

he has put into this important legislation now going back at least 2 years.

We have had a good amount of time spent on this legislation on the floor of the Senate, having passed it once before. A lot of work has gone into it this year. I believe we are within the realm of being able to get an agreement which would allow this legislation to move forward and be completed in a very fair way this week.

I also extend my appreciation to the Democratic whip, Senator REID, for his diligence and for his work. He has always made an extra effort to make sure we are communicating and there are not any surprises or dilatory actions taken as we try to come to an agreement that is acceptable to the largest number of people. Senator BRYAN of Nevada is here. This is very important to these two Senators and to their State. I understand that and I have always tried to be sensitive, understanding their need to offer amendments or to make statements, and to be very careful as we consider this legislation. I thank them.

I understand negotiations have been underway between Senator MURKOWSKI in discussions with Senator BINGAMAN and others, but I do think we need to go forward. This is important legislation. I believe we are very close to getting an agreement that is going to be acceptable to a large number of Senators. We do need to have either this agreement worked out and understood so we can move forward without a cloture vote or go ahead and go to cloture because we have to set up a process that allows this to be considered, hopefully favorably, and completed this week. We have been working on it a long time and now is the time to begin to close the deliberations and pass this legislation.

I understand Senator REID has been attending a hearing and is on his way so we can proceed with this action. I do not wish to proceed without his presence because I know if any procedural action or any agreement is worked out, he wants to be here and be a part of what is done. I do say, though, I do have a commitment on the House side I am going to have to attend. I was supposed to speak at 11 o'clock, so I do need to go to the House to carry out my commitment as soon as possible. I will withhold any formal request at this time, but by making this comment now I hope maybe we can move expeditiously to call up this bill and to filing cloture.

I have one final comment. I say again, as I have said several times in the Senate last year and the year before and again this year, this is one of the most important environmental bills we will have in this Congress. Billions of dollars have been spent on this issue, and an inordinate amount of time in the Senate, trying to find a way to get it done. If we can come to an agreement and get this legislation completed, I believe history will look back on this action as one of the most

important bills we will have done this year. If, at the end of this week, we will have already completed the final version of bankruptcy legislation, which included a minimum wage increase and tax relief for small businessmen and businesswomen, and address the question of health care costs, and then pass this important nuclear waste bill, we will be off on a very positive step. It will be done in a way I think is fair to both sides of the aisle. We can continue to make progress. As soon as Senator REID arrives, we will move forward on the nuclear waste legislation.

I observe the absence of a quorum. The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LOTT. I thank the Senators for being here as we prepare to move forward on this important legislation. I explained what has been occurring and the need to move forward.

#### NUCLEAR WASTE POLICY AMENDMENTS ACT OF 1999

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to consider S. 1287, the nuclear waste bill.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1287) to provide for the storage of spent nuclear fuel pending completion of the nuclear waste repository, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. LOTT. Mr. President, again, while the Senators from Nevada are here, I have already noted my appreciation for the cooperation of the Senators from Nevada. We wanted to make sure we did not go forward without their presence.

#### AMENDMENT NO. 2808

(To provide a complete substitute)

Mr. LOTT. Mr. President, I send a manager's amendment to the desk. This was circulated to the Members on Friday. I know there are others who need to review this. I hope they will take advantage of the opportunity they have to review it.

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

Mr. LOTT. I yield to the Senator.

Mr. BRYAN. Mr. President, I inquire of the distinguished majority leader, the Friday draft is the one from which we are working. There have been so many. I just want to be sure. Is this the one marked February 4, 2000, 4:45 p.m.?

Mr. LOTT. I believe it is.

Mr. BRYAN. That is consistent with our understanding. I thank the Senator.

Mr. REID. If I may say to the leader. Mr. LOTT. I yield to the Senator.

Mr. REID. I say to the leader and the chairman of the full committee that I am sorry I was late, but we had a hearing on suicide which Senator SPECTER was gracious enough to hold. I was there because, as the leader knows, my dad killed himself a number of years ago. It was a very emotional hearing for me. I know it has been inconvenient for Senator MURKOWSKI and the leader, Senator BRYAN, and others, but I do appreciate their understanding. The hearing is over, so I can give my full time and attention to this matter. I appreciate everyone allowing me to be late.

Mr. LOTT. Mr. President, I say to the Senator from Nevada, we were aware of this particular hearing and how important and emotional it was for him. We have to be prepared to yield to each other on occasion and be considerate of each other's needs. We certainly understand. I also appreciate his cooperation in moving forward.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. MURKOWSKI, proposes an amendment numbered 2808.

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

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

#### CLOTURE MOTION

Mr. LOTT. Mr. President, I send a cloture motion to the amendment to the desk pursuant to the gentlemen's agreement.

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

The legislative clerk read as follows:

#### CLOTURE MOTION

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

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

Mr. LOTT. Mr. President, as a result of our gentlemen's agreement last week—and I know all the Senators involved have been working to keep that commitment—I think progress has been made.

I ask unanimous consent that this cloture vote occur at 2:15 p.m. today, that the mandatory quorum be waived, and that Members have until 6 p.m. this evening to file first-degree amendments and 12 noon on Wednesday to file any second-degree amendments.

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

CLOTURE MOTION

Mr. LOTT. Mr. President, I now send a cloture motion to the pending bill to the desk. Before the clerk reports the motion, it is my sincere hope this cloture vote will not be necessary. It is my hope that rather than the cloture vote on the amendment today at 2:15 p.m., there will be a bipartisan outcome and the Senate can conclude this bill in a relatively short period of time. However, without that ironclad assurance, I have no choice but to file this cloture motion to the underlying bill.

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

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 180, S. 1287, the Nuclear Waste Policy Amendments Act of 1999:

Trent Lott, Frank H. Murkowski, Jim Bunning, Thad Cochran, Kay Bailey Hutchison, Mike Crapo, Richard Shelby, Larry E. Craig, Craig Thomas, Judd Gregg, Jeff Sessions, Bob Smith of New Hampshire, Phil Gramm, Slade Gorton, Tim Hutchinson, and Don Nickles.

Mr. LOTT. Mr. President, again, I thank Senators on both sides for their cooperation.

I yield the floor to the chairman and ranking member and hope substantial progress can be made during today's session. I yield the floor.

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

Mr. MURKOWSKI. Mr. President, we have a historic opportunity today to resolve a problem that has been occurring ever since the first nuclear plant came online in this country. That date was 1960.

The question was: While we now have this new source of power, clean generation, what are we going to do with the waste?

Today we have an opportunity to resolve what we are going to do with that waste. It is an obligation that goes across party lines. It is an obligation, it is a responsibility, it is a commitment, to resolve this once and for all.

How long have we been at this? One can go back 17 years when it was addressed at great length in an energy package that was debated at great length, but the portion on what to do with high-level nuclear waste was not resolved.

Over a period of time, it was agreed that the Federal Government would enter into a contractual commitment to take the waste in the year 1998. That went by and, as a consequence, we find ourselves in the situation where the ratepayers in this country who have the benefit of nuclear clean power have paid in some \$15 billion to the Federal Government.

Where did that go? It did not go into an escrow account. It went into the general fund. But those ratepayers and those power-generating companies, utilities, went into that contractual agreement with the Federal Government in good faith, believing that the contract would be honored by the Federal Government, believing that, indeed, the Federal Government was under an obligation under the sanctity of contract principle to honor the contractual commitment.

The Federal Government has not honored that commitment and, as a consequence, we are dealing with an exposure to the American taxpayer of some \$40 billion to \$80 billion in damages associated with the inability of the Government to come to terms with the contractual commitment it made with the utilities.

Each day we delay resolving how we are going to take that waste subjects the American taxpayer to additional liability. We did a little calculation, and the additional liability to each and every American family is somewhere between \$1,300 and \$1,400. That is the liability that extends to the American family. That is why, in spite of the differences as to how we resolve this problem, the commitment should be to resolve this problem with the legislation we have or the amendments that will be forthcoming.

There is a tradeoff. We have had clean power from these nuclear plants. These are not isolated sources of power. These plants contribute approximately 20 percent of the domestic energy produced in this country.

What is the tradeoff? The tradeoff is what we are going to do with the waste. We made a commitment to put that waste at Yucca Mountain. We have expended in excess of \$6 billion on Yucca Mountain. There is a procedure to go through before Yucca Mountain can be licensed. But I remind my colleagues and staff and those who are following this debate, we simply must deal with it.

The Senator from Alaska does not have a constituency in his State relative to nuclear power. We had a small plant at a military base at one time, but it is long since gone.

But as chairman of the Energy and Natural Resources Committee, I have a responsibility to address this. I have a responsibility to the taxpayers. I have a responsibility to every Member of this body. That is what the professional staffs of both sides, Senator BINGAMAN, as the ranking member, and myself, have been working towards.

We simply cannot address this debate in the theory of: If we don't like this aspect or we don't like that aspect, if we can't come to terms on one point or another, we are going to simply throw the baby out. That is absolutely irresponsible. It is mandatory that we come together now and resolve this issue because we have that responsibility to the taxpayers of this country.

What is the administration's position on it? I can probably honestly say it is

split. That may mean they are for certain aspects we have come to terms with but are opposed to certain other aspects. But I implore the administration to recognize that they have an obligation to come to grips with the contractual commitment that was made. The Department of Energy, as the lead agency, has to address how it is going to come about.

I have had numerous conversations with Secretary Richardson. I think we have made progress. But the reality is, if we are going to pick this legislation apart and lose sight of our objective, I am wasting my time and, Mr. President, you are wasting your time listening to me because we are not going to get anywhere. We have to come into this debate committed to working this out and resolving this so we can address the problems associated with what we are going to do with that waste.

I am not here to lament on what others are doing with high-level waste. We know what the French are doing. They are reprocessing their waste. They recover the plutonium. They put it back in the reactors. They vitrify the waste which has less life and is disposed of. We do not have that policy in this country. We may have it someday, but we are committed to a permanent repository at Yucca Mountain in Nevada.

You are going to hear a lot from my Nevada colleagues, as you should, because the difficulty with this issue is nobody wants the waste. You cannot throw it up in the air because it has to come down somewhere. That is all there is to it. When you have a situation where nobody wants it, you have a real problem because those that come from the area where it is proposed to go are going to do everything they can to stop it.

That is the situation with regard to my colleagues from Nevada. Let's be honest with one another. They have a vested interest. They don't want it in their State. But we have to put it somewhere.

Let me refer to a couple of charts here because I think it represents reality and where we are today.

The chosen site for the waste is Yucca Mountain in Nevada. Everybody, I assume, knows where Nevada is. It is next to California and Arizona. But what we also have on this chart is where the waste currently is. You have it all over the East Coast. You have it in the Chicago, IL, area. You have it along the West Coast, and in south Texas, and so forth.

What we are looking at here, shown in brown on the chart, are the commercial reactors. These are the power-generating reactors in the various States that generate power to light the homes, light the sidewalks, light the highways, heat the homes, heat the hot water tanks. This represents 20 percent of the energy in this country.

The storage facilities where this waste is were designed to hold a specific volume of waste. That volume was

basically controlled by the various States. Many of these facilities are full or about to be full. These States are either going to allow the increase of that storage in their State or in the reactor pool or those reactors are going to have to be shut down. If you shut down the reactors, where are you going to pick up the power?

The critics of nuclear energy don't care about that because they do not want to see nuclear energy expanded to any extent. They are not interested in where you are going to get the power from another source. But you only have so many alternatives. You can put in more coal-fire plants. That does not do anything for air quality. Some suggest we just hook up to gas, that gas is cheap.

But the National Petroleum Council came out with a report the other day that suggests that if those people think they are going to be able to plug into gas, they have another thing coming. The infrastructure isn't there for the volume demand. We are using about 20 trillion cubic feet of gas currently in this country. It is anticipated in the next 10 years that will be up over 31 trillion cubic feet of gas.

We have a problem with access in the areas on public lands, where we could initiate exploration for gas, because this administration simply will not open up public lands or offshore areas, for the most part. Where are you going to find the new gas necessary to meet the anticipated demand, even without the exposure associated with the issue at hand; that is, what to do with the high-level waste?

The other issue with the gas, as I have indicated, is the infrastructure isn't there yet. To suggest it is going to be cheap, you have another thing coming. It is not going to be cheap. The price is going to increase. It is estimated the demand for gas, at the end of the next 10-year period of time, is going to amount to about 14 million new users. It is going to require an investment of about \$1.5 trillion. So for those people who suggest we just go get gas, that is not realistic.

Some people say: Let's go to solar. It gets dark at night, in case some have not noticed. In my State of Alaska, in the wintertime it is a long night.

Wind. Sometimes the wind does not blow.

So for a long time we are going to be looking to our conventional fossil fuel sources. We should be looking to the role of nuclear.

But my point is, this chart highlights where the nuclear waste is. It is in 40 States. If we don't do something about this now, with this legislation, it is going to stay in those 40 States. There are 80 sites where various reactors are located in the 40 States.

There is another contributing consideration to which every Member ought to be very sensitive. We have shut down reactors with spent fuel. We have them in California. We have them over here on the East Coast. We have sev-

eral throughout the country—in Oregon.

What are we going to do with that waste in those shut down reactors? The alternative is to leave it there. Do you want to leave it there? Nobody wants to leave it there. They want to move it.

We have commercial spent nuclear fuel storage facilities where we have waste in a number of States. That is shown on the chart in black. As a consequence, that will stay.

We have non-Department of Energy research reactors in States which are shown in green on the chart. What do we do with that? Leave it?

We have naval reactor fuel in Idaho and the State of Washington which are shown in yellow on the chart.

There is DOE-owned spent nuclear fuel and high-level radioactive waste strung around the country at various places.

To those who say this isn't a crisis, that we don't really have a responsibility here, I say that logic is simply ducking the responsibility. We have to address a resolve of this issue at this time.

We have to address what to do with the waste. We have to get it out of the areas where it currently resides. Those areas were not designed to hold and maintain that waste indefinitely.

They were designed to hold the waste up to their licensed capacity. So that is the problem we have now.

I want to go through and try to regionalize and personalize how significant this crisis is by a series of charts, the first of which will show you where we propose to put this waste in Nevada, in the desert. We have a chart that shows the area out at Yucca Mountain as it exists today. This is the proposed location for the permanent repository at the Nevada site.

I am sensitive to the reality that this is the soil of the State of Nevada. But I am also a realist and recognize that, for 50 years, we have been using this area for nuclear testing. It is hot, Mr. President. We have had over 800 nuclear weapons tests in this area. If you believe in the theory that an area, at some point in time, becomes pretty heavily polluted—if I can use the word—does it make sense, then, to try to recognize a site for what it is and ask, well, if the geological area is sufficient, is this a good site for a permanent nuclear repository underground?

That selection was made a long time ago, so that is not the issue today. The issue is how we are going to proceed with an understanding of how we can go forth, begin to move the waste, when this site is licensed by the various agencies and we can proceed in placing the waste in that permanent repository where we have spent \$6 billion.

I have been there. I have been through the tunnel. The tunneling is basically done. If we don't put it there, where are we going to put it? Some say, leave it at the site. Some others say, put it in casks above ground and

store it. Well, then what do you do with it—put it off? Remember, all this time, we are in violation of our contractual commitment to take the waste in 1998. So the clock ticks. There is a full employment act for lawyers who are filing damage suits. They love this delay. The American taxpayer doesn't know what is hitting him because the damages click on. That is why we have an obligation as Members of this body to address and resolve this now.

Let's go through some of the 40 States that are affected. I hope that the staffs of each of the States watch this. If you disagree with me, that is fine. Get ahold of the staff and we will try to proceed.

Arkansas. A few of our prominent people come from Arkansas. Arkansas residents paid over \$365 million into that waste fund in their utility bills. There are two units, Nuclear Unit 1 and 2. The waste stored is 690 metric tons. Their waste—under their permit, unit 1 runs out in 1996 and unit 2, in 1997. Those dates have passed. The State of Arkansas gets 33 percent of its electricity from nuclear energy. These charts were made up some time ago. So the waste stored now is more. The question of whether Arkansas is going to increase its licensing is up to the folks from Arkansas. But the point is, that is one State. We have 40 States. I am going to go through a few of them.

Connecticut. Residents paid in \$655 million. They have two units, Millstone 2 and 3. Waste stored is 1,445 metric tons, DOE/defense waste. Millstone 2 runs out in 2 years; Millstone 3, in 2003. That State is 43-percent dependent on nuclear energy. That is the hard cold fact.

Massachusetts. Their waste fund is \$156 million. One unit, Pilgrim 1. Waste stored is 495 metric tons. There is a vacancy if they install new racks. The State's electricity is 12-percent dependent.

Oregon. The waste fund is \$108 million. One unit, Trojan. Waste stored is 424 metric tons. Hanford site, waste stored is 2,133 metric tons. Trojan closed for decommissioning. Think about that. Do you know what that means? That means that waste isn't going to go anywhere other than to stay in Oregon, unless we pass some legislation that proceeds in a process so we can move this waste out of these sites.

Moving south, Louisiana. Residents paid \$339 million. Two units, Riverbend 1 and Waterford 3. There are 567 metric tons stored. Waterford runs out in 2002; Riverbend, 2007. Louisiana is 22-percent dependent on nuclear energy.

Illinois. The waste fund is \$2 billion. The residents of the State of Illinois have paid \$2 billion in their electric bills. The reason they paid that is so the Federal Government would honor its contract and take the waste in 1998. They have 11 units: Braidwood 1 and 2; Bryon 1 and 2; Clinton; Dresden 2 and 3; La Salle 1 and 2; Quad Cities 1 and 2.

DOE research reactor full, stored 40 metric tons. Dresden 3 expires in 2000. Dresden 2 expires in 2002. Clinton expires in 2003. Quad Cities expires in 2006. Zion expires in 2006. La Salle expires in 2013. Bryon expires in 2005. Braidwood expires in 2019. The State is 39-percent dependent.

From where is this power going to come? Not from thin air. Somebody has to produce it. Do you want a brownout? These plants are in violation after that date. There is a necessity of us resolving this in a bipartisan manner. We have that obligation. We should make a commitment on this floor to proceed with the objective of solving this.

Michigan. Their waste fund is \$696 million. There are four units: Cook 1 and 2; Fermi 2; Palisades. Waste stored is 1,493 metric tons. DOE research reactor. Palisades expires in 1992; Fermi, in 2001; Cook, in 2014. The State is 24-percent nuclear dependent.

Wisconsin. I remind my fellow colleagues from these States that if we don't do anything, it is going to stay right in your State. Is that what you want to have happen? In Wisconsin, the waste fund is \$344 million. They have three units, Kewaunee and Point Beach. Waste stored is 967 metric tons. Point Beach expires in 1995. Kewaunee expires in 2001. They are 8-percent dependent. Maybe they are waiting on the assumption that we are going to address this problem once and for all.

Georgia, in the South. Their waste fund is \$529 million. They have four units: Hatch 1 and 2, Vogtle 1 and 2. The waste stored is 1,182 metric tons. The Savannah River site waste stored is 206 metric tons. Hatch 1 and 2 were out in 1999. The State is 30-percent dependent.

Washington State. The waste fund is \$344 million. One unit, WNP 2. Waste stored is 292 metric tons. They are up this year. State's electricity is 6 percent. To a large degree, they depend on hydro, but they still have a problem.

Maine. Their waste fund is \$233 million. One unit shut down, Maine Yankee. Waste stored is 536 metric tons. Does Maine want that waste to sit there? Do the elected Representatives of the State of Maine want this waste to sit there or move it to one central location that was designed to take the waste?

I see my colleague from Pennsylvania on the floor. In his State, the ratepayers have paid \$1.338 billion for the waste fund. They paid \$245 million in their electric bills. They have nine units: Beaver Valley, Limerick, Peach Bottom, Susquehanna, Three Mile Island, and 3,327 metric tons. Beaver Valley is out in 2015, Limerick is out in 2005, Peach Bottom is out in 1999, and Susquehanna is out in 1998. Pennsylvania has a generating capacity of 34 percent which is dependent on nuclear energy.

Finally, Vermont. I am not going to go through all States. But I want to make the point that \$186 million has been paid by the ratepayers with one unit.

Vermont Yankee: Waste stored, 429 metric tons. Vermont Yankee runs out in 2005. In this State, generating capacity is 73 percent nuclear energy.

I think that highlights my point that there are very few States that are exempt. Out of the 50 States, there are about 10 that have no nuclear waste in their States.

Again, the locations of the spent fuel and radioactive waste designed for geologic disposal are all of these colors. From all of these places it is going to go to the proposed one site at Yucca Mountain. How can we work with Nevada to reach some kind of an accord?

That is tough because Nevada doesn't want it as a principle, but it creates jobs. But, by the same token, they are very sensitive to this. I can appreciate that sensitivity. I again appeal to reason. We have to put it somewhere. We identified this as the appropriate place.

We are proceeding with the process of licensing. We have an obligation as elected Representatives to resolve the problem. It is not a partisan issue. I defer the thought process to the obligation we are putting on the taxpayers as we put off, whether it be the Senate, the House, or the administration, reaching a decision on how to proceed with this because it is costing the taxpayers more money. One of these days the taxpayers are going to wake up to the fact that each family in this country is carrying a proportionate share of between \$1,300 and \$1,400 for the damages that are anticipated associated with the inability of the Government to take that waste in 1998 as it agreed to do under a contractual commitment, let alone overlooking the fact that the ratepayers have paid \$15 billion to the Federal Government to take the waste.

It is beyond me as to why the current administration has not been more aggressive in saying, yes, it is our responsibility to get it resolved. We have had a number of objections from the administration over the years in the process of trying to proceed with this.

These objections cover a series of legitimate concerns. But I think in some sense they have lost sight of what our objective had to be, and that is to recognize we have the obligation to resolve the problem.

I met with the Secretary of Energy early last year. At that time, we were hung up on how to proceed and what to do about the extended litigation that was occurring as a consequence of the Government's inability to honor the contractual commitment. The issue was, well, how can we find a compromise? We agreed to meet the administration's proposal that the Department of Energy may take title to spent fuel and may pay some of the costs of that storage. That was a significant good-faith effort to try to reach an accord.

The other alternative would have been the utility simply suing the Federal Government. But this was the suggestion of the Secretary. We concurred and agreed with it.

The other issue was the concern of previous bills which would allow interim storage to occur at Yucca Mountain until Yucca Mountain was licensed. This is important because we need relief. The most immediate way to get relief is to begin moving this waste to Yucca for temporary storage in casks on the surface until such time as Yucca Mountain is licensed and the waste can be put in a permanent repository. The administration opposed that. Nevada opposed that because they looked at it as the last straw and with certainty that the waste was definitely going to Nevada. We were trying to find a way to remove the crucial time element where some of these plants had to shut down, move the waste out under some plan, and put it in casks on the surface until such time as Yucca Mountain opened. We dropped that at the insistence of the administration. We eliminated the ability to temporarily move that waste until Yucca could be licensed.

That was a very significant effort to come to grips with the concerns of the administration. But clearly the administration was concerned about elections in Nevada. I can understand that and appreciate that. We didn't move the waste into temporary storage. Now the question that seems to be crucial is how we are going to get a radiation standard that is attainable. It is a legitimate question.

We are proposing to get the best science available. What is the best science? There is a lot of science out there. We want a radiation standard that will be attainable which will allow us at such time as Yucca is licensed to be able to move the waste there. If we have a standard that is unattainable, this whole thing is for naught. We will have expanded dramatically the obligation of the American taxpayer not only in damages where we failed to adhere to the sanctity of the contract but damages associated with further delay.

We have proposed in general terms to bring with the best science, which is pretty hard to do in this kind of climate. That science consists of those who are very familiar with items of this nature. One of them is the Nuclear Regulatory Commission, which licensed the plants and which has probably more Ph.D.s associated with the nuclear industry and nuclear issues than any other agency—to bring that agency together with the National Academy of Sciences and the Environmental Protection Agency to work towards a solution on a radiation standard in a positive sense so that we have good, sound science. We have a problem with that to some extent.

I hope we can come to grips and recognize in the spirit of good faith the objective is to get the best science, from whatever sources.

The EPA has the final obligation for rulemaking. However, we are proposing that not occur until after June of the year 2001. In the meantime, we want them to come together to achieve an

attainable level of a radiation standard with which we can live. The radiation standards are all over the ballpark. They are in the eyes of the beholder.

In this debate, we will have an opportunity to explain at greater length the concern we have that, after completing this process, the Environmental Protection Agency promulgates a rule on radiation standards that is simply unattainable. If everything were equal in evaluating this, I would not have that concern. However, there are some in this country, including environmental groups—and I am sure the National Academy of Science as well as the Nuclear Regulatory Commission perhaps to a lesser extent, but certainly within the Environmental Protection Agency—who would like to see no solution.

What is their motivation? There is a fear that somehow we will expand nuclear energy or the role of nuclear energy. Some suggest if we overcome what to do with the waste, it will stimulate the construction of new plants.

I am not here as an advocate of nuclear energy, but I am here as a realist to recognize we cannot have it both ways. We are concerned about air quality. We are concerned about global climate change. We are concerned about Kyoto. We should be. Is there a role for nuclear energy? There should be. From the administration, the Vice President, no mention is made of the role of nuclear energy in any proposals on climate change. One can only assume that the environmental groups that oppose the nuclear industry prevail in the mindset associated within the administration. If they do, that is fine; let's be open. But we should recognize we have an obligation to come up with an alternative.

To suggest the solution is simply to let this industry choke on its own waste is unrealistic and irresponsible. That is why we must work in a bipartisan manner for a solution and not lose sight of our objective, which occurs around here, by getting hung up on various aspects of detail and legalistic language. We are either going to move this waste or we are not. If we move it, we are going to save the American taxpayer money. We will adhere to the sanctity of the contractual agreement to take that waste in 1998. That is where we are.

Mr. President, I know my colleagues want to be heard and we have not entered into any time agreement. Ordinarily, we break for the policy luncheon. I believe we have a cloture vote scheduled at 2:15. Without losing my right to the floor, how can we accommodate our colleagues, recognizing we have a limited time?

The PRESIDING OFFICER. Under the previous order, we break at 12:30 p.m. for the policy luncheons. Under the Pastore rule, only germane debate can be accepted in the first 3 hours.

Mr. MURKOWSKI. That occurs beginning at 2 o'clock.

The PRESIDING OFFICER. 11:21 was the start of the debate, so for the next 3 hours the debate has to be germane.

Mr. MURKOWSKI. It is the intention to break at 12:30 and we come back in at 2:15 and we have a cloture vote.

The PRESIDING OFFICER. That is correct.

Mr. BINGAMAN. Mr. President, if I could make a parliamentary inquiry, it is my understanding we have a unanimous consent agreement in place calling for a vote on the cloture motion at 2:15.

The PRESIDING OFFICER. That is correct.

Mr. BINGAMAN. Mr. President, I hope to speak for about 15 minutes to give an opening statement explaining my views on this issue. I know there are other Senators wishing to speak on this issue. I have no need for additional time other than that.

Mr. MURKOWSKI. Mr. President, I am happy to yield to my friend. I hope in a bipartisan spirit we can come to grips with our obligation to resolve this issue to benefit the American taxpayer as a renewed sanctity of the contractual commitment the Federal Government has made.

I pledge to work with the Senator and my colleagues from Nevada in that spirit in hopes we can reach a satisfactory resolution and not be buried in an impossible situation that simply detracts from our objective.

I yield the floor.

Mr. BINGAMAN. Mr. President, I thank the Chair, as well as the Senator from Alaska.

Let me first discuss where we are procedurally because I think it is important to put my comments in context. We are going to vote at 2:30 on a cloture motion to proceed to consider an amendment I will be discussing in my remarks. There have been substantial discussions between the chairman and me since that amendment was distributed last Friday. It is my understanding there are going to be major changes made to this amendment after the cloture vote occurs. We will be able to see those. We have not seen them in writing yet, but we have had extensive discussion.

I want to make it clear that I will raise serious questions about the bill on which we are voting cloture. At the same time, I will indicate I support cloture so we can move the process forward and I hope we can find in the course of this debate a way to resolve the issues to which I will allude in these comments.

The issue of disposal of spent nuclear fuel and high-level radioactive waste has been debated in the Senate, in one form or another, as long as I have been a Member.

Nuclear waste is a serious issue that demands serious attention by all Senators. It is a problem that is national in scope.

It is also a particular responsibility of the Federal Government. After all, it was the Federal Government that proposed, beginning with the Atoms for Peace Program in the Eisenhower administration, to develop the peaceful

uses of nuclear power. The problems of disposal of spent nuclear fuel that we face today are the legacy of our past laws and decisions.

There are serious problems facing the national nuclear waste program that merit attention now, in this Congress.

I have some important disagreements with the chairman. I will go through those in some detail here, about the substitute amendment that is going to be voted on, on cloture, because I believe that particular amendment is fatally flawed in several respects. But I also believe the chairman is doing the right thing by pushing the issue to decision and by forcing the Senate and the Congress to grapple with the issue of how to store our Nation's nuclear waste.

Let me point out what I think are some of the important nuclear waste-related issues that call out for our attention and require us to take some action, if we can, in this Congress.

First, ratepayers have paid over \$8 billion in fees to the nuclear waste fund. That money which has been paid in has earned about \$2 billion in interest. Only \$5 billion of that total of \$10 billion has been spent on the program. Our current budget rules and accounting principles make it nearly impossible to give the program, each year, the appropriation it deserves and requires. For example, in fiscal year 1996, the President asked for \$640 million for DOE's Yucca Mountain program. Congress appropriated \$315 million, less than half of that.

As a result, the program had to abandon a comprehensive program plan that was less than 2 years old and go through yet one more strategic planning exercise to figure out how to cope with the inadequate funding they had been provided.

The result of all this is to create considerable concern on the part of many about this nuclear waste program, in particular the Nuclear Waste Technical Review Board, which has stated the program is not making adequate technical progress at Yucca Mountain in order to make a defensible determination of its suitability in the next few years.

I think that is a concern we need to take seriously in the Senate. Not surprisingly, the utilities themselves and the public utility commissions and the States that are paying in \$600 million each year and seeing only a fraction of that being spent, and the possibility looming there will be further delays because we lack the technical answers to questions about site suitability, are also upset by the state of affairs, and they have every right to be.

Let me go on to another reason why we need to address this issue in this Congress. The Department of Energy did not meet the January 31, 1998, deadline to which Chairman MURKOWSKI referred. That is a deadline to dispose of spent nuclear fuel. Not only did we not meet that, we are way behind the original schedule in building the repository.

Utilities and ratepayers are beginning to make plans to pay for onsite storage for spent fuel in addition to what they would otherwise have needed if the Department of Energy had met its deadline.

While many thought the 1998 deadline was unrealistic when it was first picked as a target date, nobody thought we would miss it by as wide a margin as we have. Lawsuits have been filed. The Department of Energy has concluded it does not have the legal authority to settle the suits by directly addressing the needs of utilities to do something with the fuel that is on their hands. So additional legislation is required to deal with that issue. Hopefully, we can come up with an agreement on that legislation before we conclude action on this bill.

We could choose to ignore the problem, but I believe we would do so somewhat at our own peril. Lawsuits are working their way through the Court of Federal Claims with contradictory results at the lower levels of the court, so no one can say how the courts will ultimately rule on the Department of Energy's contractual obligations—but the Federal courts have surprised the Government previously in recent years with rulings in favor of the utilities.

A third reason we need to deal with this in this Congress is the transportation of spent nuclear fuel and high-level nuclear waste is a legitimate concern to the communities through which it will travel on its way from the nuclear plants where it is located to any repository. This is true nationwide. It is true in my own State of New Mexico. The standards governing shipment of spent nuclear fuel and high-level waste are currently below those for less radioactive waste streams, such as the waste going to the WIPP project in my own State. This situation arises because Congress instituted higher standards for packaging and shipment of transuranic waste in the WIPP Land Withdrawal Act of 1992. The WIPP provisions have, so far, had some success. One could argue whether there are lessons learned that should be applied to spent nuclear fuel and high-level waste in the form of even stricter requirements than for WIPP, since spent fuel and high-level waste plausibly involve greater risks to the public, in case of an accident. It certainly does not make much sense, though, and it is not in the public interest to ignore the advances in standards and transportation procedures that have occurred since passage of the original Nuclear Waste Policy Act of 1982.

These issues I mentioned speak for themselves. It is possible to build a good set of amendments to the Nuclear Waste Policy Act of 1982, and to deal with these problems. The amendment we are going to vote cloture on does not do that. I hope the substitute we can come up with will.

Let me cite some areas where we have agreement because there are

some. Clearly, those need to be mentioned. Anyone who looks at the substitute amendment and compares it to the original bill introduced in the Congress has to admit, and I readily do, that although there are still crucial flaws in the bill, major progress has been made on a number of topics—progress toward getting a decent bill. These include abandoning the plan to have interim storage in Nevada while the Nuclear Regulatory Commission is deliberating on the license application for the permanent repository. That was major progress for which I commend the chairman.

Second, embracing instead a plan to have the Department of Energy authorized to take title to fuel where it can work out settlement agreements with utilities, that is also major progress in my view. And making a significant move toward accepting the EPA's final rulemaking authority, that is important. I hope that is something to which we can finally agree.

But there are areas of disagreement. Let me mention those very briefly. They include restrictions on the EPA standard-setting process; second, inadequate transportation safeguards—these are concerns with the bill which we are voting cloture on; third, one-sided take-title provisions—I can go into detail on these; fourth, the support for foreign reprocessing of nuclear fuel which, to my mind, is not a good investment of taxpayer dollars. If there is research to be done, we should go ahead and do it, and there is clearly research to be done. And fifth, neglect for the pressing funding needs of the program, that also is not addressed.

Preserving the integrity of the EPA rulemaking process for the Yucca Mountain radiation standard is one of the threshold issues in this bill. The chairman's substitute dilutes both EPA's rulemaking authority for the remainder of this administration as well as changing the substantive standard of protection. Right now, the standard EPA has to follow is to protect public health and safety and the environment. Under the chairman's substitute, EPA, for the next 16 months, would be able to do so only to the extent that it would allow the agency to meet the standard of being "attainable" at Yucca Mountain. This effectively stacks the deck in the standard-setting process. It also, in my view, may create a more lasting problem of legitimacy for the standard and for the program as a whole in the minds of disinterested citizens.

In New Mexico, we have had experience with EPA standard setting for radioactive waste disposal facilities. EPA both set the compliance criteria for the waste isolation pilot plant, or WIPP, and certified that the facility, as built, met those criteria. It was a long and arduous process. But in the end, the fact that EPA was able to do the job on the merits was important to the facility gaining legitimacy in the minds of most New Mexicans.

I believe that EPA can do a fair job of setting a standard for Yucca Mountain, and I will continue in that belief until someone shows me the record in this rulemaking that indicates the contrary. Surely, the draft rule published by EPA last August, which laid out a number of options for such a standard, cannot be characterized as arbitrary or capricious. DOE, the NRC, and the National Academy of Sciences have taken exception to a number of options and approaches in the rule, as is their right. They have put comments in the rulemaking file that EPA will have to grapple with honestly, if the agency wants to see its standard survive judicial review.

Given this, I would not favor either transferring the job of EPA to another agency, or giving some other Federal agency an effective veto over EPA's discretion. The bill reported from the Committee on Energy and Natural Resources did the former, and the chairman's substitute did the latter. This is a major reason for my opposition to this substitute.

A second major concern that I have with the substitute is its approach toward the transportation of nuclear waste. Transportation of nuclear waste is a matter of concern to many members of the general public. The chairman's substitute does not address these concerns adequately, in my view. There is no independent oversight of the design and manufacture of the shipping canisters in which nuclear waste will travel. The Nuclear Regulatory Commission has testified before the Senate Energy Committee that it lacks adequate regulatory authority over DOE shipments. Unfortunately, this gap in regulatory authority is not addressed in the bill or the substitute. What is in the bill looks like an excessively ornate structure of plans that conflict with one another and probably give rise to lost of litigation. It is hard to see how that sort of extra bureaucracy protects public safety.

In addition to provisions that don't effectively protect the safety of citizens living along routes where nuclear waste will be transported, the chairman's substitute contains provisions that cancel out certain routes in certain states, by means of criteria such as maximum downgrade percentages. I would oppose this sort of provision on principle, as I have consistently opposed carve-out amendments on prior nuclear waste bills. In this particular case, my own State of New Mexico is being particularly disadvantaged, as trucking routes in Colorado are canceled out, thereby shifting truck shipments through Wyoming on I-80 and New Mexico on I-25 and I-40. Speaking for New Mexicans, I can think of few worse places for a truck of nuclear waste than on the interchange, in the center of Albuquerque, of I-25 and I-40. New Mexicans call it the "Big I," and it is legendary for its poor design.

A third major flaw in this bill concerns the ground rules that the bill

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

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

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

Mr. SPECTER. I thank the Chair.

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

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

#### RECESS

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

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

#### NUCLEAR WASTE POLICY AMENDMENTS ACT OF 1999—Continued

##### CLOTURE MOTION

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

The assistant legislative clerk read as follows:

##### CLOTURE MOTION

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

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

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

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