this Committee's action in reporting this bill was primarily directed towards the health and safety implications posed by the storage of high-level radioactive waste in a liquid form. While the Committee recognizes that the existence of the waste in the tanks poses no immediate danger, the Committee believes that continued storage of liquid waste is unacceptable and requires action. Consequently, this Committee views the project authorized by this legislation as essentially a remedial action program with substantial demonstration value, and that the bill, as reported by this Committee, reflects that belief. This is consistent with the views of the program as expressed by the representatives of the General Accounting Office in their testimony before the Subcommittee on Energy and Power.

Although this Committee believes that the project authorized by this legislation is essentially a remedial action program, the size of the Federal contribution to the project reflects this Committee's recognition that this is not a typical remedial action program and that the West Valley project is a unique situation, not simply because of the significant demonstration value of the project, but also because of the past extensive involvement of the Federal government in the development and operation of the reprocessing facility. Most of the reprocessing activities which occurred at the site were performed under contracts with the Atomic Energy Commission, and a majority of these were a part of the military, as opposed to the commercial, program. Because of this, and because of the benefits which will accrue to the Federal government as a result of demonstrating solidification technologies, this Committee has provided a greater Federal contribution than would normally be provided to a typical remedial action program.

Consequently, the Committee does not believe that the cost sharing formula contained in this legislation should serve as a precedent for any future remedial action programs regarding the disposal of radioactive waste or any other toxic or hazardous waste. This is consistent with the views expressed by the sponsor of this legislation in his testimony before the Subcommittee on Energy and Power.

In reporting a bill which establishes a program to solidify the high-level waste at West Valley, this Committee was aware that there are health and safety questions regarding other conditions at the site. Specifically, the condition of the low-level waste burial ground and the disposal of spent fuel in the NRC licensed burial

grounds are matters of major concern which could affect the public health and safety. In confining the program to the solidification of the high-level liquid radioactive waste, this Committee intends that the responsibility for monitoring, maintaining and correcting any additional public health and safety problems remain exclusively with the licensees. The Committee notes that nothing in the bill requires any corresponding action by the State of New York regarding the use of other portions of this site. The Committee is, however, aware that the site contains a licensed low-level burial ground which is currently not accepting additional quantities of waste. Additionally, there is also a facility on the site which is being used to store limited quantities of spent fuel. In its report to the Subcommittee on Energy and Power on West Valley, the General Accounting Office recommended the Federal assistance for the solidification of high-level waste be related to the potential reopening of the spent fuel and low-level waste facilities. The lack of a regional low-level waste burial ground in the northeast is a matter of great concern, and while the legislation does not specifically relate the availability of Federal assistance to the potential additional use of the site for meeting the low-level waste disposal or spent fuel storage needs at the State of New York, the Committee expects that the State will give serious consideration to this possibility, especially since the Committee anticipates that the low-level and transuranic contaminated waste generated in the course of the solidification project will be disposed at the site.

The Committee notes that in the course of its consideration of this legislation, the Senate adopted an amendment directing the Secretary of Energy to enter into a cooperative agreement with the State of New York pursuant to the "Federal Grant and Cooperative Agreement Act of 1977". This amendment included the requirement that the cooperative agreement provide for "demonstration of vitrification technology or technologies which can be replicated for other applications in the United States". Cooperative agreements under the Federal Grant Cooperative Agreement Act of 1977 relate to situations where the Federal government is providing services or funds to a state. By requiring that the cooperative agreement provide for the demonstration for solidification technologies, the affect of the amendment was that the Secretary of Energy would provide these services and funds to the State of New York. This would then consequently be a program administered by the State of New York, rather than the Secretary of Energy.

While the Committee believes that the State of New York will receive substantial benefit from this program, it views it as essentially a Federal program and, as such, the Committee believes that the program should be administered entirely by the Secretary of Energy and that he be responsible for making all decisions regarding the activities which will occur at the site.

The amendment also required that the cooperative agreement provide for "submission jointly by the Department of Energy and the State of New York of an application for a license amendment as soon as practicable with the Nuclear Regulatory Commission allowing for the demonstration". By requiring that the Secretary be a co-applicant for the license amendment, it places the Secretary in a unique position which may have legal consequences extending

beyond the scope of the program. Consequently, in the course of its consideration of this legislation, the Committee altered this requirement by authorizing the Secretary to provide technical assistance to the State in obtaining the needed license amendment.

SECTION-BY-SECTION ANALYSIS OF THE BILL

Section 1 states that the bill is to be cited as the "West Valley Demonstration Project Act".

Section 2

Subsection 2(a) directs the Secretary of Energy to carry out, in accordance with the provisions of the Act, a high level radioactive waste management demonstration project at the Western New York Nuclear Service Center in West Valley, New York, for the purpose of demonstrating solidification techniques which can be used for preparing high level radioactive waste for disposal.

Subsection 2(a)(1), requires that the Secretary shall solidify, in a form suitable for transportation and disposal, the high level radioactive waste at the Center by vitrification or by such other technology as the Secretary may, in his discretion, prescribe.

This subsection then defines the scope of the program to include the solidification of the high-level liquid radioactive waste which presently exists at the site as the result of the reprocessing activities which were conducted at the facility during the course of its commercial operation from 1966 through 1972. The Secretary is given the discretion to select the appropriate technology for solidifying these wastes, and is directed to solidify the waste in a form which is suitable for transportation and disposal. Thus, the technology selection process is to be based not simply in converting liquid wastes to a solid form, but is instead to be also directed towards identifying a waste form which will not only be capable of facilitating their anticipated transportation from the site and their ultimate disposal in a licensed Federal repository, but also be capable of complying with applicable regulatory requirements for the transportation and disposal of these high/level radioactive wastes.

Under Subsection 2(a)(2), the Secretary is directed to develop containers suitable for the permanent disposal of the high level radioactive waste solidified at the Center.

By including as part of the program the requirement that the Secretary design and construct containers suitable for the permanent disposal of the solidified waste, the scope of the project is expanded to include the development of containers which are suitable for the ultimate disposal of the waste which are solidified as a part of the project. As these containers will eventually be placed in a licensed repository, the Committee expects that the Secretary will develop these containers in a manner which complies with all applicable requirements of the Nuclear Regulatory Commission. The Committee further expects that the Secretary will consult the Nuclear Regulatory Commission at each stage in the design and construction of these containers to insure that such containers comply with all regulatory requirements and would be suitable for placement and a licensed repository.

Subsection 2(a)(3) directs the Secretary, as soon as feasible, to transport, in accordance with applicable provisions of law, the

waste solidified at the Center to an appropriate Federal repository for permanent disposal.

This subsection clarifies the intent that the project is to include the transportation of the solidified wastes, and directs the Secretary to arrange for the actual transportation of the solidified waste from the site to an appropriate Federal repository as soon as practicable. Although the Secretary is given the responsibility to arrange for the transportation of the waste, the actual transportation of the waste must be in accordance with all applicable provisions of law, meaning that any privileges or immunities which may be available or which may otherwise apply because this would be an action of the Secretary, would not apply in this instance because the Secretary is merely acting as an agent for the licensee and the owner of the waste. Transportation of such waste would then be subject to all laws and regulations in the same manner and to the same extent as the transportation of any other licensed commercial waste. This subsection does impose upon the Secretary the responsibility for assuring that suitable containers are available for the transportation of the solidified waste and for assuring that, if the solidified waste cannot be shipped at the termination of the solidification activities because an appropriate Federal repository is not yet in operation, there exist at the site suitable facilities for storing the waste until such time as shipment is possible.

Subsection 2(a)(4) directs the Secretary to, in accordance with applicable licensing requirements, dispose of low level radioactive waste and transuranic waste produced by the solidification of the high level radioactive waste under the project.

As the project will generate additional quantities of low-level radioactive waste and transuranic contaminated waste, the Secretary will be expected to dispose of such waste as part of the project. However, the Committee expects that the project will encompass only those portions of the site and those facilities directly related to the solidification activities, and not include the existing state and NRC licensed burial grounds which are presently located at the site. These would then remain under the exclusive jurisdiction and control of the licensee and any disposal of the low-level waste and transuranic waste in these burial grounds would then have to comply with all applicable licensing and regulatory requirements. Although the Committee anticipates that the licensee will make these facilities available for the disposal of low-level and transuranic waste generated in the course of the project, the Committee is aware that there are questions as to the continued suitability of these facilities for such purposes, and therefore expects that the owner and the appropriate regulatory bodies will promptly review the condition of these burial grounds to determine if they are suitable for continued use for this purpose and, if not, to take appropriate action to establish suitable on-site burial grounds. Under no circumstances does the Committee expect high-level radioactive waste and highly contaminated waste to be disposed of on site, and notes that nothing in this Act would authorize the disposal or burial of such waste on site.

Under subsection 2(a)(5), the Secretary shall decontaminate and decommission (A) the tanks and other facilities of the Center in which the high level radioactive waste solidified under the project was stored; (B) the facilities used in the solidification of the waste;

and (C) any material and hardware used in connection with the project, in accordance with such requirements as the Commission may prescribe.

This subsection defines the project to include the decontamination and decommissioning of all facilities, equipment, hardware, and materials used in the course of the project, and adds the additional requirements that any decontaminated and decommissioning activity be specifically subject to such requirements as the Nuclear Regulatory Commission may prescribe. As the facility and those portions of the site used in the course of the project would revert to the exclusive control of the licensee at the conclusion of the project, the licensee would then be responsible for all costs which would be incurred in eliminating any violations which were not corrected prior to the termination of the project. The Committee believes that the cost of correcting any violations or acts of non-compliance which were a consequence of the activities conducted during the course of the project should be a part of the cost of the project, and not be imposed exclusively on the licensee. Thus, the project will not be considered to be terminated under the Commission has decided that the Secretary has, to the extent practicable, utilizing the most appropriate technology available, performed the decontamination and decommissioning activities in the manner which complies with all applicable requirements.

The Committee expects that the Secretary will conduct the decontamination and decommissioning activities at the earliest practicable opportunity so that, if one portion of the facility or site is no longer needed for the project, that portion will be decontaminated and decommissioned before the project itself is complete, unless the Secretary determines that it would be more cost effective to decontaminate and decommission a large portion of the facility or site at a subsequent date.

Subsection 2(b) directs the Secretary, before undertaking the project and during the fiscal year ending September 30, 1981, to (A) hold in the vicinity of the Center public hearings to inform the residents of the area in which the Center is located of the activities proposed to be undertaken under the project and to receive their comments on the project; (B) consider the various technologies available for the solidification and handling of high level radioactive waste taking into account the unique characteristics of such waste at the Center; (C) undertaken detailed engineering and cost estimates for the project, and prepare a plan for the safe removal of the high level radioactive waste at the Center for the purposes of solidification and include in the plan provisions respecting the safe breaching of the tanks in which the waste is stored, operating equipment to accomplish the removal, and sluicing techniques; (D) conduct appropriate safety analyses of the project, and (E) prepare required environmental impact analyses of the project.

The Committee expects that the Secretary will afford interested members of the public every opportunity to participate in a meaningful manner at each stage of the process and that such public hearings will provide a useful forum for addressing public concerns. The purpose of the remaining portions of this subsection is to direct the Secretary to formulate the plans for solidifying the waste and obtain more reliable estimates of the project's cost so they can be incorporated into the budget and authorization process.

The Committee expects that, in implementing this program, the Secretary will fully comply with all the requirements of the National Environmental Policy Act.

Subsection 2(b)(4) directs the Secretary to enter into a cooperative agreement with the State of New York in accordance with the provisions of the Federal Grant and Cooperative Agreement Act of 1977, under which the state will perform certain actions. Specifically, the agreement is to provide that the state will make available to the Secretary the high-level radioactive waste and the facilities at the Center which are necessary for the completion of the project, and for such period of time as may be required for completion of the project, subject to the requirement that, in making such waste and facilities available, title to such waste and facilities shall not transfer to the Federal government. Nothing in any agreement reached between the Secretary and the State of New York will affect the authority of the Secretary to make all final decisions regarding the conduct of the program.

The purpose of this provision is to establish a mechanism by which the Secretary can utilize the wastes and facilities at the Center for the purposes of performing the authorized activities without assuming title to or responsibility for such wastes or facilities. Presently, the legal responsibility for the proper maintenance of these facilities and for the disposal of the high-level wastes rests with the licensees, and the Committee intends that nothing in this Act alter or relieve these parties of their legal responsibilities or authorize the transfer of such responsibilities to the Federal government. The Committee expects that, at the conclusion of this project, the licensee will be in exclusive control of the site and be solely responsible for monitoring and maintaining the site, and any responsibility of the Federal government will terminate, and the prohibition on the transfer of title to the Center or any portion thereof is consistent with this objective. Moreover, the transfer of title to the high-level radioactive wastes will be governed by such conditions as may be established in subsequent legislation, including the payment of a disposal fee. By retaining title to the high-level radioactive wastes, the State of New York then retains the responsibility for paying this fee, and the Committee does not intend that the payment of this fee be considered a part of the project's cost. This would then leave the State of New York in the same position regarding the responsibility for payment of this disposal fee as if the authorized activities had not occurred, and this is consistent with the intent of this Committee.

The bill also requires that the cooperative agreement provide that the Secretary provide technical assistance to the state in the preparation of the required license amendment application. This provision recognizes that the Western New York Nuclear Service Center is already a facility licensed by the Nuclear Regulatory Commission, and that any activity performed on the site would be subject to the conditions and limitations contained in the existing license. As the present license does not authorize any waste solidification activities, the license will have to be amended. The State of New York and Nuclear Fuel Service are presently co-licensees, and the Committee expects that both will fully cooperate in obtaining the required amendments. The Committee recognizes that the Nuclear Regulatory Commission has the authority to consider this ap-

plication according to such procedures as it deems appropriate, and nothing in this Act abrogates the statutory authorities of the Commission to rule upon the appropriateness of the requested amendment or any terms or conditions as may be included in such amendment. However, it is the intent of the Committee to place the primary responsibility for submitting the required application upon the State of New York, and to place the Secretary in a supportive position.

The agreement is also to contain a provision committing the State of New York to providing 10 percent of the project costs. The Secretary is to be responsible for determining the total project cost, and may, in calculating the state's contribution, include non-cash contributions as a part of the state's payment. Thus, the total project cost may be greater than the combined cash contributions of the Federal government and the State of New York, and in calculating the State's 10 percent contribution, the Secretary may include the cost of any non-cash contributions provided by the state. However, in determining the value of any non-cash contribution, the Committee expects the Secretary will use some fair market pricing evaluations. For example, if the state has title to the facilities, and makes them available to the Secretary for use in performing the activities authorized under this bill, the Secretary is to consider the value of the facilities in their present condition and in the context of renting property in the area, and not on the basis of the cost of constructing new facilities which may be needed for the state does not have title to the facilities, then the use of such facilities cannot be considered as a part of the state's contribution unless the state is paying for the use of such facilities, in which case the value of the contribution would be equal to the charge paid by the state. This Committee fully expects that the state's contribution will not consist entirely of in-kind contributions, and that the state will make substantial cash payments. While the state may make such cash contributions from the perpetual care fund, the Committee expects that the state will consider that such funds were to be used for the long-term maintenance and monitoring of the site, and recognize its continuing responsibility for such activities at the termination of the project, together with the responsibility for paying the disposal fee for the high-level radioactive wastes. Under no circumstances is the value of the use of the reprocessed high-level waste to be calculated as a part of the state's contribution and any cash contribution from the state is not to be provided from Federal funds obtained through other programs.

Subsection 2(c) directs the Secretary, within one year from the date of the enactment of this Act, to enter into an agreement with the Nuclear Regulatory Commission to establish arrangements for review and consultation by the Commission with respect to the project.

Under subsection 2(c)(1), the Secretary shall submit to the Commission, for its review and comment, a plan for the solidification of the high level radioactive waste at the Center, the removal of the waste for purposes of its solidification, the preparation of the waste for disposal, and the decontamination of the facilities to be used in solidifying the waste. In preparing its comments on the plan, the Commission shall specify with precision its objections to any part

sion of the plan. Upon submission of the plan to the Commission, the Secretary shall publish a notice in the Federal Register of the submission of the plan and of its availability for public inspection, and, upon receipt of the comments of the Commission respecting a plan, the Secretary shall publish a notice in the Federal Register of the receipt of the comments and of the availability of the comments for public inspection. If the Secretary does not revise the plan to meet objections specified in the comments of the Commission, the Secretary shall publish in the Federal Register a detailed statement for not so revising the plan.

Subsection 2(c)(2) directs the Secretary to consult with the Commission with respect to the form in which the high level radioactive waste at the Center shall be solidified and the containers to be used in the permanent disposal of such waste.

Subsection 2(c)(3) further directs the Secretary to submit to the Commission safety analysis reports and such other information as the Commission may require to identify any danger to the public health and safety which may be presented by the project.

Subsection 2(c)(4) states that the Secretary shall afford the Commission access to the Center to enable the Commission to monitor the activities under the project for the purpose of assuring the public health and safety.

The relationship between departments and agencies is always delicate, and, therefore, the Committee believes that it would be mutually beneficial for the involved parties to enter into a formal agreement establishing a frame work for their relationship so that subsequent disputes can be avoided. The purpose of subsection 2(c) is to require the establishment of such an agreement for the purpose of this project and to include in the legislation the essential features of any such agreement. The Committee believes that the establishment of this relationship is of such importance that it should be a statutory requirement. However, the Committee does not intend that the provisions of this bill encompass the entirety of the agreements, and recognizes that there are numerous other issues which should be included, and leaves to the Department and the Commission the responsibility for deciding what is appropriate. While the bill requires that the agreement be reached within one year of the date of enactment, it is the Committee's expectation that the Department and the Commission will give priority to their efforts in regard to this project and that the agreement will be executed as soon as practicable. Moreover, the Committee wishes to emphasize that the purpose of this subsection is to establish a mechanism for communication, and not define the legal scope of the relationship between the Department and the Commission. The Committee fully recognizes that the Department's activities at the West Valley site will raise unprecedented legal issues, in that the Western New York Nuclear Service Center is a facility which is presently licensed by the Nuclear Regulatory Commission, and that the activities authorized under this Act will require an amendment to the existing license. The Committee is aware that ultimately the Commission must determine the appropriate procedures for considering this application for an amendment, and, if it deems it appropriate, for approving an amendment subject to such terms and conditions as the Commission believes are in accord with its existing statutory authority. The Committee wishes to further emphasize

that nothing in this bill restricts or expands the Commission's statutory authority either to license high-level radioactive waste facilities or to fully protect the public health and safety and common defense and security.

Subsection 2(d) directs the Secretary, in carrying out the project, to consult with the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Director of the Geological Survey, and the commercial operator of the Center.

The intent of this subsection is to insure that the Secretary consult with all appropriate parties concerning the activities authorized under this Act. It is not the Committee's intent that the parties listed be the exclusive ones consulted by the Secretary, and wishes to stress that those designated are to comprise a minimal list, and not an exhaustive one. The Committee expects that the Secretary will actively consult other interested parties.

If the Commission determines that any activity of the Secretary under the project or the failure of the Secretary to take specified actions under the project presents a danger to the public health and safety, under subsection 2(e)(1), the Commission is directed to issue an order directing the Secretary to cease such activity or to take such actions, and if the Commission determines that any activity proposed to be undertaken by the Secretary under the project may present a danger to the public health and safety, the Commission shall issue an order directing the Secretary to not undertake such activity.

Under subsection 2(e)(2), if the Commission issues, an order under paragraph (1), it shall publish the order in the Federal Register, give notice of a public hearing on the order, and, as soon as practicable, hold such hearing. Upon completion of the hearing, the Commission shall affirm, revise, or rescind, as appropriate, the order with respect to which the hearing was held.

Subsection 2(e)(3) states that the Secretary may not conduct any activity which is prohibited by an order of the Commission in effect under this subsection and shall take such actions as may be required by an order in effect under this subsection.

The purpose of subsection 2(e) is to reaffirm the role of the Nuclear Regulatory Commission as the Federal agency responsible for protecting the public health and safety and vest it with the independent authority for so acting in regard to the actions of the Secretary in implementing the provisions of the bill. This authority is independent of any existing authority the Commission may have under existing statutes and is also independent of the Commission's authority to consider the application for an amendment to the existing license to authorize the performance of this project. Clearly any action which presents a danger to the public health and safety should be terminated, and it is the Committee's intent to reaffirm that the Commission is the principal Federal agency which is most capable of exercising this responsibility. It is the Committee's intent that this authority be independent of any agreement between the Department and the Nuclear Regulatory Commission.

Section 3

Subsection 3(a) authorizes to be appropriated to the Secretary for the project not more than \$5,000,000 for the fiscal year ending September 30, 1981. The Committee is aware that the total estimated

cost of this project is between \$250,000,000 and \$500,000,000 and intends that additional funding be providing through the normal authorization process.

Under subsection 3(b), the total amount obligated for the project by the Secretary shall be 90 per centum of the costs of the project. This subsection commits the Federal government to provide 90 percent of the total project cost. Because part of the state's contribution may be provided in services or non-cash expenses, the Committee is aware that the actual cash contributions of the Federal government may exceed 90 percent of the cash outlays, and the Committee intends that the Federal cash contribution exceed 90 percent. In calculating this 90 percent Federal contribution, the Secretary is to consider all the costs of the project, including both cash and non-cash services and expenses provided by the State of New York, and then provide 90 percent of all the costs incurred in conducting the project.

Subsection 3(c) directs that the authority of the Secretary to enter into contracts under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

Section 4

Section 4 provides that no later than February 1, 1981, and on February 1 of each calendar year thereafter during the term of the project, the Secretary shall transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate an up-to-date report containing a detailed description of the activities of the Secretary in carrying out the project, including agreements entered into and the costs incurred during the period reported on and the activities to be undertaken in the next fiscal year and the estimated costs thereof.

Section 5

Subsection 5(a) states that other than the costs and responsibilities established by this Act for the project, nothing in this Act shall be construed as affecting any rights, obligations, or liabilities of the commercial operator of the Center, the State, or any person, as is appropriate, arising under the Atomic Energy Act of 1954 or under any other law, contract, or agreement for the operation, maintenance, or decontamination of any facility or property at the Center or for any wastes at the Center. Nothing in this Act shall be construed as affecting any applicable licensing requirement of the Atomic Energy Act of 1954 or the Energy Reorganization Act of 1974. This Act shall not apply or be extended to any facility or properly at the Center which is not used in conducting the project.

Under subsection 5(b), the Federal government is not authorized under this Act to acquire title to any high level radioactive waste at the Center or to the Center or any portion thereof. This subsection then clarifies that nothing in this Act authorizes the Federal government to acquire title to either the high-level radioactive waste at the Center or the Center itself or any portion thereof. The Committee recognizes that ultimately the Federal government will acquire title to the high-level radioactive wastes, in that the disposal of such waste is a Federal responsibility. However, resolution of the issue as to when title to high-level radioactive waste transfers

to the Federal government has not yet been addressed in legislation, and the Committee does not believe it appropriate to resolve this issue in the context of this legislation and defers resolution of this question until such time as the issue is addressed on a generic basis in a more comprehensive bill.

Section 6

This section directs that within one year from the date of the enactment of this Act, the Attorney General of the United States shall complete a study to determine the identity of, and the legal responsibility which, any person, other than the United States or the State, may have under any law or rule of law for the decontamination and decommissioning of the Western New York Service Center in West Valley, New York. The study shall be conducted without regard to the project prescribed by section 2(a). The Attorney General shall publish the results of such study, provide copies thereof to the Congress, as promptly as practicable following the date of the completion of the study, and based on such study, shall to the extent he deems it appropriate and in the public interest, take such action under any provision of law to require payment by such person of all or any part of the costs incurred by the United States under the project for decontamination and decommissioning.

Section 7. Definitions

Section 7 defines the terms used in the Act. Under section 7(1), the term "Secretary" means the Secretary of Energy. Subsection 7(2) defines the term "Commission" to mean the nuclear Regulatory Commission. Under section 7(3), the term "State" means the State of New York. Subsection 7(4) defines the term "high level radioactive waste" to mean the high level radioactive waste which was produced by the reprocessing at the Center of spent nuclear fuel. Such term includes both liquid wastes which are produced directly in reprocessing, dry solid material derived from such liquid waste, and such other material as the Commission designates as high level radioactive waste for purposes of protecting the public health and safety. Thus, under this definition, the project encompasses only the high-level radioactive wastes which presently exist at the site and would not include any high-level radioactive wastes which was generated elsewhere and which is stored at a place other than the site at the time this legislation is enacted into law.

Under subsection 7(5), the term "transuranic waste" means material contaminated with elements which have an atomic number greater than 92, including neptunium, plutonium, americium, and curium, which have a half life greater than 5 years, and which are in concentrations greater than 10 nanocuries per gram, or in such other concentrations as the Commission may prescribe to protect the public health and safety. Subsection 7(6) defines the term "low level radioactive waste" as radioactive waste not classified as high level radioactive waste, transuranic waste, or byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954. Under subsection 7(7), the term "project" means the project prescribed by section 2(a). Subsection 7(8) defines the term "Center" to mean the Western New York Service Center in West Valley, New York.

COST ESTIMATES AND COMPARISON—CONGRESSIONAL BUDGET ACT
INFORMATION

The Congressional Budget Office (CBO) has provided the Committee the letter printed below pursuant to Section 403 of the Congressional Budget Act of 1974 (CBA).

Congressional Budget Office cost estimate

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 10, 1980.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 6865, the West Valley Demonstration Project Act, as ordered reported by the House Committee on Interstate and Foreign Commerce, August 27, 1980.

The bill authorizes the Department of Energy (DOE) to demonstrate the solidification of high-level liquid nuclear waste at the Western New York Center at West Valley, New York. The project must include the development of canisters for waste disposal, transportation of the solidified waste to a federal disposal site, and decontamination and decommissioning of facilities used in the project. DOE is required to enter into a cooperative agreement with the State of New York that establishes federal access to the site and confirms state financing of 10 percent of the cost.

In addition to DOE's responsibilities, the bill requires the Nuclear Regulatory Commission to review the project plan, to monitor DOE's activities, and to order the cessation of any action that in the Commission's view may threaten public health and safety. Further, the Attorney General of the United States is directed to complete a study within one year of enactment of the bill to determine the legal responsibility of other persons for the decontamination of the site.

The bill authorizes the appropriation of \$5 million for the project in fiscal year 1981, which is the same amount requested by the President for 1981. Under the assumption that all funds authorized will be appropriated by early in fiscal year 1981, estimated outlays would be \$3.3 million in fiscal year 1981 and \$1.7 million in 1982. The outlay estimate is based on the current spending pattern of DOE's West Valley program and on the Department's 1981 plan for continuing preliminary activities to manage the project.

Based on preliminary information from the Department of Energy, the total cost of the project during the period 1982-1993 is estimated to be over \$300 million, with the federal government paying 90 percent of this cost. NRC oversight responsibility is expected to cost approximately \$4 million between 1981 and 1992, including contractual work averaging \$180,000 per year beginning in 1984. The Department of Justice study to determine the legal responsibility for the decontamination of the site is estimated to cost approximately \$40,000 in fiscal year 1981. Because of uncertainty

recover all or part of the clean-up costs, this estimate does not include receipts that could be collected as the result of such legal action.

Should the Committee so desire, we would be pleased to provide further details on this estimate.
Sincerely,

ALICE M. RIVLIN, *Director.*

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

No oversight findings and recommendations pursuant to Clause 2(1)(3)(A) Rules XI, under the authority of Rule X, Clause 2(B)(1) of the Rules of the House of Representatives are included, in addition to those comments and views contained elsewhere in this report.

Committee on Government Operations

No findings or recommendations on oversight activity pursuant to Clause 2(B)(2), Rule X, and Clause 2(1)(3)(D) of Rule XI of the Rules of the House of Representatives have been submitted to this Committee by the Committee on Government Operations for inclusion in this report.

AGENCY VIEWS

At the time of the filing of this report, the Committee had received the following response to its request to the Nuclear Regulatory Commission with respect to the bill:

U.S. NUCLEAR REGULATORY COMMISSION,
Washington, D.C., August 20, 1980.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the Nuclear Regulatory Commission's (NRC) views on H.R. 6865 as recently amended, a bill which would authorize the Department of Energy to carry out a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, New York. The NRC supports initiation of this project to solidify high-level waste at West Valley and agrees that to the extent federal agency involvement would assist this project, the Department of Energy (DOE) is the appropriate organization to conduct this project. DOE, through its contractors, is the only federal organization with the requisite technical resources to perform the detailed engineering and development work for retrieving, solidifying, and disposing of the high-level liquid wastes at West Valley. Therefore, the Commission supports these aspects of H.R. 6865. However, the amendment recently accepted by the committee raises some problems which are described below.

1. Section 2(b)(3)(D) would authorize the Secretary of Energy to conduct activities which he determines to be appropriate for the protection of public health and safety. This provision could create an overlap of jurisdiction by the NRC and DOE and could lead the Secretary to take actions inconsistent with evaluations by the MRC. Accordingly, the Commission recommends that this section

be amended to require the Secretary to consult with the NRC before taking such actions.

2. We interpret Section 2(b)(3)(C) as preserving NRC's authority regarding wastes of military origin currently at West Valley and which will be solidified by DOE. In our view, these wastes are not related to any military programs for the purpose of Pub. L. 96-164, and, thus, the NRC is not prohibited from expending funds to regulate DOE's receipt and storage of these wastes. The Commission supports Section 2(b)(3)(C) if it is intended to make unambiguous this NRC authority.

With regard to the NRC, the bill would require the Secretary of Energy to consult with the NRC in carrying out the project, and would preserve any application licensing requirements of the Atomic Energy Act of 1954 or the Energy Reorganization Act of 1974. The Commission's views on these matters are described in the attached correspondence.

The Commission appreciate this opportunity to express its views. If you have further questions on these matters, the Commission will be pleased to provide further assistance.

Sincerely,

JOHN F. AHEARNE.

SUPPLEMENTAL VIEWS

H.R. 6865 provides for a Federal demonstration of vitrification, a technique for solidifying liquid nuclear waste into a glass-like form. The project is to take place at West Valley, New York. This site was selected because it once was an active commercial reprocessing center where spent nuclear fuel was "reprocessed" or recycled. That reprocessing, much of which was done under contract for the U.S. defense program, produced high-level liquid nuclear waste which is still being stored at the West Valley site. Vitrification will solidify that waste leaving it less volatile than in its liquid state. The project will thus achieve greater safety for the West Valley site and help resolve the problem of nuclear waste by demonstrating the vitrification technique domestically.

Although vitrification is a proven technology which is commonly used in Europe, we have not employed it in this country. This legislation, H.R. 6865, corrects this long noticed oversight. We commend the Committee for recognizing the need to demonstrate vitrification.

We feel, however, that several points about the project need to be emphasized. The purpose for enacting this legislation is to continue the viability of nuclear power as an energy source. By firmly addressing the disposition of nuclear waste we can clearly show that the back end of the nuclear fuel cycle can be safely closed. We are pleased that even those who oppose the use of nuclear power have joined with us to resolve the problem of nuclear waste disposal.

This legislation is not intended to "bail out" the State of New York through a Federal give-away program. The State of New York remains obligated under all applicable laws for the West Valley site. The Federal government has no obligation to take any action at that site.

It must be recognized, however, that the Federal demonstration project at West Valley will bring benefit to the State. There is no quid pro quo required by the legislation. We understand, however, that negotiations continue between the State of New York and the U.S. Department of Energy on the future of the site. We expect that those negotiations will fully reflect the benefits of H.R. 6865.

We also understand that the State of New York contemplates the reopening of its low level waste burial grounds. We commend the State for this and hope that those burial grounds will soon be in operation again.

Because H.R. 6865 represents a major first step towards demonstrating the technology which will be used in the permanent disposal of nuclear waste, we support this legislation.

JAMES T. BROYHILL.
SAMUEL L. DEVINE.
CLARENCE J. BROWN.
NORMAN F. LENT.
EDWARD R. MADIGAN.
MATTHEW J. RINALDO.
DAVE STOCKMAN.
TOM CORCORAN.
GARY A. LEE.
TOM LOEFFLER.
TIM LEE CARTER.
WILLIAM E. DANNEMEYER.

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UNITED STATES



OF AMERICA

Congressional Record

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The ACTING PRESIDENT pro tempore. Under the previous order, time for debate on this resolution is limited to 2 hours, to be equally divided between and controlled by the Senator from Georgia (Mr. NUNN) and the Senator from Oregon (Mr. HATFIELD).

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. NUNN, I yield myself 2 additional minutes, and I ask unanimous consent to proceed out of order, notwithstanding the Pastore rule.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 856.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—this measure is a budget waiver. It is cleared on our calendar, and we have no objection to its consideration and passage.

The ACTING PRESIDENT pro tempore. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 440) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2443.

The ACTING PRESIDENT pro tempore. Without objection, the resolution is considered and agreed to.

The resolution (S. Res. 440) is as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2443. Such waiver is necessary because S. 2443, the West Valley Demonstration Project Act, authorizes appropriations for fiscal year 1980.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

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

The motion to lay on the table was agreed to.

WEST VALLEY DEMONSTRATION PROJECT ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 822.

Mr. BAKER. Mr. President, reserving the right to object, this item is cleared on our calendar.

I see in the Chamber the distinguished Senator from New York, who I believe is going to manage this matter on the part of the minority.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2443) to authorize the Department of Energy to carry out a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, N.Y.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with amendments, as follows:

On page 3, beginning with line 4, strike through and including line 9, and insert in lieu thereof the following:

(3) enter into a cooperative agreement with the State of New York pursuant to the "Federal Grant and Cooperative Agreement Act of 1977", Public Law 95-224, to provide for the conduct of the demonstration project, without transfer to the United States of title to the high level liquid wastes or to the project site, and for the following activities:

(A) demonstration of vitrification technology or technologies which can be replicated for other applications in the United States;

(B) submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration;

(C) application of the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, to all aspects of the demonstration project; and

(D) conduct of other activities at the project, as determined to be appropriate by the Secretary, to protect public health and safety and to be in the national interest regarding the safe management of nuclear wastes in the United States.

On page 4, beginning with line 18, strike through and including line 19;

On page 4, line 20, strike "(b)" and insert "(a)";

On page 4, line 22, strike "(c)" and insert "(b)";

On page 5, line 7, strike "(d)" and insert "(c)";

On page 6, line 1, strike "section" and insert "sections 2 and 3";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "West Valley Demonstration Project Act".

SEC. 2. (a) The Secretary of Energy (hereinafter in this Act referred to as the "Secretary") shall carry out, in accordance with the provisions of this Act, a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, New York (hereinafter referred to as "the project"). The Secretary shall carry out the project by vitrifying the high-level liquid nuclear wastes located at such Center or by employing the most effective technology for solidification available. The Secretary shall, as part of the project, also (1) as soon as feasible transport such solidified wastes, in accordance with applicable provisions of law, to an appropriate Federal repository for long term burial, and (2) decontaminate and decommission facilities, materials, and hardware used in connection with the project.

(b) During the fiscal year ending September 30, 1980, the Secretary shall—

(1) prepare a plan for safe removal of such wastes from tank numbered 8D-2 and any other storage tank at the Center containing such wastes including safely breaching the tanks, operating waste removal equipment, and sludging techniques,

(2) determine the feasibility of immobilization and waste handling techniques required by the unique situation of such wastes at the Center, including initiation of detailed engineering and cost estimates as well as safety analyses and environmental impact analyses, and

(3) enter into a cooperative agreement with the State of New York pursuant to the "Federal Grant and Cooperative Agreement Act of 1977", Public Law 95-224, to provide for the conduct of the demonstration project, without transfer to the United States of title to the high level liquid wastes or to the project site, and for the following activities:

(A) demonstration of vitrification technology or technologies which can be replicated for other applications in the United States;

(B) submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration;

(C) application of the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, to all aspects of the demonstration project; and

(D) conduct of other activities at the project, as determined to be appropriate by the Secretary, to protect public health and safety and to be in the national interest regarding the safe management of nuclear wastes in the United States.

SEC. 3. There is authorized to be appropriated to the Secretary not more than \$5,000,000 for the fiscal year ending September 30, 1980, for the project. Funds authorized and appropriated in subsequent fiscal years for the project shall not be used by the Secretary for such purpose until the Secretary, the State of New York, and other appropriate persons enter into such contracts and agreements as may be required—

(a) to enable the Secretary to utilize property and facilities at the Center for the project.

(b) to share the costs of the project, except that the non-Federal share of such costs shall be limited to no more than 10 per centum thereof and in determining such share the Secretary shall consider the utilization of such Center by the Secretary for the project, the amount of money in the existing perpetual care fund originally designated to provide, for ultimate disposition of the high-level liquid nuclear waste at the Center, and such other factors as the Secretary deems appropriate, and

(c) to otherwise provide for the conduct of the project in a timely manner.

SEC. 4. In carrying out the project, the Secretary shall consult with the Nuclear Regulatory Commission, the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Director of the Geological Survey, the State of New York, and the commercial operator of the Center.

SEC. 5. Not later than February 1, 1981, and on February 1 of each calendar year thereafter during the term of the project, the Secretary shall transmit to the Committee on Science and Technology, the Committee on Interior and Insular Affairs, and the Committee on Interstate and Foreign Commerce of the House of Representatives and

the Committee on Energy and Natural Resources of the Senate an up-to-date report containing a detailed description of the activities of the Secretary in carrying out the project, including the costs incurred, and the activities to be taken in the next fiscal year and the costs thereof. Any contract or agreement executed under sections 2 and 3 of this Act, together with summaries thereof, shall be promptly transmitted to such committees for their information and review.

SEC. 6. Other than the costs and responsibilities established by this Act for the project, nothing in this Act shall be construed as affecting any rights, obligations, or liabilities of the commercial operator of the Center, the State of New York, or any person, as is appropriate, arising under the Atomic Energy Act of 1954 or under any other law, contract, or agreement for the operation, maintenance, or decontamination of any facilities or property at the Center or for any wastes at the Center. Nothing in this Act shall be construed as affecting any applicable licensing requirements of the Atomic Energy Act of 1954 or the Energy Reorganization Act of 1974. The provisions of this Act shall not apply or be extended to any facilities or property at the Center which is not used in conducting the project.

Mr. JAVITS. Mr. President, the Energy Committee bill S. 2443 authorizing the Federal Government to undertake a program to clean up the high level nuclear wastes at West Valley, N.Y., is most welcome to the State and people of New York and its passage comes at virtually the 11th hour for us.

There now exists an intolerable threat to innocent residents of Erie County who could face exposure to radiation dangers as a result of the Nation's ignorance in the early years of our nuclear program about nuclear weapons waste storage and management. High-level wastes are stored in inadequate tanks which could begin leaking at any time. The only commercial nuclear fuel reprocessing plant ever to operate in the United States is located at West Valley, N.Y., approximately 30 miles from Buffalo, on a 3,345-acre site owned by the New York State Energy Research and Development Authority. It was established as a joint venture among New York State, a private commercial operator (Nuclear Fuel Services, a wholly owned subsidiary of Getty Oil Co.) and the Atomic Energy Commission, which was then promoting the commercialization of nuclear fuel reprocessing generally in the United States.

It has been shut down since 1972, but intense public concern continues regarding the future of the site and facilities, and the nuclear waste contained therein.

New York State faces a major problem at West Valley. On January 1, 1981, the New York State Energy Research and Development Authority (NYSERDA) could become responsible for the management and safety of this very complex and potentially dangerous NRC-licensed facility.

It is important to realize that NYSERDA is a small State agency whose present mission is the promotion of research in alternative energy technol-

ogies. The agency does not possess either the technical or financial resources to manage the facility.

The bill reported by the Senate Energy Committee authorizes the Federal Government to enter into a cooperative agreement with the State of New York under which they will jointly undertake a cleanup program to solidify and remove the wastes and to decontaminate the facility. The Federal Government will bear 90 percent of the cost, of which \$5 million is authorized for fiscal 1981. The rest will be borne by the State and/or the current owner of the site, the Nuclear Fuel Services Corporation.

While the bill before us differs from the legislation filed by Senator MOYNIHAN and myself in that the State of New York will retain title to the wastes until they are solidified and will be an equal partner with the Federal Government in the project's management, these changes do not alter fundamentally the project as originally laid out by the Department of Energy and agreed to by the State.

There remain unresolved issues which will be worked out in the cooperative agreements mandated by law and by future congressional action. For example, I believe the site should continue to be licensed by the Nuclear Regulatory Commission and that the Federal Department of Energy should take title to the wastes when they are solidified and remove them to an appropriate burial site in a remote area. Nuclear wastes do not belong in suburban America.

However, these issues will be resolved long before final action is necessary. The fact is that today Senate passage of the West Valley cleanup authorization marks a major advance for this proposal on which we have been working for nearly 5 years. My colleagues may remember that similar legislation we sponsored last year passed both Houses of Congress only to die in conference because of jurisdictional uncertainties.

Mr. President, the people of New York and of the West Valley area particularly will be most grateful for the efforts of the members and the chairman of the Senate Energy Committee, Senator JACKSON, and Senator MOYNIHAN, the sponsor of this bill (of which I am the cosponsor), for their continuing efforts to see through this important project.

I hope the Senate looks with favor upon this measure.

Mr. MOYNIHAN. Mr. President, I join my senior colleague in expressing the appreciation we both feel to the Committee on Energy and Natural Resources, which attended to this matter with great care. The West Valley project bears on the future of nuclear power in our country and, in particular, the management of the waste products of nuclear power, which I think we are just beginning to understand.

As Carroll Wilson recently observed,

when we began this enterprise, we paid much too much attention to the front end of these machines and not nearly enough to the back end.

This is a scientific undertaking of the largest consequence to the Nation. We have every expectation of success if we apply our resources effectively.

West Valley is the site of this Nation's only commercial nuclear fuel reprocessing plant. Over 75 percent of the high level waste at West Valley is from Federal facilities or commercial reactors under contract with the former Atomic Energy Commission. The high level wastes at West Valley are the only such wastes in the United States that are not managed by the Federal Government. New York State does not belong in the nuclear waste business. It is important that the facility be under the care and management of the Department of Energy which possesses the necessary technical resources to oversee the solidification and safe removal of the wastes.

The need for a strong Federal role at West Valley has already been established. On March 8, 1977, the GAO recommended that the Nuclear Regulatory Commission develop criteria for handling the waste and decommissioning the site. The GAO report also recommended that the NRC and the Department of Energy develop a policy of Federal assistance to New York for the site. On March 15, 1978, the DOE task force for review of nuclear waste management stated that "DOE should accept responsibility for the high level waste at West Valley."

Over a year later, Secretary James Schlesinger wrote to Governor Hugh Carey expressing DOE's willingness to accept overall management responsibility and bear a portion of the costs of a program of high level liquid waste solidification wastes, and decommissioning of all facilities associated with these activities. As recently as September 21, 1979, Secretary Duncan wrote to Governor Carey expressing his desire to reach a final agreement on arrangements for beginning the waste solidification project at West Valley. However, the Department of Energy cannot proceed on the project without the proper authorizing language. That is the intention of our bill.

The West Valley vitrification project will be a valuable demonstration of nuclear waste solidification technology. The removal, processing, and solidification of alkaline high level wastes has never been demonstrated in a production scale plant.

The bill before the Senate today represents a consensus of all concerned parties. It is a practical solution to a complex problem, and one which should proceed immediately.

Mr. President, it would be inappropriate to conclude this discussion without recalling the extraordinary care, attention, and fidelity to undertaking that former Secretary of Energy James Schlesinger pursued throughout 3 years

of complex negotiations on this matter of utmost importance.

Mr. McCURE. Mr. President, I support bill S. 2443 which will establish a nuclear waste demonstration project at the West Valley site in New York State. The Committee amendments to the bill which will be adopted this morning were offered by me to perfect the bill introduced by the Senators from New York, Mr. JAVITS and Mr. MOYNIHAN. Briefly, these amendments would modify the bill to insure that the Federal Government does not take title to the West Valley nuclear wastes until they have been processed for final disposal and also to establish a project approach, using a cooperative agreement, between the Department of Energy and the State of New York for the project.

The cooperative agreement will provide the basis for conduct of the demonstration project and joint action by the Department and the State and any related and required activities, such as a licensing amendment with the NRC and any requirements under NEPA. Additionally, the cooperative agreement will insure that all relevant provisions of the Energy Reorganization Act of 1974 and the Atomic Energy Act of 1954 are satisfied in the conduct of the demonstration.

My amendments, I believe and the committee agreed, will insure that the negotiations between the Department and the State regarding conduct of the demonstration, relative responsibilities for the project, and procedural actions under applicable law all will be proceeding on a balanced and responsible basis on the part of both parties. The amendments also will insure that the State of New York has a clear and continuing stake in the successful and timely completion of the project in the years ahead in order that the partnership between the Department and the State forged under this act will, as a matter of law, extend over the life of the project.

At the same time, these amendments will not alter in any way the legal relationships, obligations, and responsibilities of the current and past participants in the West Valley project. Any and all contractual or other legal rights and remedies will remain intact and unaffected by the amendments I offered.

I want to take this opportunity to commend our colleagues from the State of New York, Mr. JAVITS and Mr. MOYNIHAN for their continuing and untiring efforts to resolve the current problems at West Valley. We have been particularly successful in working together to forge this statutory partnership between the Federal Government and the State of New York in successfully organizing and proceeding with the project. I look forward to working with them closely in the years ahead to make sure that this project is implemented in a manner consistent with that spirit of cooperation and partnership.

Mr. President, for the information of the Senate I ask unanimous consent to have printed in the RECORD the administration's comments on my amendments.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, D.C., June 5, 1980.

Hon. JAMES A. McCURE
U.S. Senate,
Washington, D.C.

DEAR SENATOR McCURE: This is in response to your request for the views of the Department of Energy on S. 2443 as it was ordered reported on May 15th by the Senate Committee on Energy and Natural Resources.

S. 2443 would authorize the Department of Energy to carry out, in cooperation with the State of New York, a demonstration project to solidify liquid-high level radioactive waste which is in storage tanks at the Western New York Nuclear Service Center near West Valley, New York. We have previously supported legislation similar to S. 2443 to authorize this Department to conduct a waste solidification project at West Valley.

In ordering the bill reported the Committee adopted your amendment the major impact of which would be to:

1. Provide for the conduct of the demonstration project without transfer of title to the high level liquid waste or to the project site;
2. Direct DOE to enter into a cooperative agreement for the demonstration project with New York State in accordance with the provisions of the Federal Grant and Cooperative Agreement Act of 1977;
3. Require DOE and the State of New York to jointly submit an application for a license amendment to the Nuclear Regulatory Commission allowing for the demonstration; and
4. Provide for full application of the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 to the project.

The bill as reported is consistent with our view of DOE's role in the West Valley Project. Therefore, we would support its enactment.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to submission of this report.

Sincerely,

WORTH BATEMAN,
Acting Under Secretary.

UP AMENDMENT NO. 1129

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. JACKSON, I send to the desk certain technical amendments, and ask unanimous consent that they be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the committee amendments are agreed to; and, without objection, the technical amendments will be considered en bloc.

The technical amendments are as follows:

On page 4, line 12, strike the word "1980" and insert in lieu thereof the word "1981".

On page 5, after line 8, insert the following:

(d) Authority to enter into contracts shall be only to such extent or in such amounts as may be provided in advance in appropriations Acts.

Mr. ROBERT C. BYRD. Mr. President, the amendments I have offered en bloc, on behalf of Mr. JACKSON, are to meet the concerns of the Senate Budget Committee with regard to the reporting of this bill with fiscal year 1980 funds. One amendment changes the funding from fiscal year 1980 to fiscal year 1981. The other amendment takes cognizance of a provision of the Congressional Budget Act of 1974 and limits the contract authority of the Secretary of Energy so that he may not sign contracts in excess of appropriated amounts unless those contracts are conditional upon appropri-

ation of funds in that and subsequent fiscal years. I do not believe these amendments are controversial with the minority, and I recommend their approval by the Senate.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendments en bloc of the Senator from West Virginia.

The amendments en bloc were agreed to.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the committee amendments, as amended.

The committee amendments, as amended, were agreed to.

Mr. JACKSON. Mr. President, the Senate Energy Committee has favorably reported the bill S. 2443, to begin a project designed to encapsulate a large volume of liquid high-level commercial nuclear waste. These wastes are currently stored in steel tanks at the Western New York Service Center in West Valley, N.Y. While these wastes currently do not constitute an imminent risk to the public health and safety, it is important that we begin the job now of solidification of these wastes to forestall any potential future risk of leakage.

I believe the committee report spells out the history associated with the operations at the Western New York Service Center. I also believe that the description of the committee amendments and the section-by-section analysis provide an accurate reflection of the committee's intent with regard to this legislation. I have agreed to a colloquy with Senator MOYNIHAN to add further clarification to the committee's intent with regard to its amendments.

Mr. President, I am pleased to be able to assist the two Senators from New York in the initiation of this demonstration project because I know of their concerns and the concerns of the citizens of the State of New York that we safely dispose of the high-level liquid waste currently stored at the West Valley facility. I hope that we can continue to work together as this project proceeds to insure that the project is pursued in a manner which protects the public health and safety and yet realizes the finite resources that can be made available to the nuclear waste program. It is important that the State of New York and the Federal Government work together with a sense of comity to insure the ultimate success of this important project.

Mr. President, I recommend that this bill be approved by the Senate as reported from committee with only two technical amendments to meet the concerns of the Senate Committee on the Budget.

Mr. MOYNIHAN. Mr. President, we would like to be sure that this act does not relieve the private party of responsibility for aspects of the West Valley cleanup which may exist under current law or contracts.

Is it clearly the committee's intent that the cooperative agreement under the act as well as the act itself, as provided in section 6, shall not relieve any private parties for responsibility? We would not like the existence of a cooperative agreement between New York and

DOE to imply that the private parties are not involved unless, of course, the agreement explicitly so stipulates.

Mr. JACKSON. That is exactly right. The last section of the act, which is as you originally introduced it, makes it clear that nothing in the act, including the cooperative agreement, automatically changes the legal or contractual obligations of any part.

Of course, explicit agreements between the private operators and the State of New York may clearly define the responsibilities of each as they mutually deem appropriate, so long as the State fulfills the obligations set forth in this act as amended.

Mr. MOYNIHAN. Does anything in this act preclude DOE from using any of the facilities at the West Valley site which it feels are useful for the conduct of this project? Furthermore, DOE had planned to use employees now at the project site who are familiar with the facility. As we understand it, they will still be able to do so, pursuant to the cooperative agreement, if that is their preference.

Mr. JACKSON. That is right. The committee did not intend to direct or limit the Department of Energy's technical options in designing and proposing, for further appropriations, a project which will effectively and expeditiously clean up the high level liquid wastes not at West Valley. We would expect the Department to propose whatever measures are necessary and cost effective and are consistent with the cooperative agreement negotiated with the State of New York. Of course we will be closely monitoring the project as it moves toward a significant commitment of resources.

Mr. McCLURE. Mr. President, I rise in support of the bill S. 2443 which will establish a nuclear waste demonstration project at the West Valley site in New York State. The committee amendments to the bill which will be adopted this morning were offered by me to perfect the bill introduced by the Senators from New York, Mr. JAVITS and Mr. MOYNIHAN. Briefly, these amendments would modify the bill to insure that the Federal Government does not take title to the West Valley nuclear wastes until they have been processed for final disposal and also to establish a project approach, using a cooperative agreement, between the Department of Energy and the State of New York for the project. The cooperative agreement will provide the basis for conduct of the demonstration project and joint action by the Department and the State and any related and required activities, such as a licensing amendment with the NRC and any requirements under NEPA. Additionally, the cooperative agreement will insure that all relevant provisions of the energy reorganization act of 1974 and the Atomic Energy Act of 1954 are satisfied in the conduct of the demonstration.

My amendments, I believe and the committee agreed, will insure that the negotiations between the Department and the State regarding conduct of the demonstration, relative responsibilities for the project and procedural actions under applicable law all will be proceed-

ing on a balanced and responsible basis on the part of both parties. The amendments also will insure that the State of New York has a clear and continuing stake in the successful and timely completion of the project in the years ahead in order that the partnership between the Department and the State forged under this act will, as a matter of law, extend over the life of the project. At the same time, these amendments will not alter in any way the legal relationships, obligations and responsibilities of the current and past participants in the West Valley project. Any and all contractual statutory or other legal rights and remedies will remain intact and unaffected by the amendments I offered.

I want to take this opportunity to commend our colleagues from the State of New York (Mr. JAVITS and Mr. MOYNIHAN) for their continuing and untiring efforts to resolve the current problems at West Valley. We have been particularly successful in working together to forge this statutory partnership between the Federal Government and the State of New York in successfully organizing and proceeding with the project. I look forward to working with them closely in the years ahead to make sure that this project is implemented in a manner consistent with that spirit of cooperation and partnership.

Mr. President, for the information of the Senate I ask unanimous consent to have printed in the RECORD a copy of the administration's comments on my amendments.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,

Washington, D.C., May 30, 1980.

HON. CHARLES W. DUNCAN, JR.,
Secretary of Energy, Department of Energy,
Washington, D.C.

DEAR MR. SECRETARY: On May 15, 1980, the Committee on Energy and Natural Resources reported S. 2443, a bill to authorize the Department of Energy to carry out a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, New York.

The reported bill includes my amendment, requiring the Department of Energy and the State of New York to enter into a cooperative agreement to carry out the demonstration project at the Western New York Service Center in West Valley, New York. A copy of the reported bill, along with the Committee report, are attached for your information.

Please provide as soon as possible the Department's comments, and, if available, the Administration's position on the bill, as reported with my amendment. I anticipate floor action on this bill in the very near future, perhaps within the week. Consequently, I would appreciate your comments no later than June 4, 1980.

Sincerely,

JAMES A. McCLURE,
U.S. Senator.

THE SECRETARY OF ENERGY,
Washington, D.C., June 5, 1980.

HON. JAMES A. McCLURE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR McCLURE: This is in response to your request for the views of the Department of Energy on S. 2443 as it was ordered reported on May 15th by the Senate Committee on Energy and Natural Resources.

S. 2443 would authorize the Department of Energy to carry out, in cooperation with the State of New York, a demonstration project to solidify liquid-high level radioactive waste which is in storage tanks at the Western New York Nuclear Services Center near West Valley, New York. We have previously supported legislation similar to S. 2443 to authorize this Department to conduct a waste solidification project at West Valley.

In ordering the bill reported the Committee adopted your amendment, the major impact of which would be to:

1. Provide for the conduct of the demonstration project without transfer of title to the high level liquid waste or to the project site;

2. Direct DOE to enter into a cooperative agreement for the demonstration project with New York State in accordance with the provisions of the Federal Grant and Cooperative Agreement Act of 1977;

3. Require DOE and the State of New York to jointly submit an application for a license amendment to the Nuclear Regulatory Commission allowing for the demonstration; and

4. Provide for full application of the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 to the project.

The bill as reported is consistent with our view of DOE's role in the West Valley Project. Therefore, we would support its enactment.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to submission of this report.

Sincerely,

WORTH BATEMAN,
Acting Under Secretary.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 2443) as amended, was passed, as follows:

S. 2443

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "West Valley Demonstration Project Act".

SEC. 2. (a) The Secretary of Energy (hereinafter in this Act referred to as the "Secretary") shall carry out, in accordance with the provisions of this Act, a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, New York (hereinafter referred to as "the project"). The Secretary shall carry out the project by vitrifying the high-level liquid nuclear wastes located at such Center or by employing the most effective technology for solidification available. The Secretary shall, as part of the project, also (1) as soon as feasible transport such solidified wastes, in accordance with applicable provisions of law, to an appropriate Federal repository for long term burial, and (2) decontaminate and decommission facilities, materials, and hardware used in connection with the project.

(b) During the fiscal year ending September 30, 1980, the Secretary shall—

(1) prepare a plan for safe removal of such wastes from tank numbered 8D-2 and any other storage tank at the Center con-

taining such wastes including safely breaching the tanks, operating waste removal equipment, and sluicing techniques.

(2) determine the feasibility of immobilization and waste handling techniques required by the unique situation of such wastes at the Center, including initiation of detailed engineering and cost estimates as well as safety analyses and environmental impact analyses; and

(3) enter into a cooperative agreement with the State of New York pursuant to the "Federal Grant and Cooperative Agreement Act of 1977", Public Law 95-224, to provide for the conduct of the demonstration project, without transfer to the United States of title to the high level liquid wastes or to the project site, and for the following activities:

(A) demonstration of vitrification technology or technologies which can be replicated for other applications in the United States;

(B) submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration;

(C) application of the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, to all aspects of the demonstration project; and

(D) conduct of other activities at the project, as determined to be appropriate by the Secretary, to protect public health and safety and to be in the national interest regarding the safe management of nuclear wastes in the United States.

Sec. 3. There is authorized to be appropriated to the Secretary not more than \$5,000,000 for the fiscal year ending September 30, 1981, for the project. Funds authorized and appropriated in subsequent fiscal years for the project shall not be used by the Secretary for such purpose until the Secretary, the State of New York, and other appropriate persons enter into such contracts and agreements as may be required.

(a) to enable the Secretary to utilize property and facilities at the Center for the project,

(b) to share the costs of the project, except that the non-Federal share of such costs shall be limited to no more than 10 per centum thereof and in determining such share the Secretary shall consider the utilization of such Center by the Secretary for the project, the amount of money in the existing perpetual care fund originally designated to provide, for ultimate disposition of the high-level liquid nuclear waste at the Center, and such other factors as the Secretary deems appropriate,

(c) to otherwise provide for the conduct of the project in a timely manner, and

(d) authority to enter into contracts shall be only to such extent or in such amounts as may be provided in advance in appropriations Acts.

Sec. 4. In carrying out the project, the Secretary shall consult with the Nuclear Regulatory Commission, the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Director of the Geological Survey, the State of New York, and the commercial operator of the Center.

Sec. 5. Not later than February 1, 1981, and on February 1 of each calendar year thereafter during the term of the project, the Secretary shall transmit to the Committee on Science and Technology, the Committee on Interior and Insular Affairs, and the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate an up-to-date report containing a detailed description of the activities of the Secretary in carrying out

the project, including the costs incurred, and the activities to be taken in the next fiscal year and the costs thereof. Any contract or agreement executed under sections 2 and 3 of this Act, together with summaries thereof, shall be promptly transmitted to such committees for their information and review.

Sec. 6. Other than the costs and responsibilities established by this Act for the project, nothing in this Act shall be construed as affecting any rights, obligations, or liabilities of the commercial operator of the Center, the State of New York, or any person, as is appropriate, arising under the Atomic Energy Act of 1954 or under any other law, contract, or agreement for the operation, maintenance, or decontamination of any facilities or property at the Center or for any wastes at the Center. Nothing in this Act shall be construed as affecting any applicable licensing requirements of the Atomic Energy Act of 1954 or the Energy Reorganization Act of 1974. The provisions of this Act shall apply or be extended to any facilities or property at the Center which is not used in conducting the project.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, to be divided equally between both sides, and that Senators may speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). The Senator from Wisconsin is recognized.

THE GENOCIDE CONVENTION

Mr. PROXMIER. Mr. President, the story of the Third Reich is the story of unparalleled excesses in human savagery. Together, the Axis nations spread suffering and death to most of the globe. The case of Finland is a footnote to this story.

Caught in a vise between Hitler and Stalin, the Finns were forced into an alliance with Germany—their only protection against the invading Russians. Before long, Hitler exported his policy of genocide to his reluctant ally, and ordered Finland to ship its 2,000 Jews to Germany for slaughter. The Finns refused.

In April 1942, Heinrich Himmler, Hitler's chief hangman, traveled to Helsinki to demand that Finland surrender its Jews to Germany. Finland's Foreign Minister, Wolf Juhan Witting, responded:

Finland is a decent nation. We would rather perish together with the Jews. We will not surrender the Jews.

In July of that year, the Finnish Cabinet voted unanimously to reject Himmler's demand.

If the Finnish Cabinet could vote unanimously to resist genocide, why cannot the U.S. Senate muster a simple two-thirds in support of the Interna-

tional Convention on the Prevention and Punishment of the Crime of Genocide, which seeks the same end?

The Finns showed admirable courage and conviction. They exercised this resolve while looking down the barrel of a gun. We are at peace, yet we run and hide from measures that would prevent genocide. We have been running and hiding from this convention since 1949, when it was first referred to the Senate.

Let us at last confront it. Let us adopt Finland's proud spirit of resistance—a spirit which our Nation has exercised in the past, but which now eludes us.

Let us strike out against genocide now and not wait until we are faced with the kinds of choices Finland had to make.

The Finns viewed Germany's pressure as the test of their decency. They passed their test. Let us not fail ours. Let us ratify the Genocide Convention.

THE POULTRY INDUSTRY IN NORTH CAROLINA

Mr. MORGAN. Mr. President, I would like to call to the attention of my colleagues one of my State's most vigorous and dynamic enterprises—the poultry industry. Last year the State produced enough broiler chickens to supply the needs of my State's 5.6 million residents, and there were enough left over to satisfy 17 million consumers elsewhere. Over the last decade, the North Carolina poultry industry has increased its production by some 35 percent. Last year we grew nearly 377 million broilers.

I think that this is especially significant in a historical perspective. For many years before the turn of the century, the South was locked into a one- or two-crop economy. Most farmers grew only cotton and were at the mercy of the world price of that staple. Tobacco farmers often planted cotton to supplement their income, but they rarely raised poultry for sale. In those days many farmers were almost self-sufficient with their chicken coops, hoggens, milk cows, and cash crop. Eventually, however, those days passed, and more recently we have seen on the one hand more specialization and on the other a great expansion in the diversity of crops and of other agricultural products. Along with the burgeoning swine, cattle, and dairy industries in my State, the poultry industry has grown into a dynamic and highly integrated industry.

Our national consumption of poultry has increased greatly. In the last decade the per capita consumption of broilers rose from 34.8 pounds to 48.9 pounds. This meant in North Carolina an increase in farm income from broilers from \$159 million to \$388 million. Because the broiler industry has made gains in production and marketing efficiency, savings are passed along to the consumers. If we use the constant dollars with 1967 as the base, retail prices for dressed, ready-to-cook broilers dropped from 38.4 cents per pound in 1969 to 31.1 cents last year.

I should also stress that even our poultry industry has diversified. North Carolina is a leading State in the production of broilers, turkeys, and eggs, but in the

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UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1980

	NAYS—3	
Hatfield	Proxmire	Tsongas
	NOT VOTING—13	
Biden	Hart	Stewart
Durkin	McGovern	Stone
Garn	Morgan	Tower
Goldwater	Sasser	
Gravel	Stafford	

So the bill (H.R. 7592) was passed.
 Mr. HUDDLESTON. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. HUDDLESTON. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. HUDDLESTON, Mr. JOHNSTON, Mr. INOUE, Mr. SASSER, Mr. LAXALT, Mr. STEVENS, Mr. MAGNUSON, and Mr. YOUNG conferees on the part of the Senate.

Mr. HUDDLESTON. Mr. President, I just want to take a minute to express my appreciation to the staff who have worked so diligently to prepare this legislation, on the majority side the subcommittee staff director, Carolyn Fuller, and her assistant, Dorothy Douglas; and Rick Pierce on the minority side.

Again, I thank our ranking minority member, the Senator from Nevada (Mr. LAXALT) for helping put together what was a somewhat unusual military construction bill this year.

We had significant budget amendments submitted in March modifying the January request. We had the Indian Ocean/Persian Gulf situation develop. That policy is still in an evolving stage, and we have had to deal with a number of issues associated with U.S. policy there.

There was, of course, the MX missile request which included test facilities and raised many important questions relating to the basing site and mode. We also had the Space Shuttle, which as I mentioned in my opening statement, has significant military applications. And, finally, we had to work within budget constraints.

So I think everybody made a significant effort to contribute to the final product.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1981

The PRESIDING OFFICER. Pursuant to the previous order, the Senate will now proceed to the consideration of H.R. 7831, which the clerk will state by title.

The assistant legislative clerk read as follows:

Calendar 1017. H.R. 7831, an act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with amendments.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

WEST VALLEY DEMONSTRATION PROJECT ACT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2443.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2443) entitled "An Act to authorize the Department of Energy to carry out a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, New York", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. This Act may be cited as the "West Valley Demonstration Project Act".

Sec. 2. (a) The Secretary shall carry out in accordance with this Act, a high level radioactive waste management demonstration project at the Western New York Service Center in West Valley, New York, for the purpose of demonstrating solidification techniques which can be used for preparing high level radioactive waste for disposal. Under the project the Secretary shall carry out the following activities:

(1) The Secretary shall solidify, in a form suitable for transportation and disposal, the high level radioactive waste at the Center by vitrification or by such other technology which the Secretary determines to be the most effective for solidification.

(2) The Secretary shall develop containers suitable for the permanent disposal of the high level radioactive waste solidified at the Center.

(3) The Secretary shall, as soon as feasible, transport, in accordance with applicable provisions of law, the waste solidified at the Center to an appropriate Federal repository for permanent disposal.

(4) The Secretary shall, in accordance with applicable licensing requirements, dispose of low level radioactive waste and transuranic waste produced by the solidification of high level radioactive waste under the project.

(5) The Secretary shall decontaminate and decommission—

(A) the tanks and other facilities of the Center in which the high level radioactive waste solidified under the project was stored,

(B) the facilities used in the solidification of the waste, and

(C) any material and hardware used in connection with the project,

in accordance with such requirements as the Commission may prescribe.

(b) Before undertaking the project and during the fiscal year ending September 30, 1981, the Secretary shall carry out the following:

(1) The Secretary shall hold in the vicinity of the Center public hearings to inform the

residents of the area in which the Center is located of the activities proposed to be undertaken under the project and to receive their comments on the project.

(2) The Secretary shall consider the various technologies available for the solidification and handling of high level radioactive waste taking into account the unique characteristics of such waste at the Center.

(3) The Secretary shall—

(A) undertake detailed engineering and cost estimates for the project,

(B) prepare a plan for the safe removal of the high level radioactive waste at the Center for the purposes of solidification and include in the plan provisions respecting the safe breaching of the tanks in which the waste is stored, operating equipment to accomplish the removal, and sluicing techniques,

(C) conduct appropriate safety analyses of the project, and

(D) prepare required environmental impact analyses of the project.

(4) The Secretary shall enter into a cooperative agreement with the State in accordance with the Federal Grant and Cooperative Agreement Act of 1977 under which the State will carry out the following:

(A) The State will make available to the Secretary the facilities of the Center and the high level radioactive waste at the Center which are necessary for the completion of the project. The facilities and the waste shall be made available without the transfer of title and for such period as may be required for completion of the project.

(B) The Secretary shall provide technical assistance in securing required license amendments.

(C) The State shall pay 10 per centum of the costs of the project, as determined by the Secretary. In determining the costs of the project, the Secretary shall consider the value of the use of the Center for the project. The State may not use Federal funds to pay its share of the cost of the project, but may use the perpetual care fund to pay such share.

(c) Within one year from the date of the enactment of this Act, the Secretary shall enter into an agreement with the Commission to establish arrangements for review and consultation by the Commission with respect to the project. The agreement shall provide for the following:

(1) The Secretary shall submit to the Commission, for its review and comment, a plan for the solidification of the high level radioactive waste at the Center, the removal of the waste for purposes of its solidification, the preparation of the waste for disposal, and the decontamination of the facilities to be used in solidifying the waste. In preparing its comments on the plan, the Commission shall specify with precision its objections to any provision of the plan. Upon submission of a plan to the Commission, the Secretary shall publish a notice in the Federal Register of the submission of the plan and of its availability for public inspection, and, upon receipt of the comments of the Commission respecting a plan, the Secretary shall publish a notice in the Federal Register of the receipt of the comments and of the availability of the comments for public inspection. If the Secretary does not revise the plan to meet objections specified in the comments of the Commission, the Secretary shall publish in the Federal Register a detailed statement for not so revising the plan.

(2) The Secretary shall consult with the Commission with respect to the form in which the high level radioactive waste at the Center shall be solidified and the containers to be used in the permanent disposal of such waste.

(3) The Secretary shall submit to the Commission safety analysis reports and such other information as the Commission may require to identify any danger to the public health

and safety which may be presented by the project.

(4) The Secretary shall afford the Commission access to the Center to enable the Commission to monitor the activities under the project for the purpose of assuring the public health and safety.

(d) In carrying out the project, the Secretary shall consult with the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Director of the Geological Survey, and the commercial operator of the Center.

Sec. 3. (a) There are authorized to be appropriated to the Secretary for the project not more than \$5,000,000 for the fiscal year ending September 30, 1981.

(b) The total amount obligated for the project by the Secretary shall be 90 per centum of the costs of the project.

(c) The authority of the Secretary to enter into contracts under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

Sec. 4. Not later than February 1, 1981, and on February 1 of each calendar year thereafter during the term of the project, the Secretary shall transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate an up-to-date report containing a detailed description of the activities of the Secretary in carrying out the project, including agreements entered into and the costs incurred during the period reported on and the activities to be undertaken in the next fiscal year and the estimated costs thereof.

Sec. 5. (a) Other than the costs and responsibilities established by this Act for the project, nothing in this Act shall be construed as affecting any rights, obligations, or liabilities of the commercial operator of the Center, the State, or any person, as is appropriate, arising under the Atomic Energy Act of 1954 or under any other law, contract, or agreement for the operation, maintenance, or decontamination of any facility or property at the Center or for any wastes at the Center. Nothing in this Act shall be construed as affecting any applicable licensing requirement of the Atomic Energy Act of 1954 or the Energy Reorganization Act of 1974. This Act shall not apply or be extended to any facility or property at the Center which is not used in conducting the project. This Act may not be construed to expand or diminish the rights of the Federal Government.

(b) This Act does not authorize the Federal Government to acquire title to any high level radioactive waste at the Center or to the Center or any portion thereof.

Sec. 6. For purposes of this Act:

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "Commission" means the Nuclear Regulatory Commission.

(3) The term "State" means the State of New York.

(4) The term "high level radioactive waste" means the high level radioactive waste which was produced by the reprocessing at the Center of spent nuclear fuel. Such term includes both liquid wastes which are produced directly in reprocessing, dry solid material derived from such liquid waste, and such other material as the Commission designates as high level radioactive waste for purposes of protecting the public health and safety.

(5) The term "transuranic waste" means material contaminated with elements which have an atomic number greater than 92, including neptunium, plutonium, americium, and curium, and which are in concentrations greater than 10 nanocuries per gram, or in such other concentrations as the Commission may prescribe to protect the public health and safety.

(6) The term "low level radioactive waste" means radioactive waste not classified as high level radioactive waste, transuranic waste, or byproduct material as defined in section 11 e. (2) of the Atomic Energy Act of 1954.

(7) The term "project" means the project prescribed by section 2(a).

(8) The term "Center" means the Western New York Service Center in West Valley, New York.

Mr. JACKSON. Mr. President, the House has recently adopted an amendment in the nature of a substitute for the text of the act S. 2443. It is important that this legislation be enacted in this Congress so that the nuclear waste stored at the Western New York Service Center in West Valley, N.Y., can be processed into a form suitable for permanent disposal. I, nonetheless, feel that the House-passed version of S. 2443 contains deficiencies which must necessarily be corrected in order to achieve enactment of a workable bill. The Senate-passed version of S. 2443 contained, under the provision for a cooperative agreement with the State of New York, a requirement that the Department of Energy be party to the licensing amendment which will be required in order to conduct the project. I believe that reinserting this provision will insure that the interests of the Federal Government, which will bear 90 percent of the cost of the project, will be protected.

A further amendment is required to section 2(c) of the act in order to clarify the status of the Secretary's activities with respect to the Nuclear Regulatory Commission's responsibilities. The proviso which is proposed to be added to section 2(c) makes it clear that the review and consultation by the Nuclear Regulatory Commission will be performed on an informal basis and not require formal procedures or actions by the Commissioners themselves. This approach is in full keeping with the longstanding tradition of informal review by the nuclear regulators of Federal Government nuclear activities not intended to result in commercial activity.

In this process the Department of Energy provides full technical information to the staff of the Nuclear Regulatory Commission. This information is carefully reviewed, critiqued, and analyzed to insure that the project is conducted with standards fully equivalent to those imposed on licensed activities. The Commission communicates its concerns back to the Department of Energy, and the Department of Energy acts to resolve the concerns by providing further technical information or by making modifications in the facilities.

With these changes, I believe the bill will provide the full opportunity for the Department of Energy and the State of New York to move quickly forward to establish a project for the safe processing of the high-level nuclear waste stored at the West Valley site. I wish to commend Senators MOYNIHAN and JAVITS for their leadership in this bill and the Members of the New York delegation in the House of Representatives.

An editorial published in today's New York Daily News aptly summarizes the process, except that the editors were re-

miss in not including New York's distinguished senior Senator, Senator JAVITS who, as the bill's cosponsor has worked intensively with me, with my distinguished colleague Senator McCLURE and with all those involved in the West Valley bill and deserves recognition as do his colleagues. Indeed, New York's two Senators, its Governor, and certainly West Valley's Congressman STAN LUNDINE have aptly represented the State's and the Nation's concern that these stored wastes be safely and swiftly disposed.

I hope the House of Representatives will accept the amendments to the bill without asking for a conference to resolve these differences. With the shortness of time and the need for beginning action in the fiscal year 1981, I hope that we can send the bill to the President in the next few days.

Mr. MOYNIHAN. Mr. President, today the Senate will act on the West Valley nuclear waste solidification bill—S. 2443—setting in motion a technological enterprise which is so vital to our basic education in managing nuclear waste. Senate passage of the West Valley bill—nearly identical to the version it passed on June 12, 1980—marks the first time in 4 years that the Senate and House of Representatives have agreed on the nature of the Federal role in the project. It has not been easy.

West Valley is the site of this Nation's only commercial nuclear fuel reprocessing plant. Over 75 percent of the high-level waste at West Valley is from Federal facilities or commercial reactors under contract with the former Atomic Energy Commission. The high level wastes at West Valley are the only such wastes in the United States that are not managed by the Federal Government. New York State does not belong in the nuclear waste business. It is important that the facility be under the care and management of the Department of Energy which possesses the necessary technical resources to oversee the solidification and safe removal of the wastes.

On March 8, 1977, the GAO recommended that the Nuclear Regulatory Commission develop criteria for handling the waste and decommissioning the site. The GAO report also recommended that the NRC and the Department of Energy develop a policy of Federal assistance to New York for the site. On March 15, 1978, the DOE Task Force for Review of Nuclear Waste Management stated that "DOE should accept responsibility for the high level waste at West Valley."

Over a year later, Secretary James Schlesinger wrote to Governor Hugh Carey expressing DOE's willingness to accept overall management responsibility and bear a portion of the costs of a program of high-level liquid waste solidification, storage, transfer to a Federal repository for solidified wastes, and decommissioning of all facilities associated with these activities. As recently as September 21, 1979, Secretary Duncan wrote to Governor Carey expressing his desire to reach a final agreement on arrangements for beginning the waste solidification project at West Valley. However, the

Department of Energy cannot proceed on the project without the proper authorization. That is the purpose of S. 2443.

The House has returned S. 2443 to the Senate with few changes of substance. For example, the consultative role of the Nuclear Regulatory Commission has been made more explicit in the House version of the bill. Language in other provisions of the bill has been tightened to leave little doubt of the intent of Congress to see this unique undertaking proceed in the most open and deliberate manner. No party's legal responsibilities are the lesser for this law.

I would be remiss if I failed to record at this time my profound gratitude to Dr. James Schlesinger, Dr. John Sawhill—soon to be chairman of the Synthetic Fuels Corporation—and Dr. Worth Bateman. These three gentlemen, in their unenviable position of running the Department of Energy past and present, have conscientiously negotiated with the State of New York, on behalf of the Federal Government. There were many complications associated with this project during these 4 years which I am sure gave them pause to consider another line of employment. Nonetheless, each stayed the course and for this each is to be commended.

It would not be an overstatement to suggest that Senator HENRY JACKSON is, in the end, the individual most responsible for the successful culmination of the West Valley legislation. His unwavering support and his generosity in lending the assistance of his staff have brought us to this day.

Mr. JAVITS. Mr. President, this is the third time the Senate has passed the legislation to clean up West Valley and we believe this final version of our bill will serve the interests of New Yorkers well. We have sent to the House for final passage a bill which makes the State of New York a partner with the Federal Government in a 10-year, \$200 million project to solidify and dispose of the nuclear wastes which have threatened the health and wellbeing of New Yorkers in this rich farmland area on the outskirts of Buffalo.

It is high time, after the 4 long years that Senator MOYNIHAN, Congressman LUNDINE, and I have worked to enact such a program, that the United States assume its rightful responsibilities and clean up that waste and take it away from the highly populated area where it now lies. Further, I intend to see to it that, once enacted, this program goes forward without any further delay and I am certain that we can continue to count on the excellent support we have had from the Senate Energy Committee and particularly its distinguished chairman.

UP AMENDMENT NO. 1600

Mr. MOYNIHAN. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is the Senator moving to concur in the House amendments with an amendment?

Mr. MOYNIHAN. Mr. President, I will ask in a moment that the Senate concur

in the House amendment with an amendment which I now send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an unprinted amendment numbered 1600.

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

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

The amendment reads as follows:

On page 4, after line 23, insert the following:

(D) submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration;

On page 5, line 2, strike the period and insert the following: "Provided, That review and consultation by the Commission pursuant to this subsection shall be conducted informally by the Commission and shall not include nor require formal procedures or actions by the Commission pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, or any other law."

Mr. JAVITS. Mr. President, I ask unanimous consent that my name be added to that amendment.

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

Mr. MOYNIHAN. Mr. President, I move that the Senate concur in the House amendment with the amendment I have sent to the desk.

The motion was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business not to exceed 15 minutes and that Senators may speak therein.

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

ORDER OF PROCEDURE NEXT WEEK

Mr. ROBERT C. BYRD. Mr. President, this has been cleared with the Republican leader, and the acting Republican leader is here with me and can speak for himself.

I ask unanimous consent that on Monday the Senate proceed to the consideration of the State-Justice appropriation bill, provided the HUD appropriation bill has been disposed of by that time and provided that the Department of Transportation appropriation bill and the military construction appropriation bill have been disposed of by that time, but in any event that the State-Justice appropriation bill follow the disposition of the

three aforementioned measures, with the further understanding that on Tuesday, of course, the nuclear fuels sale to India proceed as under the previous order and that the Senate then pick up on Wednesday with the disposition of any of the aforementioned appropriation bills and that following the State-Justice appropriation bill the Interior appropriation bill be taken up.

Mr. STEVENS. Mr. President, that has been agreed to.

The PRESIDING OFFICER. May the Chair inquire of the distinguished majority leader whether or not that means that the Tarapur sale of enriched uranium to India will follow State, Commerce, Justice if it has not been passed on Monday?

Mr. ROBERT C. BYRD. No. Under the previous order, on Tuesday the Senate will come in at 9 o'clock, and following the two leaders and any orders for the recognition of Senators, the Senate is to proceed to the Tarapur matter, the disapproval resolution.

Mr. McCLURE. Mr. President, reserving the right to object—and I do not intend to object—it is my understanding that the Interior Department appropriation bill will not come up before next Wednesday?

Mr. STEVENS. And will not occur before Tarapur.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. BUMPERS. Mr. President, reserving the right to object, I discussed the State, Justice, Commerce bill with Senator HOLLINGS a moment ago and told him that I cannot be here on Friday or Monday. I have a very important amendment which I think Senator HOLLINGS and I will be able to agree on. But in the event that we are not, would it be possible to defer final votes on that bill until after the sale to India resolution in order that I might offer the amendment if Senator HOLLINGS and I cannot agree?

Mr. ROBERT C. BYRD. Yes. It is agreeable—in order to protect the Senator from Arkansas (Mr. BUMPERS) on the amendment to the State, Justice, Commerce bill—to carry that amendment only and, of course, final passage, over beyond Monday. Am I understanding the Senator correctly?

Mr. BUMPERS. The Senator is correct.

Mr. ROBERT C. BYRD. So if State, Justice, Commerce appropriations was to reach the point where it was about to go to third reading on Monday, with no other amendments, the Senator would be protected and that bill would be put over until an appropriate time, consonant with the order entered, so as to give the Senator his opportunity to call up his amendment thereto.

Mr. BUMPERS. And the majority leader amends his request to make that specific?

Mr. ROBERT C. BYRD. Yes.

Mr. BUMPERS. I thank the majority leader very much.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER (Mr.

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agencies of the Federal Government shall cooperate and assist the Secretary in providing such information as may be needed for the purposes of this Act.

"(F) The Secretary shall submit a written report to Congress one year after the date of enactment of this Act, and annually thereafter, reviewing the actions taken under this Act and the operations of the centers during the past year. The Secretary shall include in each such report his evaluation of the program being carried out under this Act together with such recommendations for new legislation as he deems necessary or appropriate to improve such program.

"(G) Funds authorized to be appropriated in section 306(a)(11) shall be used to carry out the demonstrations."

Sec. 8. The provisions of this Act shall become effective October 1, 1979.

MOTION OFFERED BY MR. DASCHLE

Mr. DASCHLE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DASCHLE moves to strike out all after the enacting clause of the Senate bill, S. 870, and to insert in lieu thereof the provisions of the bill, H.R. 3580, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to provide for the establishment and coordination of rural development policy, to extend until September 30, 1981, the authorizations for appropriations for title V of the Rural Development Act of 1972, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 3580) was laid on the table.

House Resolution 438 was laid on the table.

GENERAL LEAVE

Mr. DASCHLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

WEST VALLEY DEMONSTRATION ACT

Mr. McCORMACK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6865) to authorize the Department of Energy to carry out a high level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, N.Y., as amended.

The Clerk read as follows:

H.R. 6865

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

SECTION 1. This Act may be cited as the "West Valley Demonstration Project Act".

SEC. 2. (a) The Secretary shall carry out, in accordance with this Act, a high level radioactive waste management demonstration project at the Western New York Service Center in West Valley, New York, for the purpose of demonstrating solidification techniques which can be used for preparing high

level radioactive waste for disposal. Under the project the Secretary shall carry out the following activities.

(1) The Secretary shall solidify, in a form suitable for transportation and disposal, the high level radioactive waste at the Center by vitrification or by such other technology which the Secretary determines to be the most effective for solidification.

(2) The Secretary shall develop containers suitable for the permanent disposal of the high level radioactive waste solidified at the Center.

(3) The Secretary shall, as soon as feasible, transport, in accordance with applicable provisions of law, the waste solidified at the Center to an appropriate Federal repository for permanent disposal.

(4) The Secretary shall, in accordance with applicable licensing requirements, dispose of low level radioactive waste and transuranic waste produced by the solidification of the high level radioactive waste under the project.

(5) The Secretary shall decontaminate and decommission—

(A) the tanks and other facilities of the Center in which the high level radioactive waste solidified under the project was stored, (B) the facilities used in the solidification of the waste, and

(C) any material and hardware used in connection with the project, in accordance with such requirements as the Commission may prescribe.

(b) Before undertaking the project and during the fiscal year ending September 30, 1981, the Secretary shall carry out the following:

(1) The Secretary shall hold in the vicinity of the Center public hearings to inform the residents of the area in which the Center is located of the activities proposed to be undertaken under the project and to receive their comments on the project.

(2) The Secretary shall consider the various technologies available for the solidification and handling of high level radioactive waste taking into account the unique characteristics of such waste at the Center.

(3) The Secretary shall—

(A) undertake detailed engineering and cost estimates for the project,

(B) prepare a plan for the safe removal of the high level radioactive waste at the Center for the purposes of solidification and include in the plan provisions respecting the safe breaching of the tanks in which the waste is stored, operating equipment to accomplish the removal, and sluicing techniques.

(C) conduct appropriate safety analyses of the project, and

(D) prepare required environmental impact analyses of the project.

(4) The Secretary shall enter into a cooperative agreement with the State in accordance with the Federal Grant and Cooperative Agreement Act of 1977 under which the State will carry out the following:

(A) The State will make available to the Secretary the facilities of the Center and the high level radioactive waste at the Center which are necessary for the completion of the project. The facilities and the waste shall be made available without the transfer of title and for such period as may be required for completion of the project.

(B) The Secretary shall provide technical assistance in securing required license amendments.

(C) The State shall pay 10 per centum of the costs of the project, as determined by the Secretary. In determining the costs of the project, the Secretary shall consider the value of the use of the Center for the project. The State may not use Federal funds to pay its share of the cost of the project, but may use the perpetual care fund to pay such share.

(c) Within one year from the date of the enactment of this Act, the Secretary shall

enter into an agreement with the Commission to establish arrangements for review and consultation by the Commission with respect to the project. The agreement shall provide for the following:

(1) The Secretary shall submit to the Commission, for its review and comment, a plan for the solidification of the high level radioactive waste at the Center, the removal of the waste for purposes of its solidification, the preparation of the waste for disposal, and the decontamination of the facilities to be used in solidifying the waste. In preparing its comments on the plan, the Commission shall specify with precision its objections to any provision of the plan. Upon submission of a plan to the Commission, the Secretary shall publish a notice in the Federal Register of the submission of the plan and of its availability for public inspection, and, upon receipt of the comments of the Commission respecting a plan, the Secretary shall publish a notice in the Federal Register of the receipt of the comments and of the availability of the comments for public inspection. If the Secretary does not revise the plan to meet objections specified in the comments of the Commission, the Secretary shall publish in the Federal Register a detailed statement for not so revising the plan.

(2) The Secretary shall consult with the Commission with respect to the form in which the high level radioactive waste at the Center shall be solidified and the containers to be used in the permanent disposal of such waste.

(3) The Secretary shall submit to the Commission safety analysis reports and such other information as the Commission may require to identify any danger to the public health and safety which may be presented by the project.

(4) The Secretary shall afford the Commission access to the Center to enable the Commission to monitor the activities under the project for the purpose of assuring the public health and safety.

(d) In carrying out the project, the Secretary shall consult with the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Director of the Geological Survey, and the commercial operator of the Center.

SEC. 3. (a) There are authorized to be appropriated to the Secretary for the project not more than \$5,000,000 for the fiscal year ending September 30, 1981.

(b) The total amount obligated for the project by the Secretary shall be 90 per centum of the costs of the project.

(c) The authority of the Secretary to enter into contracts under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

SEC. 4. Not later than February 1, 1981, and on February 1 of each calendar year thereafter during the term of the project, the Secretary shall transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate an up-to-date report containing a detailed description of the activities of the Secretary in carrying out the project, including agreements entered into and the costs incurred during the period reported on and the activities to be undertaken in the next fiscal year and the estimated costs thereof.

SEC. 5. (a) Other than the costs and responsibilities established by this Act for the project, nothing in this Act shall be construed as affecting any rights, obligations, or liabilities of the commercial operator of the Center, the State, or any person, as is appropriate, arising under the Atomic Energy Act of 1954 or under any other law, contract, or agreement for the operation, maintenance, or decontamination of any facility or property at the Center or for any wastes at the Center. Nothing in this Act shall be construed as affecting any applicable licensing requirement of the Atomic Energy Act of

1954 or the Energy Reorganization Act of 1974. This Act shall not apply or be extended to any facility or property at the Center which is not used in conducting the project. This Act may not be construed to expand or diminish the rights of the Federal Government.

(b) This Act does not authorize the Federal Government to acquire title to any high level radioactive waste at the Center or to the Center or any portion thereof.

Sec. 6. For purposes of this Act:

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "Commission" means the Nuclear Regulatory Commission.

(3) The term "State" means the State of New York.

(4) The term "high level radioactive waste" means the high level radioactive waste which was produced by the reprocessing at the Center of spent nuclear fuel. Such term includes both liquid wastes which are produced directly in reprocessing, dry solid material derived from such liquid waste, and such other material as the Commission designates as high level radioactive waste for purposes of protecting the public health and safety.

(5) The term "transuranic waste" means material contaminated with elements which have an atomic number greater than 92, including neptunium, plutonium, americium, and curium, and which are in concentrations greater than 10 nanocuries per gram, or in such other concentrations as the Commission may prescribe to protect the public health and safety.

(6) The term "low level radioactive waste" means radioactive waste not classified as high level radioactive waste, transuranic waste, or byproduct material as defined in section 11 e. (2) of the Atomic Energy Act of 1954.

(7) The term "project" means the project prescribed by section 2(a).

(8) The term "Center" means the Western New York Service Center in West Valley, New York.

The SPEAKER pro tempore. Is a second demanded?

Mr. CORCORAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

Mr. BAUMAN. Mr. Speaker, reserving a right to object to the ordering of a second, would the Chair entertain a call of the House at this point?

The SPEAKER pro tempore. The Chair would like to say to the gentleman from Maryland that the Chair would like to finish, unless the gentleman insists.

Mr. BAUMAN. Mr. Speaker, I move a call of the House.

The SPEAKER pro tempore. At this time the Chair declines to recognize the gentleman for that purpose.

Mr. BAUMAN. Mr. Speaker, I object to the ordering of the second, and on that I demand tellers.

Tellers were ordered, and the Speaker pro tempore appointed as tellers Mr. McCORMACK and Mr. BAUMAN.

PARLIAMENTARY INQUIRY

Mr. McCORMACK. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. McCORMACK. Mr. Speaker, will the Chair please explain for all Members present exactly what the present parliamentary situation is and on what the Members will be voting by tellers?

The SPEAKER pro tempore. The question is on the ordering of the second and a motion to suspend the rules.

The House divided, and the tellers reported that there were—yeas 14, nays 1.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 244, nays 0, answered "present" 1, not voting 187, as follows:

[Roll No. 540]

YEAS—244

Abdnor	Forsythe	Moore
Addabbo	Frenzel	Moorhead,
Akaka	Prost	Calif.
Alexander	Gilman	Moorhead, Pa.
Annunzio	Gingrich	Murphy, Pa.
Archer	Glickman	Murtha
Ashley	Gonzalez	Natcher
Badham	Goodling	Nichols
Bafalis	Gore	Nolan
Bailey	Gradison	Oaker
Barnard	Gramm	Ottinger
Bauman	Grassley	Pashayan
Beard, R.I.	Grisham	Pepper
Beard, Tenn.	Guarini	Perkins
Bedell	Gudger	Petri
Be'enson	Guyser	Pickle
Benjamin	Hage'torn	Porter
Bennett	Hamilton	Preyer
Bevill	Hammer-	Price
Bingham	schmidt	Quillen
Blanchard	Hance	Rahall
Boggs	Hansen	Rallsback
Bolling	Harris	Ratchford
Bonior	Hawkins	Regula
Brinkley	Hillis	Reuss
Bro'thead	Hinson	Rhodes
Brooks	Hopkins	Ritter
Broomfield	Howard	Robinson
Broyhill	Hubbard	Rose
Buchanan	Hutchinson	Roth
Burgener	Hutto	Rousselot
Burlison	Hyde	Royer
Burton, Phillip	Ichord	Rudd
Carter	Jacobs	Sabo
Cavanaugh	Jeffords	Satterfield
Clausen	Jeffries	Schroeder
Clay	Jones, Tenn.	Schulze
Clinger	Kastenmeler	Sebellus
Coelho	Kazen	Seiberling
Coleman	Kelly	Sensenbrenner
Collins, Tex.	Kemp	Sharp
Conable	Kil'ee	Shumway
Conte	Kindness	Skelton
Conyers	Kogovsek	Smith, Nebr.
Corcoran	Kramer	Snowe
Coughlin	Laomarsino	Solomon
Courter	Latta	Spellman
Crane, Daniel	Leach, Iowa	Spence
Crane, Phillip	Leath, Tex.	St Germain
D'Amours	Lee	Stack
Daniel, Dan	Lehman	Stangeland
Danielson	Le'and	Stanton
Dannemeyer	Lewis	Steed
Daschle	Livingston	Stenoh'm
Davis, Mich.	Lloyd	Stewart
Deckard	Loeffler	Stockman
Derrick	Lott	Stokes
Derwinski	Lowry	Stratton
Devine	Luken	Studds
Dickinson	Lundine	Stump
Dicks	Lyn'ren	Swift
Dineell	McCormack	Symms
Downey	McDonald	Synar
Duncan, Tenn.	McHugh	Taylor
Edgar	Madigan	Thompson
Edwards, Ala.	Markey	Trible
Edwards, Calif.	Mariott	Udall
Edwards, Okla.	Martin	Ullman
Erdahl	Matsui	Van Deerlin
Ertel	Mazzoli	Vento
Evans, Del.	M'ca	Volkmer
Fascell	Michel	Walker
Fazio	Miller, Calif.	Wampler
Fenwick	Miller, Ohio	Weaver
Fisher	Mineta	White
Fithian	Mitchel', Md.	Whitehurst
Filippo	Mitchell, N.Y.	Whitley
Florio	Moffett	Whittaker
Foley	Mol'ohan	Whitten
Ford, Tenn.	Montgomery	Wilson, Tex.

Winn
Wylie

Yates
Young, Alaska
Young, Fla.
Zablocki

ANSWERED "PRESENT"—1

Horton

NOT VOTING—187

Albosta	Ford, Mich.	Myers, Ind.
Ambro	Fountain	Myers, Pa.
Anderson, N.C.	Fowler	Neal
Anderson, Ill.	Fuqua	Nedzi
Andrews, N.C.	Garcia	Nelson
Andrews, N.Dak.	Gaydos	Nowak
Anthony	Gephardt	O'Brien
Applegate	Gialmo	Oberstar
Ashbrook	Gibbons	Obey
Aspin	Ginn	Panetta
Atkinson	Goldwater	Patten
AuCoin	Gray	Patterson
Baldus	Green	Paul
Barnes	Hall, Ohio	Pease
Bereuter	Hall, Tex.	Peyser
Bethune	Hanley	Pritchard
Biaggi	Harkin	Pursell
Boland	Harsha	Quayle
Boner	Heckler	Rangel
Bonker	Hefner	Richmond
Bouquard	Hefel	Rinaldo
Bowen	Hightower	Roberts
Brademas	Holland	Rodino
Breaux	Hollenbeck	Roe
Brown, Calif.	Holt	Rosenthal
Brown, Ohio	Holtzman	Rostenkowski
Burton, John	Huckaby	Roybal
Butler	Hughes	Russo
Byron	Ireland	Santini
Campbell	Jenkins	Sawyer
Carney	Jenrette	Scheuer
Carr	Johnson, Calif.	Shannon
Chappell	Johnson, Colo.	Snelby
Cheney	Jones, N.C.	Shuster
Chisholm	Jones, Okla.	Simon
Cleveland	Kostmayer	Smith, Iowa
Collins, Ill.	LaFalce	Snyder
Corman	Leach, La.	Solarz
Cotter	Lederer	Staggers
Daniel, R. W.	Lent	Stark
Davis, S.C.	Levitas	Tauke
de la Garza	Long, La.	Tauzin
Dellums	Long, Md.	Thomas
Dixon	Lujan	Travler
Dodd	McClory	Vander Jagt
Donnelly	McCloskey	Vanik
Dornan	McDade	Walgren
Dougherty	McEwen	Watkins
Drinan	McKay	Waxman
Duncan, Oreg.	McKinney	Weiss
Early	Maguire	Williams, Mont.
Eckhardt	Marks	Williams, Ohio
Emery	Marlenee	Wilson, Bob
English	Mathis	Wilson, C. H.
Erlenborn	Mattox	Wirth
Evans, Ga.	Mavroules	Wolf
Evans, Ind.	Mikulski	Wolpe
Fary	Minish	Wright
Ferraro	Moakley	Wyatt
Findley	Mottl	Wylder
Fish	Murphy, Ill.	Yatron
	Murphy, N.Y.	Young, Mo.
	Musto	Zerfretti

□ 1250

So a second was ordered.

The result of the vote was announced as above recorded.

□ 1300

The SPEAKER pro tempore. The gentleman from Washington (Mr. McCORMACK) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. CORCORAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington (Mr. McCORMACK).

Mr. McCORMACK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6865 authorizes the Department of Energy to conduct a research, development, and demonstration program on the process for glassification, vitrification, or solidification of high level radioactive wastes, a step that is necessary prior to the ultimate disposal of these materials.

Under the program, the Department will take the liquid waste presently stored in tanks at the Western New York

Nuclear Service Center in West Valley, N.Y., and convert it into a solid, insoluble substance to make it totally safe for transportation and final disposal. In conducting this program, the DOE will develop essential data, experience, and materials for the later demonstration of techniques for permanently disposing of nuclear wastes. In this regard, it is my hope that further legislation dealing with all of the steps in the high level waste disposal process will be brought before this body before the end of this session.

Before describing this bill further, I congratulate and commend the gentleman from New York (Mr. LUNDINE), a member of the Committee on Science and Technology, for his tireless efforts in drafting this legislation, in working with the committees and subcommittees of jurisdiction and providing a vital link between his constituents and the State of New York and the Congress. He has done an outstanding job in addressing this complex issue surrounding this subject.

I also congratulate the chairman of the Committee on Science and Technology (Mr. FUQUA), the other members of the Committee on Science and Technology, and especially the Subcommittee on Energy Research and Production, the ranking minority member, the gentleman from New York (Mr. WYDLER), who worked hard to bring this legislation before the House, and of course, the chairman of the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce which had joint jurisdiction on this bill, the gentleman from Michigan (Mr. DINGELL), who also worked diligently in adding his perspective and that of his subcommittee to this bill.

Although the major benefit from the project authorized in this bill will accrue to the Federal Government and the people of this country through the advancement of the understanding of the technology for disposing of high level wastes, the bill recognizes that the State of New York also benefits from the conduct of this project and that the State of New York will assume total liability for the plant and for the entire facility as of January 1981. For this reason, the bill also requires that the cost of the project shall be shared by the Federal Government and the State of New York. I believe this is an equitable arrangement.

Among other things, the bill directs the Secretary of Energy to file reports with the Nuclear Regulatory Commission and keep it informed regarding the project. Since the demonstration facilities will be constructed on the site currently licensed by the Nuclear Regulatory Commission, the bill also provides that the NRC may prescribe requirements for decontamination and decommissioning of the demonstration facilities and may require certain safety reports from the Department of Energy. These requirements were specified so the project does not compromise further licensing related decisions by the Nuclear Regulatory Commission.

H.R. 6865, however, does not change the fundamental nonregulatory relationship that would otherwise obtain between

these two Government agencies and the conduct of research, development, and demonstration in nuclear energy. The bill directs the DOE to proceed with this project and DOE is not subject to NRC control or licensing, except for the two very limited instances noted above, that is, that the NRC may prescribe requirements for decontamination and decommissioning and may require certain safety reports. Other than these two instances, the NRC is in purely an advisory situation. It is anticipated that NRC might need to amend its license on West Valley to take cognizance of the DOE involvement at the site, but that this would be purely an administrative technicality that would not affect the project. These very limited regulatory provisions should not be interpreted as a precedent for direct NRC responsibility of research, development, and demonstration activities by the Secretary. I understand the gentleman from Michigan, whose subcommittee suggested this careful cooperative approach, concurs with this interpretation.

The bill also provides for public hearings or meetings to advise the communities surrounding the project of the Department's plans for carrying out the project. I believe the local communities should be kept well informed of the Government's activities in West Valley.

The total project cost is estimated to be about \$300 million, of which the Federal Government would be paying 90 percent. The total cost may be much less, however, depending upon the choice of technologies. This will be decided in the future.

This bill authorizes an appropriation of \$5 million for the fiscal year 1981, and this is the amount requested by the administration and approved by the Committee on Science and Technology in its fiscal year 1981 Department of Energy authorization bill. The appropriation of this amount has already passed the House.

I believe this legislation is a necessary step in the Government's program of research, development, and demonstration of the technology for disposing of high-level radioactive wastes, and I urge all of the Members to support it.

Before I yield time I want to show the Members a sample of what radioactive wastes will look like when they are converted to glass. I have in my hand here a small cube. It is four cubic inches and it is a cube of obsidian rock. This obsidian rock was naturally formed by volcanic action in the State of Oregon. As it happens, the nuclear wastes, when they are glassified, will have virtually the identical chemical composition. We have already glassified wastes, of course, in this and many other countries, and this particular piece of obsidian is between 15 and 20 million years old. This is what the liquid wastes will look like when they solidify in the canister a few hours after they are poured, and that is what they will look like 15 million years later in deep geological storage. Of course, the radioactivity will long since have died out. The glassified wastes will decay to a level of toxicity equal to the uranium ore from which it came, in about 500 years.

This is the program we are undertaking, then, to convert the liquid wastes to solids for permanent geologic disposal.

Mr. Speaker, I now yield such time as he may consume to the gentleman from New York (Mr. LUNDINE) who is the key person in writing this bill and bringing it to us at this time.

Mr. LUNDINE. Mr. Speaker, first I would like to thank the chairman of the Committee on Science and Technology, the gentleman from Florida (Mr. FUQUA), for his outstanding cooperation. Likewise, I would like to thank the subcommittee chairman, the gentleman from Washington (Mr. McCORMACK) as well as the gentleman from Michigan (Mr. DINGELL), in addition to the chairman of the Interstate and Foreign Commerce Committee, the gentleman from West Virginia (Mr. STAGGERS), and the chairman of the Interior and Insular Affairs Committee also having jurisdiction over this matter, the gentleman from Arizona (Mr. UDALL). I would like to express my thanks for their outstanding cooperation and I especially want to thank my colleague from New York (Mr. WYDLER) who could not be here today, and the gentleman from Ohio (Mr. BROWN), ranking member on the Energy and Power Subcommittee, for their worthwhile work on this project.

Other colleagues of mine from New York, including Mr. OTTINGER, who serves on both committees, have been very important in moving this legislation to where the House can now consider it.

Mr. Speaker, I rise in support of H.R. 6865, legislation authorizing the Department of Energy to undertake a high level nuclear waste solidification demonstration project at the Western New York Nuclear Service Center in West Valley, N.Y. This legislation is important, not only for the tiny West Valley community which I represent in Congress, but also for this country as a whole as we try to move forward to coordinate and implement an effective national program to safely manage and dispose of our nuclear wastes.

This technological demonstration project has received careful and extensive consideration over the past 2 years and today benefits from broad-based support. This project has already been approved by the House once as part of the fiscal year 1980 Department of Energy authorization bill. Unfortunately, the Senate chose not to act on this bill, making necessary the further legislative action we are taking today by considering H.R. 6865. A similar bill, S. 2443, was approved by the Senate in June. The House has also approved a \$5 million appropriation to accompany this authorization as part of the energy and water appropriations bill.

I appreciate the cooperation and support of members of the Science and Technology, Interior, and Commerce Committees, particularly their ranking majority and minority members, in steering this bill to the floor for your consideration today. The bill has benefited from the dialog and contributions from all of these committees with shared jurisdiction over this matter. In addition, I am pleased we have arrived at mutually acceptable provisions to the

administration and nuclear and environmental communities.

West Valley is the site of the only commercial nuclear reprocessing operation ever in the history of the United States. The reprocessing center was encouraged by the Atomic Energy Commission as an important step to help close the back end of the nuclear fuel cycle. The center began operations in 1966 and was closed in 1972 when upgraded seismic requirements from the Nuclear Regulatory Commission made it uneconomic to continue operations. The operation would not have been possible had not the Federal Government concluded a "baseload agreement" to provide the major portion, nearly 70 percent, of the fuel for reprocessing.

The West Valley site is licensed by the Nuclear Regulatory Commission with New York State and Nuclear Fuel Services, Inc. acting as colicensees of the site. The site is owned by New York State but Nuclear Fuel Services operates the site under a contractual arrangement which permits them to transfer ultimate responsibility for the disposition of the nuclear waste on the site to the State of New York. Nuclear Fuel Services, Inc. has indicated they intend to take action to do so on December 31, 1980.

Located on the site from reprocessing operations are about 580,000 gallons of high-level liquid nuclear waste stored in two carbon tanks, a nuclear fuel reprocessing plant being maintained in a shutdown condition, a spent fuel pool with a capacity of 250 metric tons which is approximately two-thirds full at the present time, and two shut-down solid nuclear waste burial grounds; one licensed by the NRC and the other by the State of New York.

The project authorized by the bill would solidify the 580,000 gallons of high-level liquid waste at the site. This undertaking has important value as a cost-effective demonstration of our ability to safely and successfully implement a program to manage high-level liquid nuclear wastes. Solidification of high-level liquid nuclear waste of the type at West Valley has never been demonstrated anywhere in the United States on a significant scale. The project authorized by this bill would require the first integrated production scale operation for high-level liquid nuclear waste solidification. The facilities and hardware already at the center, which will be contributed as part of the New York State share of this project and utilized by the Federal Government, will make this a cost-effective undertaking that otherwise would require a large infusion of taxpayer dollars to provide similar facilities and hardware at any other site elsewhere around the country.

As I previously described, there are also two solid waste burial grounds and a partially filled spent fuel pool at the West Valley site. The provisions of H.R. 6865 do not extend to these aspects of the West Valley site, but rather permit the future disposition of these facilities to be determined separately. In other words, H.R. 6865 does not authorize or otherwise provide for the establishment of an "away from reactor" interim storage facility for spent nuclear fuel or re-

opening of the low-level waste nuclear burial ground at the site.

H.R. 6865 limits the Federal liability in regard to the entire site to the conduct of the project specifically defined in the bill. The bill prohibits the transfer of ownership of the site to the Federal Government, thereby leaving long-term responsibility for the entire site with the State of New York. H.R. 6865 furthermore does not authorize the transfer of title to the high-level liquid nuclear waste to be used in the project, but would not prohibit taking of title to these wastes under some other or future provision of law.

Furthermore, the bill provides for a cost-sharing arrangement between the Federal Government and State of New York whereby the Federal Government would contribute 90 percent of the costs of the solidification project and the State of New York 10 percent. This provision was included in recognition of the fact that as owner of the West Valley site and wastes, the State of New York will benefit from the elimination of a potential public health and safety hazard that may develop if these wastes are not solidified and disposed of in a proper and timely fashion.

H.R. 6865 also protects the rights and authority of the State of New York and Nuclear Fuel Services for pursuing any action to recover any costs from each other or any other appropriate person for past actions at the site. In summary, the cost-sharing arrangement, benefits, responsibilities, and liabilities are fairly proportioned under the provisions of H.R. 6865.

As the representative in this legislative body of the people of West Valley, I am naturally concerned that this project go forward with the utmost regard for the health and safety of those living in the vicinity of the project and those who will be employed during the course of the project. I am convinced, and there is consensus surrounding this matter, that the provisions of H.R. 6865 will provide the necessary safeguards to protect public health and safety.

Although H.R. 6865 clearly does not intend this project to be licensed by the Nuclear Regulatory Commission, it addresses in detail a meaningful consultative role for the NRC which will insure public involvement in decisions surrounding implementation of the project. The Department of Energy is required to hold public hearings to inform the public of activities to be undertaken under the project and to solicit their comments. The plan for solidification of the high level wastes at the West Valley site must be submitted to the NRC for review and comment. If there are any objections to the DOE plan, the NRC must publish them in the Federal Register for public comment. The DOE is then required to address the Commission's concerns and explain in the Federal Register the actions they intend to take as a result. The Department of Energy is further required to make available to the NRC all safety analyses and other information relating to matters of public health and safety. Finally, the bill provides that once the project is complete, the facilities and hardware

used in connection with the project will be decontaminated to a level prescribed by the NRC.

In summary, H.R. 6865 is a carefully drawn bill which has the support of the administration, three congressional committees who have carefully considered its benefits to this country, the colicensees of the West Valley site—New York State and Nuclear Fuel Services, and the West Valley community. This demonstration project will move this country an important step forward toward the evolution of an acceptable way to handle and dispose of our high-level nuclear wastes. The problem of what to do with our nuclear wastes has been ignored by the Congress too long. We cannot afford to procrastinate any longer. I urge your support for this bill before you today as a meaningful step in the right direction.

□ 1310

Mr. Speaker, at this point I would like to yield to my colleague from New York (Mr. KEMP). West Valley is just about in between the district of Mr. KEMP and myself.

Mr. KEMP. Mr. Speaker, I would like to thank my colleague from Washington (Mr. McCORMACK) and my colleague from western New York (Mr. LUNDINE) for their work in helping bring the West Valley Demonstration Act before the Congress today. The West Valley nuclear fuel reprocessing site, which is in Mr. LUNDINE's district contiguous to my own, poses serious health and safety problems to the residents of western New York and Erie County. I have been working for many years to help achieve a cleanup of this inactive waste depository, and the bill before us today is the result of this long-term effort.

The history of the problems at West Valley is a classic example of shortsighted planning by the Federal Government. In 1957 the Federal Government encouraged New York State to establish a commercial nuclear waste reprocessing site within its borders, which New York eventually did. In 1961, New York State purchased the land where the West Valley site stands; and in 1963 a lease and waste storage agreement was negotiated between Nuclear Fuel Services and the State of New York. Base-load supplies were worked out, so that the plant would be economically viable, and the State and Federal regulations and environmental requirements were spelled out.

In 1970, after the plant had been constructed and had already processed 600 tons of fuel, 75 percent of which was from a Federal Government source, the Federal Atomic Energy Commission changed the rules of the game. New rules required wastes to be solidified and shipped to a Federal waste disposal area, rather than retaining the wastes in a liquid form, as had been contemplated in the construction of the NFS Center. That change in policy—which would have cost Nuclear Fuel Services over \$600 million—made further commercial reprocessing uneconomical, and the plant closed.

But the people of western New York were left with a plant site holding 600,000 gallons of liquid waste—with no way of removing it, since the parent company

had folded. This was a frightening situation.

The bill now before us establishes a Federal demonstration project to solidify the high-level nuclear wastes at the West Valley center and move the wastes to a Federal repository for long-term burial. The site is then to be decommissioned and decontaminated, and a plan for the safe removal of the wastes must be prepared. The bill authorizes \$5 million for fiscal year 1980 for the project. I have long opposed letting this site be a permanent one and I'm glad to see this reflected in the bill.

Mr. McCORMACK. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. DINGELL), chairman of the Subcommittee on Energy and Power.

Mr. DINGELL. Mr. Speaker, I rise in support of H.R. 6865, as amended. I particularly commend the author of the bill, Mr. LUNDINE; the chairman of the Science Committee, Mr. FUQUA; my distinguished friend and colleague from Washington (Mr. McCORMACK); my colleagues on both sides of the aisle and on both committees which have considered this matter—the Committee on Interstate and Foreign Commerce, and also the Committee on Science and Technology. I do also commend my good friend, Mr. UDALL, chairman of the Committee on Interior and Insular Affairs, for the very helpful fashion in which he has cooperated on this matter; and also my good friend from New York, (Mr. OTTINGER), who has worked very hard to bring this matter about.

Mr. Speaker, I rise in support of the amendment to H.R. 6865.

This amendment represents the results of the effort by all parties involved to resolve differences in the bill as reported by the Committee on Science and Technology and the Committee on Interior and Insular Affairs. As the amendment is merely a modification of the bill as reported by the Commerce Committee, and as it respects the interest of all the parties involved, I urge my colleagues to support.

H.R. 6865 was jointly referred to the Committees on Science and Technology, Interior and Insular Affairs, and Interstate and Foreign Commerce. What is before the House today is not simply the results of a combined effort of these committees, but also another demonstration of the fact that these committees can work together on matters which affect the interests of each committee. It should be noted that this legislation was introduced last March, and despite the heavy schedule of each committee, we have been able to consider it and reach a compromise in a relatively short period of time, demonstrating that the committees can not only work together, but can do so expeditiously.

The amendment before the House today is the result of combined efforts of many, and some are deserving of particular note. Much of the credit belongs to the distinguished gentleman from Florida (Mr. FUQUA), who, as chairman of the Committee on Science and Technology, was most instrumental in negotiating this compromise as was his colleague on that committee, the gentle-

man from Washington (Mr. McCORMACK), who chairs the Subcommittee on Energy Research and Production, which first reported this bill. Additionally, the distinguished chairman of the Committee on Interstate and Foreign Commerce (Mr. STAGGERS) deserves recognition for his leadership in shepherding this bill through that committee, as does the gentleman from Arizona (Mr. UDALL), for his efforts in regard to this legislation in the Committee on Interior and Insular Affairs.

There are three others who deserve special recognition. First, the sponsor of this legislation, the gentleman from New York (Mr. LUNDINE), was untiring in his efforts on behalf of this bill. Additionally, another gentleman from New York (Mr. OTTINGER), with whom I have the privilege of serving on the Committee on Interstate and Foreign Commerce, worked diligently on behalf of the bill in that committee and was most instrumental in negotiating the compromise which is before the House today. Finally, my colleague from Ohio (Mr. BROWN), who serves as the ranking minority member on the Subcommittee on Energy and Power, was an active and helpful participant in developing the Commerce bill and without whose help we would not be at the point we are today.

Mr. Speaker, the amendment before the House today is essentially the version of the bill which was reported by the Committee on Interstate and Foreign Commerce, with just some slight modifications, and therefore reflects the actions taken by the committee and the assumption upon which such actions were based. Although the sponsor of this legislation was initially concerned about the virtual total revision of the bill which occurred during the course of our committee's considerations, I believe he will agree that the result represents a substantial improvement from the bill as introduced, and that, as a consequence, the program is more defined and that the interest of not only the Federal Government but also the State of New York are better served by the Commerce bill. A full explanation of the revised bill can be found in the Commerce Committee's report on H.R. 6865. Moreover, I pledge to work actively in resolving any differences which may exist with the Senate regarding this bill so that it may soon be signed into law.

There are certain points which should be emphasized in regard to the amendment which is presently under consideration. The legislation directs the Secretary of Energy to establish a program to solidify the high-level liquid radioactive waste which exists at the Western New York Nuclear Fuels Service Center near West Valley, N.Y. Only the wastes presently at the site are to be solidified, and nothing in this bill authorizes the Secretary to accept title to either the high-level radioactive waste in a solid or liquid form or to the center or any portion thereof.

Under the bill, the Secretary is directed to enter into a cooperative agreement with the State of New York regarding certain aspects of the program. However, this is essentially a Federal program, and nothing in this cooperative

agreement is to in any way limit the Secretary's authority to make the final decision regarding the establishment or implementation of the program, and the fact that the State is contributing a small portion of the cost is not to be interpreted as giving the State any role in the management of the program.

The Western New York Nuclear Service Center is a licensed facility which is under the jurisdiction of the Nuclear Regulatory Commission, and the existing license presently does not authorize the establishment of a high-level liquid waste solidification project. Consequently, before the project can begin, it will be necessary to obtain a license amendment from the Commission. The Commission will then have to determine the appropriate procedures for considering this application, and nothing in this act affects the statutory authority to regulate the activities on a license site or to consider the issuance of such an amendment subject to such terms or conditions which the Commission deems consistent with its existing statutory authorities.

The bill also directs the Secretary to negotiate an agreement with the Nuclear Regulatory Commission to establish a mechanism, independent of any existing statutory authority, for cooperation between the Department of Energy and the Nuclear Regulatory Commission in regard to all aspects of the project. Such an amendment should be designed to facilitate the relationship between these two Government units and diminish the potential for any subsequent disputes.

The project authorized by this legislation will afford the Department of Energy the opportunity to undertake a full-scale waste solidification program. As a result, the project has substantial demonstration value, which is the basis for joint referral of this bill to the Committee on Science and Technology. However, there is a substantial remedial action aspect to the program in that the continued storage of high-level radioactive waste in a liquid form is an unacceptable situation which poses a long-term danger to the public health and safety. The remedial action aspects of this program constitute the basis for the referral of this legislation to the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce. The Committee on Interstate and Foreign Commerce's action was the result of its concern about the public health and safety issues, and it is for that reason it believes action is required now.

Although viewed as a remedial action program, the situation at West Valley is unique because of the demonstration aspects of the program. Furthermore, the past extensive Federal involvement in the development and operation of the reprocessing activities at the site distinguish this program from a typical remedial action program. Over 70 percent of the spent fuel reprocessed on the site was under contract with the Atomic Energy Commission, and most of these were for the military as opposed to the commercial programs. The remainder of the spent fuel was supplied by the utilities, but the Atomic Energy Commission was committed to reprocessing it and utilize the West Valley facility for discharging its commitment to these utilities. Be-

cause of the past Federal involvement and because of the demonstration aspects of this project, the Federal contribution is greater than it would normally be under a typical remedial action program, and thus, West Valley should not be a precedent for determining Federal contribution to future remedial action programs regarding the disposal of radioactive waste or any other toxic or hazardous waste.

Finally, nothing in this legislation requires any reciprocal action on the part of the State of New York regarding the use of any other portion of the site. This program represents the totality of the Federal commitment to the site, and it is expected that in the future the State of New York will look to its own resources regarding any action required at the site needed to protect the public health and safety. However, it must be noted that the West Valley site has the potential for use as a low-level waste burial ground and as a spent-fuel storage facility. There is presently a critical shortage of low-level waste disposal sites, and the lack of such a facility in the Northeast, which is the largest generator of such waste, cannot be ignored. The enactment of this legislation should, therefore, provide a substantial incentive to the State of New York to consider the potential use of this site for meeting regional needs. We can furthermore expect that all the low-level and transuranic contaminated waste generated in the course of this project will be disposed of at the site.

I note that in his floor statement on this bill, the floor manager from the Committee on Science and Technology noted that my understanding was that this would not be licensed activity. While I agree that this program would not set a precedent for future programs, it must be recognized that this is a licensed facility and an amendment to license is necessary, and nothing in this bill affects the regulatory authority of the NRC.

Mr. Speaker, in conclusion, I believe this is a good bill and one which should pass. At this time, Mr. Speaker, I yield to my good friend and colleague, the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I would like to ask the chairman of the Subcommittee on Energy and Power a question concerning the fact that the compromise does not contain the provision which was included in the bill reported by the Interstate and Foreign Commerce Committee relating to the authority of the Nuclear Regulatory Commission to terminate any action of the Secretary in regard to this program. It is my understanding that because the Western New York Nuclear Service Center is a licensed facility and because the activities would require an amendment to the existing license the amendment was unnecessary. Is that the gentleman's understanding?

Mr. DINGELL. That is my understanding and a license amendment would be required and that this makes the West Valley situation unique from any generic legislation dealing with nuclear waste issues.

Mr. OTTINGER. I further understand that an amendment was adopted by the Interstate and Foreign Commerce Committee that would authorize the Nuclear Regulatory Commission to terminate any action of the Secretary regarding the management of nuclear waste which poses a danger to the public health and safety. I assume this provision is appropriate and consistent with the action we are taking.

Mr. DINGELL. Such an amendment would be appropriate in the context of subsequent legislation and is not included in the pending legislation only because the West Valley facility is already licensed by the NRC.

Mr. OTTINGER. Mr. Speaker, if the gentleman will yield further, I want to thank the gentleman very warmly for that clarification. My main concern in this legislation is to assure that the NRC retain its prime responsibility for protecting the public health and safety in nuclear matters. I think that this has been resolved satisfactorily in this situation for the reasons that the chairman has stated. I thank him.

Mr. DINGELL. I thank the gentleman, and I thank the distinguished gentleman from Washington State (Mr. McCORMACK) for his kindness.

Mr. CORCORAN. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, at this point I would like to yield to my friend and colleague, the gentleman from California (Mr. CLAUSEN), the ranking minority member of the Interior Committee.

Mr. CLAUSEN. Mr. Speaker, I rise in support of H.R. 6865. Our committee held hearings on West Valley last year.

I congratulate the chairmen of the Science and Technology, Interior and Commerce Committees for having arrived at such a constructive and beneficial bill.

There is little question that a solution to the problem of high-level nuclear wastes must be found before we can move to greater utilization of the nuclear option. It was determined almost 10 years ago by the Atomic Energy Commission that commercial high-level radioactive wastes should be solidified as the first step in controlling the potential hazardous effects of high-level wastes.

Nevertheless, commercial high-level wastes have not yet been solidified in the United States on other than a laboratory scale. Solidification of the high-level wastes at West Valley can provide valuable technical information on large-scale solidification, as well as provide the public with the assurance that this country can effectively solve problems that were created before the decision to solidify all high-level wastes.

In addition, the Federal Government has the responsibility to resolve the high-level liquid waste problems at West Valley. It endorsed and encouraged commercial reprocessing of nuclear fuel and then decided that reprocessing was not in the national interest. I believe reprocessing of nuclear fuel is in the national interest and the enactment of this bill can serve notice that this Nation can solve any problem relating to the generation of high-level wastes during reprocessing.

□ 1320

Mr. CORCORAN. Mr. Speaker, the legislation before us, I think, has been adequately and accurately discussed by the Members who have preceded me this afternoon. I am not going to take the time of the House in order to run over the same ground that we have already discussed, but I would like to touch on two aspects of the problem that gave rise to our legislation that is pending in the House this afternoon.

First of all, I think there is a growing concern on the part of not only the people who live in the West Valley area but around the country, about the public health and safety aspects of the high level liquid waste which is in the tanks at the West Valley Center today. I believe that the committees that have been involved in this legislation have determined, correctly, that we have a Federal responsibility to be of some assistance in providing for a solution to that present exposure that exists at the site.

Second, I think there is also a Federal responsibility here with respect to the value the Federal Government and the country as a whole can derive from having a demonstration project like this, because what we intend to do, as my colleagues have already described in detail, is to provide for a demonstration program to solidify the high-level radioactive waste which obtains at the moment at the West Valley site.

One of the other aspects of the legislation in which I was particularly interested in the committee consideration of the measure was the degree to which there would be consultations between the Department of Energy and the Nuclear Regulatory Commission.

It seems to me one of the benefits we can derive from this is knowledge as to whether or not this solidification process, whether it is a vitrification process, whether it is a vitrification form or whatever form it might take, is of some use in our long-term disposal and management of the high level of radioactive waste which has been developed throughout commercial nuclear powerplants. I think that particular concern has been met because time and time again in the legislation before us, there is requirement for consultation and review between the Nuclear Regulatory Commission and the Department of Energy, so on that basis I am happy to support this legislation.

I want to congratulate, as others have done, the original sponsor, our friend from New York (Mr. LUNDINE) and I would urge my colleagues to support this measure.

Mr. Speaker, at this time I would like to yield 3 minutes to the gentleman from California (Mr. ROYER).

Mr. ROYER. Mr. Speaker, I should point out from our Science and Technology Committee view the role of the NRC in this project does not prejudice this role in nuclear waste R. & D. recovery in this matter. There are two aspects of this important nuclear legislation which I would like to stress.

First, this bill authorizes a technology demonstration project for the solidification of high-level nuclear waste. Such a project is necessary to instill public confidence in the fact that the technology

for nuclear waste disposal is indeed at hand simply waiting for demonstration. The waste at West Valley is a result of both military activities and civilian reprocessing.

The sad thing is that the present administration has indefinitely deferred such reprocessing on the basis of its fear about weapons proliferation. Our committee has taken a strong position that spent nuclear fuel cannot be considered as "waste" because of the precious uranium and plutonium contained in it.

I hope that within a decade this country will be reprocessing such spent fuel and using the recycled plutonium and uranium in burner and breeder reactors.

The second important point I want to make about this bill is the fact that it delineates State responsibility for the nuclear fuel cycle. The State of New York is not sharing as much of the cost of this project as some of us might wish, but at the same time it must make a significant contribution to carrying out the demonstration project.

This is consistent with the fact that there is State responsibility for handling nuclear waste just as there are State benefits in electrical generation from the use of nuclear fuel. The State sought this facility and has operated and will build more nuclear powerplants and as a result no matter what the Governor's protestations may be, it will continue to receive the benefits of nuclear power. I urge my colleagues to support the legislation, which although not an ideal solution, represents a consensus among three major standing committees of the Congress.

Mr. CORCORAN. Mr. Speaker, I would like to add just one comment to what the gentleman from California mentioned with respect to the unique character of the involvement of the Nuclear Regulatory Commission with respect to decommissioning and decontamination.

We do have a unique circumstance here and that is that this is a licensed facility. With respect to other research and development projects, I do not think we have established any precedent whatsoever.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Mr. Speaker, I rise in support of H.R. 6865. I am pleased to see this action toward the goal that the high-level liquid waste problems at West Valley be resolved.

In the last Congress the Government Operations Committee's Subcommittee on Environmental Energy and Natural Resources held hearings in 1977 concerning the status of the West Valley site. It was apparent to me at that time that the Federal Government had the major share of responsibility for dealing with the high-level wastes at that site. The Federal Government encouraged the commencement of reprocessing at West Valley in order to commercialize the nuclear industry and then chose to abandon reprocessing as part of the nuclear fuel cycle.

It is now 3 years later, and I am happy to see that this bill not only solves an important local problem by recognizing the Federal Government's responsibility but, more importantly, provides for construc-

tive action which will benefit this Nation's nuclear program. Nuclear wastes are a national problem and this bill will launch an important element of DOE's overall program to solidify high-level wastes.

I think it is desirable and appropriate that we enact this bill now and urge a "yes" vote.

Mr. CORCORAN. Mr. Speaker, I yield 4 minutes to the gentleman from Utah (Mr. MARRIOTT).

Mr. MARRIOTT. Mr. Speaker, I rise in support of H.R. 6865. Our committee held hearings on West Valley last year.

I congratulate the chairmen of the Science and Technology, Interior and Commerce Committees for having arrived at such a constructive and beneficial bill.

There is little question that a solution to the problem of high-level nuclear wastes must be found before we can move to greater utilization of the nuclear option. It was determined almost 10 years ago by the Atomic Energy Commission that commercial high-level radioactive wastes should be solidified as the first step in controlling the potential hazardous effects of high-level wastes. Nevertheless, commercial high-level wastes have not yet been solidified in the United States on other than a laboratory scale. Solidification of the high-level wastes at West Valley can provide valuable technical information on large scale solidification, as well as provide the public with the assurance that this country can effectively solve problems that were created before the decision to solidify all high-level wastes. In addition, the Federal Government has the responsibility to resolve the high-level liquid waste problems at West Valley. It endorsed and encouraged commercial reprocessing of nuclear fuel and then decided that reprocessing was not in the national interest. I believe reprocessing of nuclear fuel is in the national interest and the enactment of this bill can serve notice that this Nation can solve any problem relating to the generation of high-level wastes during reprocessing.

□ 1330

Mr. CORCORAN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. RITTER).

Mr. RITTER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of H.R. 6865, to authorize the demonstration of the solidification of high level nuclear waste at West Valley.

I think this is a landmark demonstration program because it will show to the people of this country that we can effectively deal with the problem of nuclear waste. As the gentleman from Utah (Mr. MARRIOTT) said, it also indirectly endorses the fact that reprocessing can and perhaps should be part and parcel of the nuclear fuel-to-waste cycle. The American people have waited a long time for the political leadership to begin to deal effectively with the nuclear waste problem, and this is a very good step in that direction.

Mr. Speaker, I yield back the balance of my time.

Mr. CORCORAN. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I want to express my thanks to the gentleman from Illinois (Mr. CORCORAN) for yielding to me; time on my side has virtually run out.

Mr. Speaker, I want to make it clear that I have consistently supported this legislation and support it strongly, reports in some of the Buffalo papers notwithstanding. I supported the bill in the Energy Research and Production Subcommittee chaired by the gentleman from Washington (Mr. McCORMACK). I supported it in the Science and Technology Committee. I helped to get it out of our Subcommittee on Energy and Power and the full Committee on Interstate and Foreign Commerce. I was pleased to have that acknowledgment from the principal author of the legislation, the gentleman from New York (Mr. LUNDINE), who has done yeoman-like work in getting this legislation through. I wish to commend the chairman of the Subcommittee on Energy and Power, the gentleman from Michigan (Mr. DINGELL), who made substantial improvements to the bill.

I think this legislation represents a good compromise. I would like to emphasize that I think it is essential that this problem be disposed of because the waste at West Valley at the present time does present a substantial danger to the public. It is high-level toxic waste, most of it defense waste from our nuclear weapons program. The waste presently exists in tanks, and the security of those tanks is in doubt since some evidence of leakage has already occurred.

It is important that we have this disposal project, and I think it is important to demonstrate to the country that the solidification process we are authorizing can present an answer to the nuclear waste problem for the Nation.

I would like to congratulate also the chairman of the Energy Research and Production Subcommittee, the gentleman from Washington (Mr. McCORMACK), for his work in providing for this demonstration through this legislation.

My principal concern with the legislation has been that the Nuclear Regulatory Commission maintain the jurisdiction we have given it over public health and safety. It is for that reason that I offered an amendment making the NRC's health and safety responsibilities clear in the legislation as it passed the Committee on Interstate and Foreign Commerce. I was persuaded to withdraw that amendment in the compromise that we have reached here because this is a licensed facility and under the license the NRC has the power to assert its authority over health and safety issues.

But the question will rise again with respect to the generic nuclear waste disposal legislation. We fought a tremendous battle here to dismantle the old Atomic Energy Commission which had responsibility for both nuclear promotion and safety and finally resolved it. Congress overwhelmingly, and with the support of most of those who advocate nuclear energy expansion, acted out of a sense that it was important that we separate the functions of promoters of nuclear energy, now residing in the Department of Energy, and protectors of the

public health and safety, now residing in the Nuclear Regulatory Commission. To eliminate NRC's responsibility for health and safety as affects demonstrations of waste disposal would be a great mistake, and I am glad to see it satisfactorily resolved in this legislation.

Mr. Speaker, I think the protections we need are adequately preserved in this legislation, and I want to thank all those concerned, including the gentleman from Illinois (Mr. CORCORAN), for their cooperation in promoting this legislation.

Mr. CORCORAN. Mr. Speaker, I reserve the balance of my time.

Mr. McCORMACK. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Speaker, I am not a scientist, I am not a member of the committee, and I guess I can only be described as a lay person.

The subcommittee chairman, the gentleman from Washington (Mr. McCORMACK), has shown me and shown all of us a cube of material which I believe is about an inch and a quarter on edge, and it feels like and has the heft of a piece of glass of about the same size.

I would ask the chairman of the subcommittee, what is this?

Mr. McCORMACK. Mr. Speaker, this is a piece of obsidian rock. It can be found in the ground, and it is volcanic in origin. It is identical chemically to the chemical makeup of solidified waste as it will be made.

The liquid waste from the tank will be mixed with glasseous ingredients, sand and limestone, in a melting furnace and poured as a liquid glass into steel canisters, thick-walled steel canisters about the size of a domestic water heater, and will solidify and be chemically identical to this sample. Then it will be welded shut for a 500-year period.

Mr. DANIELSON. Mr. Speaker, what I would like to know is this: Is there or will there be any liquid development after the solidification has taken place?

Mr. McCORMACK. No. This is a piece of glass. It is identical to rock. It is a piece of solid glass. It will be solidified. It will be solid after it is poured and will remain solid for all time.

Mr. DANIELSON. Is there any danger of its desolving and decomposing and regaining its liquid form?

Mr. McCORMACK. No, there is not. Of course, it is possible to leach glass with some chemicals, but we do not put the glass in the ground where chemicals could reach it. This is engineered by placing a barrier around it, like a thin sheet of titanium around it, so it will remain for at least a thousand years. So it could not be leached even if chemicals did reach it.

Mr. DANIELSON. What is the danger of its leaking and percolating through the ground?

Mr. McCORMACK. It is nonexistent.

Mr. Speaker, this is being done every day in France and in other countries. The French in particular are making waste every day from their nuclear fuel program.

The SPEAKER pro tempore. The time of the gentleman from California (Mr. DANIELSON) has expired.

Mr. McCORMACK. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I will conclude my remarks by simply saying that this is an important vehicle to carry out our high-level liquid nuclear waste management program. The technology does exist. It is developed, and is utilized in other parts of the world. There is no question that we can do it.

When we get to the point of converting our nuclear waste to glass, as we certainly will do, we will be totally removing those materials from the biosphere forever, and this bill is taking us down the first step in that direction.

● Mr. WYDLER. Mr. Speaker, I support this bill, the West Valley demonstration project, H.R. 6865. However, I wish to make clear its implications for the energy future for the State of New York and for the Nuclear Regulatory Commission's relation to research, development, and demonstration activity.

Nuclear energy has been important to the economy and well-being of the State of New York. Nuclear energy supplies 18 percent of the electricity for the State, and this will increase in the future. Nuclear is as necessary an energy source as coal, the only other realistic alternative for this century. In brief, New York has a significant stake in nuclear energy, with nuclear-electric use that is significantly greater than the national average. With any reasonable energy policy this use will increase, notwithstanding some current aberrations in energy planning by the State of New York.

The benefits of nuclear energy go hand in hand with responsibilities. Handling nuclear wastes is one of these responsibilities. New York has assumed this responsibility in the past when it sponsored the Western Nuclear Service Center to reprocess nuclear fuel. Although the plan no longer is in operation, the wastes remain. New York not only has a contractual responsibility for handling these wastes, but also a symbolic responsibility to do its part in continuing to fulfill the State's responsibilities flowing from the benefits of nuclear power. On the other hand, it is appropriate that the Federal Government shoulder most of the cost, since it will be the principal beneficiary from the demonstration.

As I have mentioned, the Department of Energy is turning the problem of existing wastes at West Valley into the advantage of generally demonstrating the removal and solidification of liquid high-level wastes on a meaningful scale. This is an appropriate intermediate state in the program evolution toward building expensive, full-scale facilities. Thus, this project at West Valley is truly research, development, and demonstration. It will provide the information needed as a licensing basis for full-size facilities. As such, under existing law, these demonstration facilities are not to be licensed. It is important to make this clear for this West Valley situation, because this location happens to include previously licensed facilities storage and operations. Therefore, this bill is intended to authorize an unlicensed

demonstration project, even though the site has been licensed.

The gentleman from New York (Mr. OTTINGER) has claimed that this bill does not prejudice any future legislation about the role of the Nuclear Regulatory Commission in nuclear waste undertakings. It is equally important to note that neither does this bill expand any potential Nuclear Regulatory Commission role in any type of nuclear research, development, and demonstration activities. We have a well established and reliably operating DOE tradition of development work such that is done in a way that provides full information to the Nuclear Regulatory Commission and fully considers Commission advice. I see no reason that these advantages of collaboration, short of licensing and approval, will not be followed for this project at West Valley. I emphasize that this bill does not diminish nor does it expand the carefully limited role of the Nuclear Regulatory Commission in the research, development, and demonstration carried out by the Department of Energy.

It is also important in this discussion of H.R. 6865 that we accurately identify who is responsible for health and safety in research, development, and demonstration. There is no question about who is responsible: It is the Department of Energy. The Nuclear Regulatory Commission clearly does not have that responsibility, despite the statements of the gentleman from New York (Mr. OTTINGER). The gentleman apparently engaged in a colloquy of wishful thinking, but the facts are otherwise. Moreover, the bill H.R. 6865 does not give the Nuclear Regulatory Commission that responsibility for the specific case of West Valley nor does the DOE contemplate any such role in generic waste management legislation. The original Atomic Energy Act assigned health and safety responsibilities to the Atomic Energy Commission, and the Energy Reorganization Act carried over this health and safety responsibility for research, development, and demonstration to the successor agency, the Department of Energy, although some other health and safety responsibilities were indeed assigned to the NRC. There is no need to change these responsibilities, and this bill causes no change.

Mr. Speaker, I support H.R. 6865, on the basis that the State of New York has a continuing responsibility for nuclear matters and the Nuclear Regulatory Commission has no final say in research, development and technology demonstration activity.●

● Mr. WEISS. Mr. Speaker, I am in strong support of H.R. 6865, the West Valley Demonstration Project Act, which authorizes the Department of Energy to solidify and dispose of highly radioactive wastes buried, and submerged in a cooling pool, at West Valley, N.Y. The project is an important step in improving disposal of nuclear wastes, and would provide valuable new research in the area. If successful, it would also remove what has become a concentration of lethal materials only 35 miles south of

the Buffalo metropolis and Lake Erie, drinking supply for 11 million people.

Part of a problem that is national in scope and import, the West Valley site requires that a Federal responsibility for its disposal be established. The only commercial plant for reprocessing nuclear fuel ever opened in the United States, West Valley received just 5 percent of the radioactive fuel it reprocessed from within New York State. Sixty percent came from the nuclear production reactor in Hanford, Wash., which produced material for American nuclear weapons. The remainder came from elsewhere in the Nation.

Begun with strong Federal encouragement in 1966, the West Valley plant operated for just 6 years before its owner, Nuclear Fuel Services, Inc., closed it in 1972. Equipment failures, frequent fires, and radiation leakage contributed to the decision.

The site's burial ground has begun eroding, and has leaked radiation in water that periodically accumulates in its trenches and has overflowed. Repeated draining of the trenches is necessary.

Other radioactive waste is buried in steel drums that are expected to remain intact for only 26 years. Yet the cesium-137 isotope within the drums will remain radioactive for thousands of years.

Cooling pools inside the reprocessing building contain 160 tons of spent fuel, and the building itself is dangerously contaminated. During its years of operation, the plant released radiation in quantities 1,000 times greater than originally projected, exposing workers to the highest average doses of any nuclear installation in the world.

The original contract with Nuclear Fuel Services allowed the company's owner, Getty Oil Co., to return the facility and land to New York State at the end of 1980. Under H.R. 6865, the State will pay for 10 percent of the demonstration project, and the Federal Government will pay 90 percent. The commercial operator has escaped financial liability, as the contract insured.

The Federal Government should be entrusted with ultimate disposal of nuclear wastes. But the nuclear industry must bear a meaningful share of these costs in future cases. This industry has failed to plan for disposal of wastes it generates, and has a clear obligation to help pay for a long-term solution. For example, the industry could pay a fee for storage of spent fuel at any Federal facility which may be established. I hope that many of my colleagues will agree.

H.R. 6865 is only part of many-faceted Federal nuclear waste disposal package that will be considered in this House in coming days. It is past time when we should have been facing this issue, and I am pleased to see it being addressed.

But these efforts must incorporate several important principles. First, provisions for significant State and local participation in decisions about location and operation of Federal storage sites must be included. Second, Nuclear Regulatory Commission licensing requirements and the National Environmental Protection Act must apply to any such facilities.

Finally, West Valley and other obso-

lete storage sites that have been closed must not be reopened to more wastes. New, truly safe storage sites must be found. Outmoded, leaking facilities that may be fractured by a major earthquake, such as West Valley, are no place for renewed deposits of these very dangerous substances.Ⓢ

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. McCORMACK) that the House suspend the rules and pass the bill, H.R. 6865, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous matter, on the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2443) to authorize the Department of Energy to carry out a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, N.Y., and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2443

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "West Valley Demonstration Project Act".

Sec. 2. (a) The Secretary of Energy (hereinafter in this Act referred to as the "Secretary") shall carry out, in accordance with the provisions of this Act, a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, New York (hereinafter referred to as "the project"). The Secretary shall carry out the project by vitrifying the high-level liquid nuclear wastes located at such Center or by employing the most effective technology for solidification available. The Secretary shall, as part of the project, also (1) as soon as feasible transport such solidified wastes, in accordance with applicable provisions of law, to an appropriate Federal repository for long term burial, and (2) decontaminate and decommission facilities, materials, and hardware used in connection with the project.

(b) During the fiscal year ending September 30, 1980, the Secretary shall—

(1) prepare a plan for safe removal of such wastes from tank numbered 8D-2 and any other storage tank at the Center containing such wastes including safely breaching the tanks, operating waste removal equipment, and sluicing techniques,

(2) determine the feasibility of immobilization and waste handling techniques required by the unique situation of such wastes at the Center, including initiation of detailed engineering and cost estimates as

well as safety analyses and environmental impact analyses, and

(3) enter into a cooperative agreement with the State of New York pursuant to the "Federal Grant and Cooperative Agreement Act of 1977", Public Law 95-224, to provide for the conduct of the demonstration project, without transfer to the United States of title to the high level liquid wastes or to the project site, and for the following activities:

(A) demonstration of vitrification technology or technologies which can be replicated for other applications in the United States;

(B) submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration;

(C) application of the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, to all aspects of the demonstration project; and

(D) conduct of other activities at the project, as determined to be appropriate by the Secretary, to protect public health and safety and to be in the national interest regarding the safe management of nuclear wastes in the United States.

Sec. 3. There is authorized to be appropriated to the Secretary not more than \$5,000,000 for the fiscal year ending September 30, 1981, for the project. Funds authorized and appropriated in subsequent fiscal years for the project shall not be used by the Secretary for such purpose until the Secretary, the State of New York, and other appropriate persons enter into such contracts and agreements as may be required—

(a) to enable the Secretary to utilize property and facilities at the Center for the project,

(b) to share the costs of the project, except that the non-Federal share of such costs shall be limited to no more than 10 percent thereof and in determining such share the Secretary shall consider the utilization of such Center by the Secretary for the project, the amount of money in the existing perpetual care fund originally designated to provide, for ultimate disposition of the high-level liquid nuclear waste at the Center, and such other factors as the Secretary deems appropriate,

(c) to otherwise provide for the conduct of the project in a timely manner, and

(d) authority to enter into contracts shall be only to such extent or in such amounts as may be provided in advance in appropriations Acts.

Sec. 4. In carrying out the project, the Secretary shall consult with the Nuclear Regulatory Commission, the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Director of the Geological Survey, the State of New York, and the commercial operator of the Center.

Sec. 5. Not later than February 1, 1981, and on February 1 of each calendar year thereafter during the term of the project, the Secretary shall transmit to the Committee on Science and Technology, the Committee on Interior and Insular Affairs, and the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate an up-to-date report containing a detailed description of the activities of the Secretary in carrying out the project, including the costs incurred, and the activities to be taken in the next fiscal year and the costs thereof. Any contract or agreement executed under sections 2 and 3 of this Act, together with summaries thereof, shall be promptly transmitted to such committees for their information and review.

Sec. 6. Other than the costs and responsibilities established by this Act for the project, nothing in this Act shall be construed as affecting any rights, obligations, or liabilities of the commercial operator of the Cen-

ter, the State of New York, or any person, as is appropriate, arising under the Atomic Energy Act of 1954 or under any other law, contract, or agreement for the operation, maintenance, or decontamination of any facilities or property at the Center or for any wastes at the Center. Nothing in this Act shall be construed as affecting any applicable licensing requirements of the Atomic Energy Act of 1954 or the Energy Reorganization Act of 1974. The provisions of this Act shall not apply or be extended to any facilities or property at the Center which is not used in conducting the project.

MOTION OFFERED BY MR. McCORMACK

Mr. McCORMACK. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McCORMACK moves to strike out all after the enacting clause of the Senate bill, S. 2443, and to insert in lieu thereof the provisions of H.R. 6865, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 6865) was laid on the table.

□ 1340

MILITARY PAY AND ALLOWANCES BENEFITS ACT OF 1980

Mr. NICHOLS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7626) to amend title 37, United States Code, to improve certain special pay and allowance benefits for members of the uniformed services, and for other purposes, as amended.

The Clerk read as follows:

H.R. 7626

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Military Pay and Allowances Benefits Act of 1980".

SPECIAL PAY FOR SUBMARINE OR NUCLEAR DUTY

Sec. 2. (a) (1) Subsection (a) of section 312 of title 37, United States Code, is amended by striking out "\$5,000" and "\$4,000" and inserting in lieu thereof "\$6,250" and "\$5,000", respectively.

(2) Subsection (e) of such section is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1983".

(b) (1) Subsection (a) of section 312b of such title is amended by striking out "\$3,000" and inserting in lieu thereof "\$5,000".

(2) Subsection (c) of such section is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1983".

(c) (1) Subsection (a) of section 312c of such title is amended by striking out "\$4,000 for each nuclear service year beginning after September 30, 1975, and ending before October 1, 1981" and inserting in lieu thereof "\$5,000 for each nuclear service year ending before October 1, 1983".

(2) Subsection (b) of such section is amended by striking out "\$2,400 for each nuclear service year beginning after September 30, 1978, and ending before October 1, 1981" and inserting in lieu thereof "\$3,000 for each nuclear service year ending before October 1, 1983".

(3) Subsection (e) of such section is amended to read as follows:

"(e) For the purpose of this section, a 'nuclear service year' is any fiscal year beginning before October 1, 1983."

(d) (1) Paragraph (1) of section 302(b) of such title is amended—

(A) by inserting "or (2)" after "clause (1)";

(B) by striking out "a member" and inserting in lieu thereof "an enlisted member"; and

(C) by striking out the center heading "ENLISTED MEMBERS" before the table in such paragraph.

(2) Paragraph (2) of such section is amended—

(A) by inserting "as an officer" after "For the performance";

(B) by striking out "or (3)"; and

(C) by striking out "section," and inserting in lieu thereof "section or for the performance of the hazardous duty described in clause (3) of such subsection."

(e) (1) The amendments made by subsection (a) (1) shall apply only with respect to active-duty agreements under section 312 of title 37, United States Code, executed after September 30, 1980.

(2) The amendment made by subsection (b) (1) shall apply only with respect to training completed after September 30, 1980.

(3) The amendments made by subsections (a) (2), (b) (2), and (c) shall take effect on October 1, 1980.

(4) The amendments made by subsection (d) shall apply only to payment of monthly incentive pay for months after September 1980.

INCENTIVES FOR ENLISTED MEMBERS TO EXTEND TOURS OF DUTY OVERSEAS

Sec. 3. (a) (1) Chapter 5 of title 37, United States Code, is amended by adding at the end thereof the following new section:

"§ 314. Special pay: qualified enlisted members extending duty at designated locations overseas

"(a) Under regulations prescribed by the Secretary concerned, an enlisted member of an armed force who—

"(1) is entitled to basic pay;

"(2) has a specialty that is designated by the Secretary concerned for the purposes of this section;

"(3) has completed a tour of duty (as defined in accordance with regulations prescribed by the Secretary concerned) at a location outside the 48 contiguous States and the District of Columbia that is designated by the Secretary concerned for the purposes of this section; and

"(4) at the end of that tour of duty executes an agreement to extend that tour for a period of not less than one year;

is entitled, upon acceptance of the agreement providing for such extension by the Secretary concerned, to special pay for duty performed during the period of the extension at a rate of not more than \$50 per month, as prescribed by the Secretary concerned.

"(b) A member who elects to receive rest and recuperative absence or transportation at Government expense, or any combination thereof, under section 705 of title 10 is not entitled to the special pay authorized by this section for the period of extension of duty for which the rest and recuperative absence or transportation is authorized."

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"314. Special pay: qualified enlisted members extending duty at designated locations overseas."

(b) (1) Chapter 40 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 705. Rest and recuperative absence for qualified enlisted members extending duty at designated locations overseas

"(a) Under regulations prescribed by the Secretary concerned, an enlisted member of an armed force who—

"(1) is entitled to basic pay;

"(2) has a specialty that is designated by the Secretary concerned for the purposes of this section;

"(3) has completed a tour of duty (as defined in accordance with regulations prescribed by the Secretary concerned) at a location outside the 48 contiguous States and the District of Columbia that is designated by the Secretary concerned for the purposes of this section; and

"(4) at the end of that tour of duty executes an agreement to extend that tour for a period of not less than one year;

may, in lieu of receiving special pay under section 314 of title 37 for duty performed during such extension of duty, elect to receive one of the benefits specified in subsection (b). Receipt of any such benefit is in addition to any other leave or transportation to which the member may be entitled.

"(b) The benefits authorized by subsection (a) are—

"(1) a period of rest and recuperative absence for not more than 30 days;

"(2) a period of rest and recuperative absence for not more than 15 days and round-trip transportation at Government expense from the location of the extended tour of duty to the nearest port in the 48 contiguous States and return; or

"(3) round-trip transportation at Government expense of the member and the member's dependents from the location of the extended tour of duty to the nearest port in the 48 contiguous States and return."

(2) The tables of section at the beginning of such chapter is amended by adding at the end thereof the following new item:

"705. Rest and recuperative absence for qualified enlisted members extending duty at designated locations overseas."

(c) Section 314 of title 37, United States Code, as added by subsection (a), shall take effect on October 1, 1980, and shall apply to periods of extended duty overseas beginning before, on, or after such date, but no payment may be made under such section for any month before October 1980. Section 705 of title 10, United States Code, as added by subsection (b), shall take effect on October 1, 1980, and shall apply only with respect to periods of extended duty overseas beginning after September 30, 1980.

BASIC ALLOWANCE FOR QUARTERS IN LIEU OF ASSIGNED QUARTERS FOR CERTAIN MEMBERS WITHOUT DEPENDENTS

Sec. 4. (a) The second sentence of subsection (b) of section 403 of title 37, United States Code, is amended by striking out "commissioned officer" and "O-3" and inserting in lieu thereof "member" and "E-6", respectively.

(b) Subsection (c) of such section is amended to read as follows:

"(c) (1) A member of a uniformed service without dependents is not entitled to a basic allowance for quarters while he is on field duty unless his commanding officer certifies that the member was necessarily required to procure quarters at his expense.

"(2) A member of a uniformed service without dependents who is in a pay grade below pay grade E-7 is not entitled to a basic allowance for quarters while he is on sea duty. A member of a uniformed service without dependents who is in a pay grade above E-6 and who is on sea duty is not entitled to a basic allowance for quarters while the unit to which he is assigned is deployed for a period in excess of 90 days.

"(3) For the purposes of this subsection, duty for a period of less than three months is not considered to be field duty or sea duty."

(c) The amendments made by this section shall only apply to payment of basic allowance for quarters for months after September 1980.

UNITED STATES



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of bringing the conference report to the floor as soon as possible—in order to facilitate floor scheduling of other major substantive legislation during the closing weeks of this session.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 3904, PRIVATE MULTIEMPLOYER PENSION PLAN AMENDMENTS ACT OF 1979

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 3904) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, to authorize plan preservation measures for financially troubled multiemployer pension plans, and to revise the manner in which the pension plan termination insurance provisions apply to multiemployer plans, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

The was no objection.

MAKING IN ORDER ON OR AFTER FRIDAY, SEPTEMBER 19, 1980, CONSIDERATION OF CONFERENCE REPORT ON H.R. 3904, MULTIEMPLOYER PENSION PLAN AMENDMENTS ACT OF 1979

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that it be in order on or after Friday, September 19, 1980, to consider the conference report on the bill (H.R. 3904) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, to authorize plan preservation measures for financially troubled multiemployer pension plans, and to revise the manner in which the pension plan termination insurance provisions apply to multiemployer plans, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

RESIGNATION AS CONFEREE AND APPOINTMENT OF CONFEREE ON CHILD NUTRITION LEGISLATION

The SPEAKER laid before the House the following resignation as a conferee:

WASHINGTON, D.C.
September 17, 1980.

Hon. CARL PERKINS,
Education and Labor Committee, Rayburn
Building.

DEAR MR. CHAIRMAN: In compliance with House Rule XLIII, I must refrain from par-

ticipation in the business of the committees of which I am a member.

Consequently, I am unable to act as a conferee on the Child Nutrition legislation and would ask that you excuse me from this duty and appoint another member to the conference committee.

Sincerely yours,

MICHAEL O. MYERS,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

The SPEAKER. The Chair appoints the gentleman from New Jersey (Mr. THOMPSON) to fill the vacancy, and the Senate will be notified of the action of the House.

WEST VALLEY DEMONSTRATION PROJECT ACT

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 2443) to authorize the Department of Energy to carry out a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, N.Y., with Senate amendments to the House amendment, and concur in the Senate amendments to the House amendment.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendments to the House amendment, as follows:

Page 4, after line 23, of the House engrossed amendment, insert:

(D) Submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration.

Page 5, line 2, of the House engrossed amendment, after "project" insert "": *Provided*, That review and consultation by the Commission pursuant to this subsection shall be conducted informally by the Commission and shall not include nor require formal procedures or actions by the Commission pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, or any other law".

Mr. OTTINGER (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. DINGELL. Mr. Speaker, I reserve the right to object only to note that I have a reservation to the earlier unanimous-consent request. I would indicate to the Chair that I will probably not assert that objection.

The SPEAKER. There is no objection to the suspension of the reading?

Mr. DINGELL. I do not object to that. I just want to make sure that the Chair is aware of the fact that I have a reservation earlier noted.

Mr. Speaker, I withdraw my reservation of objection to the reading of the amendments.

The SPEAKER. Is there objection to the request of the gentleman from New York (Mr. OTTINGER) to dispense with the reading of the amendments?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Florida (Mr. FUQUA)?

Mr. LUJAN. Mr. Speaker, reserving the right to object to bringing up the bill by unanimous consent, I do so simply to ask the gentleman if this was the research bill that we had for West Valley and how does the Senate bill differ from the House passed bill?

Mr. FUQUA. Let me say to the gentleman from New Mexico, this is the bill that passed the House on suspension on Monday relating to the West Valley, or commonly referred to as the West Valley bill. It is the R. & D. program.

The Senate did add two germane amendments, one requiring that the license be jointly complied with by the Department of Energy and the other that there were not required to be formal actions by the Nuclear Regulatory Commission. Both are germane amendments.

Mr. LUJAN. Mr. Speaker, if the gentleman would continue to yield, on the first amendment I do not quite understand what that is all about, that both the Department of Energy and the State of New York must agree to the provisions?

Mr. LUNDINE. Mr. Speaker, will the gentleman yield to me?

Mr. LUJAN. I yield to the gentleman from New York.

Mr. LUNDINE. The original bill that came out of the Committee on Science and Technology provided that the Department of Energy and the State of New York would jointly apply for an amendment to the existing license to allow this demonstration project to occur. When the bill was considered by the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce, the requirement that the Department of Energy join the State of New York was eliminated from that version of the bill and, thereby, eliminated from the House passed bill last Monday.

In discussions with several Senators and the minority, as well as the majority, the feeling was that they did not want the State of New York going in and applying a loan for an amendment to this license, that they wanted a provision in it that the amendment to the license would be agreed on by the Department of Energy.

Therefore, the original Science and Technology Committee language was replaced in the Senate bill and that is what this action is.

□ 1920

Mr. LUJAN. I would agree with the gentleman that that is a desirable provision.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Florida (Mr. FUQUA)?

Mr. OTTINGER. Reserving the right to object, I reserve the right to object to get some clarification from the Chairman. In the second Senate amendment it says that it will not require formal procedures or actions. The exact language is:

The Commission—

That is the Nuclear Regulatory Commission—

pursuant to this subsection shall be conducted informally by the Commission and shall not include nor require formal procedures or actions by the Commission pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, or any other law.

I want to make it clear that Senator JAVITS informs me that it was the intent of the Senate that this should mean they will not require formal procedures such as licensing procedures, but it does not preclude the Commission from taking any action that otherwise would be authorized by law.

Mr. FUQUA. If the gentleman will yield, I think the gentleman has explained it very well. I think that is the intent.

Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from New Mexico.

Mr. LUJAN. I thank the gentleman for yielding. Is it not because it is a research project that you do not go into a full blown licensing proceeding?

Mr. OTTINGER. That was the accommodation that was reached on the bill. The question of whether you need licensing research and development or demonstration projects has not fully been resolved.

Mr. LUJAN. If the gentleman will yield, at least in this particular one we do not.

Mr. OTTINGER. That is correct. That is correct.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Florida (Mr. FUQUA)?

Mr. DINGELL. Mr. Speaker, I have not withdrawn my reservation of objection.

Mr. Speaker, referring to the committee print, H.R. 6865, if I could have the attention of my good friend from the State of Florida, I would observe that I believe the first amendment—and that is the amendment which relates to the "submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration"—would appear, if I am correct, at page 5, line 10, is that correct, as a new item (D)?

Mr. FUQUA. If the gentleman will yield, that is my understanding of the House bill.

Mr. DINGELL. I continue the reservation of objection. I would assume that clause, which sort of floats, would be made into a full sentence, because if it appears at that point in the bill, it simply says:

Submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration.

I believe that should read:

The agreement shall provide for the submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration.

Otherwise we have a clause which hangs and which without some good exercise of the human mind is inoperative. Am I correct in that appreciation?

Mr. FUQUA. If the gentleman will yield, I think there could be a technical error in the bill, and I would certainly have no objection to making a technical correction in the amendment as passed by the Senate.

Mr. DINGELL. I am not sure whether that does not get us to the point where we maybe have to accept this and then send it back to the Senate with an amendment. That makes extra problems, but we do want to pass a piece of legislation for the gentleman from New York that is going to deal with the question and not leave hanging and dangling a lot of questions unanswered. I recognize, indeed, the desire for speed in this matter, but I am troubled that we should proceed carefully.

The second question is, as I understand it, the other bill, the House version of the bill, would include the second language which says:

Provided, That review and consultation by the Commission—

And so forth, would go in at the end of the sentence after the word "project" at line 14 of page 5. Is that correct? Am I correct in my appreciation that that amendment should go there?

Mr. FUQUA. If the gentleman will yield, it is my understanding that that is the correct place where the amendment should be inserted.

Mr. DINGELL. Mr. Speaker, I thank my good friend, the gentleman from Florida (Mr. FUQUA).

Mr. Speaker, the Senate action has been to add two amendments to the bill which passed the House. The House action was to accept a modified version of the bill which was reported by the Committee on Interstate and Foreign Commerce, and thus the Senate action was to accept our committee's version of the bill with two amendments.

The first amendment directs the Secretary of Energy to jointly submit a license amendment to the Nuclear Regulatory Commission to allow the activities to occur on the West Valley site. This subjects the Secretary to the jurisdiction of the Nuclear Regulatory Commission and places the Secretary in the position of a colicensee in regard to all aspects of the project.

The second amendment provides that the agreement between the Secretary of Energy and the Nuclear Regulatory Commission provide for informal procedures for the Commission's review and consultation of the Department's plan. This requirement for informal procedure applies only to the provisions of the agency agreement executed pursuant to subsection 2(c) and does not affect the procedures which would be

used when the Secretary jointly submits the required license application amendment pursuant to section 2(b) (4) (D) nor does it affect the provisions of section 5(a) which states that nothing in the bill, including the two Senate amendments shall be construed as affecting any applicable licensing requirement of the Atomic Energy Act of 1954 or the Energy Reorganization Act of 1974.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Florida (Mr. FUQUA)?

There was no objection.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE PRESIDENT OF THE UNITED STATES REGARDING HOUSE RESOLUTION 745

The SPEAKER laid before the House the following communication from the President of the United States, which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs and the Committee on the Judiciary:

THE WHITE HOUSE,
Washington, September 17, 1980.
Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives,
Washington, D.C.

DEAR Mr. SPEAKER: I am writing in response to H. Res. 745 passed by the House of Representatives on September 10, 1980.

On July 23, 1980, Chairman Rodino of the Committee on the Judiciary and Chairman Zablocki of the Committee on Foreign Affairs requested that I comment on H. Res. 745. On August 18, 1980, I submitted to those Committees a statement by me and a report of my counsel, together with the information to be furnished by two Executive Branch Departments, which contained the answers and related information called for in the Resolution.

The August 18, 1980 submission and the supplemental report of my counsel dated September 17, 1980 and attached to this transmittal letter constitute my response to H. Res. 745 as passed on September 10, 1980. I am also enclosing letters from the Department of State and the Department of Justice which confirm that these Departments have fully complied with paragraphs 6 and 7 and paragraphs 8 and 9 of H. Res. 745 respectively.

Sincerely,

JIMMY CARTER.

WILLIAM S. MOORHEAD

(Mr. DANIELSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIELSON. Mr. Speaker, I join with my colleagues in wishing good things in his future endeavors for BILL MOORHEAD, who I have had the privilege and the pleasure of serving with in this body for 10 years.

Although I have not served on any House committees with BILL, I do have the opportunity of sharing his counsel every Thursday morning when we both participate as part of the majority whip's organization.

BILL MOORHEAD has amassed an excel-

UNITED STATES STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS
ENACTED DURING THE SECOND SESSION OF THE
NINETY-SIXTH CONGRESS
OF THE UNITED STATES OF AMERICA

1980

AND

PROCLAMATIONS

VOLUME 94

IN THREE PARTS

PART 2

PUBLIC LAWS 96-367 THROUGH 96-500



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1981

Public Law 96-368
96th Congress

An Act

To authorize the Department of Energy to carry out a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, New York.

Oct. 1, 1980
[S. 2443]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. This Act may be cited as the "West Valley Demonstration Project Act".

West Valley
Demonstration
Project Act.
42 USC 2021a
note.
42 USC 2021a
note.

SEC. 2. (a) The Secretary shall carry out, in accordance with this Act, a high level radioactive waste management demonstration project at the Western New York Service Center in West Valley, New York, for the purpose of demonstrating solidification techniques which can be used for preparing high level radioactive waste for disposal. Under the project the Secretary shall carry out the following activities:

Activities.

(1) The Secretary shall solidify, in a form suitable for transportation and disposal, the high level radioactive waste at the Center by vitrification or by such other technology which the Secretary determines to be the most effective for solidification.

(2) The Secretary shall develop containers suitable for the permanent disposal of the high level radioactive waste solidified at the Center.

(3) The Secretary shall, as soon as feasible, transport, in accordance with applicable provisions of law, the waste solidified at the Center to an appropriate Federal repository for permanent disposal.

(4) The Secretary shall, in accordance with applicable licensing requirements, dispose of low level radioactive waste and transuranic waste produced by the solidification of the high level radioactive waste under the project.

(5) The Secretary shall decontaminate and decommission—

(A) the tanks and other facilities of the Center in which the high level radioactive waste solidified under the project was stored,

(B) the facilities used in the solidification of the waste, and

(C) any material and hardware used in connection with the project,

in accordance with such requirements as the Commission may prescribe.

(b) Before undertaking the project and during the fiscal year ending September 30, 1981, the Secretary shall carry out the following:

Hearings.

(1) The Secretary shall hold in the vicinity of the Center public hearings to inform the residents of the area in which the Center is located of the activities proposed to be undertaken under the project and to receive their comments on the project.

(2) The Secretary shall consider the various technologies available for the solidification and handling of high level radioactive waste taking into account the unique characteristics of such waste at the Center.

(8) The Secretary shall—

(A) undertake detailed engineering and cost estimates for the project,

(B) prepare a plan for the safe removal of the high level radioactive waste at the Center for the purposes of solidification and include in the plan provisions respecting the safe breaching of the tanks in which the waste is stored, operating equipment to accomplish the removal, and sluicing techniques,

(C) conduct appropriate safety analyses of the project, and

(D) prepare required environmental impact analyses of the project.

(4) The Secretary shall enter into a cooperative agreement with the State in accordance with the Federal Grant and Cooperative Agreement Act of 1977 under which the State will carry out the following:

(A) The State will make available to the Secretary the facilities of the Center and the high level radioactive waste at the Center which are necessary for the completion of the project. The facilities and the waste shall be made available without the transfer of title and for such period as may be required for completion of the project.

(B) The Secretary shall provide technical assistance in securing required license amendments.

(C) The State shall pay 10 per centum of the costs of the project, as determined by the Secretary. In determining the costs of the project, the Secretary shall consider the value of the use of the Center for the project. The State may not use Federal funds to pay its share of the cost of the project, but may use the perpetual care fund to pay such share.

(D) Submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration.

(c) Within one year from the date of the enactment of this Act, the Secretary shall enter into an agreement with the Commission to establish arrangements for review and consultation by the Commission with respect to the project: *Provided*, That review and consultation by the Commission pursuant to this subsection shall be conducted informally by the Commission and shall not include nor require formal procedures or actions by the Commission pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, or any other law. The agreement shall provide for the following:

(1) The Secretary shall submit to the Commission, for its review and comment, a plan for the solidification of the high level radioactive waste at the Center, the removal of the waste for purposes of its solidification, the preparation of the waste for disposal, and the decontamination of the facilities to be used in solidifying the waste. In preparing its comments on the plan, the Commission shall specify with precision its objections to any provision of the plan. Upon submission of a plan to the Commission, the Secretary shall publish a notice in the Federal Register of the submission of the plan and of its availability for public inspection, and, upon receipt of the comments of the Commission respecting a plan, the Secretary shall publish a notice in the Federal Register of the receipt of the comments and of the availability of the comments for public inspection. If the Secre-

41 USC 501
note.

State costs.

Licensing
amendment
application.

42 USC 2011
note.
42 USC 5801
note.

Publication
in Federal
Register.

tary does not revise the plan to meet objections specified in the comments of the Commission, the Secretary shall publish in the Federal Register a detailed statement for not so revising the plan.

(2) The Secretary shall consult with the Commission with respect to the form in which the high level radioactive waste at the Center shall be solidified and the containers to be used in the permanent disposal of such waste.

(3) The Secretary shall submit to the Commission safety analysis reports and such other information as the Commission may require to identify any danger to the public health and safety which may be presented by the project.

(4) The Secretary shall afford the Commission access to the Center to enable the Commission to monitor the activities under the project for the purpose of assuring the public health and safety.

(d) In carrying out the project, the Secretary shall consult with the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Director of the Geological Survey, and the commercial operator of the Center.

SEC. 3. (a) There are authorized to be appropriated to the Secretary for the project not more than \$5,000,000 for the fiscal year ending September 30, 1981.

(b) The total amount obligated for the project by the Secretary shall be 90 per centum of the costs of the project.

(c) The authority of the Secretary to enter into contracts under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

SEC. 4. Not later than February 1, 1981, and on February 1 of each calendar year thereafter during the term of the project, the Secretary shall transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate an up-to-date report containing a detailed description of the activities of the Secretary in carrying out the project, including agreements entered into and the costs incurred during the period reported on and the activities to be undertaken in the next fiscal year and the estimated costs thereof.

SEC. 5. (a) Other than the costs and responsibilities established by this Act for the project, nothing in this Act shall be construed as affecting any rights, obligations, or liabilities of the commercial operator of the Center, the State, or any person, as is appropriate, arising under the Atomic Energy Act of 1954 or under any other law, contract, or agreement for the operation, maintenance, or decontamination of any facility or property at the Center or for any wastes at the Center. Nothing in this Act shall be construed as affecting any applicable licensing requirement of the Atomic Energy Act of 1954 or the Energy Reorganization Act of 1974. This Act shall not apply or be extended to any facility or property at the Center which is not used in conducting the project. This Act may not be construed to expand or diminish the rights of the Federal Government.

(b) This Act does not authorize the Federal Government to acquire title to any high level radioactive waste at the Center or to the Center or any portion thereof.

SEC. 6. For purposes of this Act:

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "Commission" means the Nuclear Regulatory Commission.

(3) The term "State" means the State of New York.

Reports to
Commission.

Consultation.

Appropriation
authorization.
42 USC 2021a
note.

Report to
Speaker of the
House and
President pro
tempore of the
Senate.
42 USC 2021a
note.

42 USC 2021a
note.

42 USC 2011
note.

42 USC 5801
note.

Definitions.
42 USC 2021a
note.

(4) The term "high level radioactive waste" means the high level radioactive waste which was produced by the reprocessing at the Center of spent nuclear fuel. Such term includes both liquid wastes which are produced directly in reprocessing, dry solid material derived from such liquid waste, and such other material as the Commission designates as high level radioactive waste for purposes of protecting the public health and safety.

(5) The term "transuranic waste" means material contaminated with elements which have an atomic number greater than 92, including neptunium, plutonium, americium, and curium, and which are in concentrations greater than 10 nanocuries per gram, or in such other concentrations as the Commission may prescribe to protect the public health and safety.

(6) The term "low level radioactive waste" means radioactive waste not classified as high level radioactive waste, transuranic waste, or byproduct material as defined in section 11 e. (2) of the Atomic Energy Act of 1954.

(7) The term "project" means the project prescribed by section 2(a).

(8) The term "Center" means the Western New York Service Center in West Valley, New York.

42 USC 2014.

Approved October 1, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1100, pt. I (Comm. on Science and Technology) and pt. II (Comm. on Interstate and Foreign Commerce), both accompanying H.R. 6865.

SENATE REPORT No. 96-787 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 126 (1980):

June 12, considered and passed Senate.

Sept. 15, H.R. 6865 considered and passed House; passage vacated and S. 2443, amended, passed in lieu.

Sept. 17, Senate concurred in House amendment with amendments; House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 40:

Oct. 1, Presidential statement.