[DISCUSSION DRAFT]

115TH CONGRESS
1ST SESSION

H. R. ______

To amend the Nuclear Waste Policy Act of 1982, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M. ______ introduced the following bill; which was referred to the Committee on ____________________

A BILL

To amend the Nuclear Waste Policy Act of 1982, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Nuclear Waste Policy Amendments Act of 2017”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—MONITORED RETRIEVABLE STORAGE

Sec. 101. Monitored retrievable storage.
Sec. 102. Authorization and priority.
Sec. 103. Conditions for cooperative agreement.
Sec. 104. Survey.
Sec. 105. Site selection.
Sec. 106. Benefits agreement.
Sec. 107. Licensing.

TITLE II—PERMANENT REPOSITORY

Sec. 201. Land withdrawal, jurisdiction, and reservation.
Sec. 202. Water access.
Sec. 203. Application procedures and infrastructure activities.
Sec. 204. Pending repository license application.
Sec. 205. Limitation on planning, development, or construction of defense waste repository.
Sec. 206. Sense of Congress regarding transportation routes.

TITLE III—DOE CONTRACT PERFORMANCE

Sec. 301. Title to material.

TITLE IV—BENEFITS TO HOST COMMUNITY

Sec. 401. Consent.
Sec. 402. Content of agreements.
Sec. 403. Covered units of local government.
Sec. 404. Termination.
Sec. 405. Other benefits.
Sec. 406. Disposal of spent nuclear fuel.
Sec. 407. Updated report.

TITLE V—FUNDING

Sec. 501. Assessment and collection of fees.
Sec. 502. Use of Waste Fund.
Sec. 503. Availability of certain amounts.

TITLE VI—MISCELLANEOUS

Sec. 601. Certain standards and criteria.

1 TITLE I—MONITORED RETRIEVABLE STORAGE

2

3 SEC. 101. MONITORED RETRIEVABLE STORAGE.

4 (a) PROPOSAL.—Section 141(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10161(b)) is amend-

5 ed—

6 (1) in paragraph (1)—
(A) by striking “1985” and inserting “2019”; and

(B) by striking “the construction of”;

(2) in paragraph (2)—

(A) by amending subparagraph (C) to read as follows:

“(C) designs, specifications, and cost estimates sufficient to—

“(i) solicit bids for the construction of one or more such facilities; and

“(ii) enable completion and operation of such a facility as soon as practicable”;;

(B) in subparagraph (D), by striking “this Act.” and inserting “this Act; and”; and

(C) by adding at the end the following:

“(E) options to enter into cooperative agreements with respect to one or more monitored retrievable storage facilities.”; and

(3) by amending paragraph (4) to read as follows:

“(4) The Secretary shall, not later than 90 days after the date of enactment of the Nuclear Waste Policy Amendments Act of 2017, publish a request for information to help the Secretary evaluate options for the Sec-
retary to enter into cooperative agreements with respect
to one or more monitored retrievable storage facilities.”.

(b) ADDITIONAL AMENDMENTS.—

(1) IN GENERAL.—Section 141 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10161) is fur-
ther amended—

(A) in subsection (c)(2)—

(i) by striking “If the Congress” and all that follows through “monitored retriev-
able storage facility, the” and inserting “The”; and

(ii) by striking “construction of such facility” and inserting “construction of a monitored retrievable storage facility”;

(B) in subsection (d), by striking “this sec-
tion” and inserting “section 142(b)(1)”;

(C) in subsection (f)(1), by striking “re-
ceipt by the Secretary of congressional” and in-
serting “application by the Secretary to the Commission for”;

(D) by striking subsection (g) and redesig-
nating subsection (h) as subsection (g); and

(E) in subsection (g), as so redesignated by subparagraph (D) of this paragraph, by striking “authorized pursuant to this section”
and inserting “for which the Secretary has submitted an application for a license under section 202(3) of the Energy Reorganization Act of 1974 (42 U.S.C. 5842(3)) pursuant to section 148(c)”.

(2) Definitions.—Section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101) is amended—

(A) in paragraph (34), by striking “the storage facility” and inserting “a storage facility”; and

(B) by adding at the end the following:

“(35) In subtitle C of title I, the term ‘cooperative agreement’ means a cooperative agreement, contract, or other mechanism that the Secretary considers appropriate to support the storage of Department-owned civilian waste in one or more monitored retrievable storage facilities as authorized under section 142(b)(2).

“(36) The term ‘Department-owned civilian waste’ means high-level radioactive waste, or spent nuclear fuel, resulting from civilian nuclear activities, to which the Department holds title.”.
SEC. 102. AUTHORIZATION AND PRIORITY.

Section 142 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10162) is amended by striking subsection (b) and inserting the following:

“(b) AUTHORIZATION.—Subject to the requirements of this subtitle, the Secretary is authorized to—

“(1) site, construct, and operate one or more monitored retrievable storage facilities; and

“(2) store, pursuant to a cooperative agreement, Department-owned civilian waste at a monitored retrievable storage facility for which a non-Federal entity holds a license described in section 143(1).

“(c) PRIORITY.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall prioritize storage of Department-owned civilian waste at a monitored retrievable storage facility authorized under subsection (b)(2).

“(2) EXCEPTION.—

“(A) DETERMINATION.—Paragraph (1) shall not apply if the Secretary determines that it will be faster and less expensive to site, construct, and operate a facility authorized under subsection (b)(1), in comparison to a facility authorized under subsection (b)(2).
“(B) NOTIFICATION.—Not later than 30 days after the Secretary makes a determination described in subparagraph (A), the Secretary shall submit to Congress written notification of such determination.”.

SEC. 103. CONDITIONS FOR COOPERATIVE AGREEMENT.

(a) AMENDMENT.—Section 143 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10163) is amended to read as follows:

“SEC. 143. CONDITIONS FOR COOPERATIVE AGREEMENTS.

“The Secretary may not enter into a cooperative agreement under section 142(b)(2) unless—

“(1) the monitored retrievable storage facility with respect to which the cooperative agreement applies has been licensed by the Commission under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);

“(2) the non-Federal entity that is a party to the cooperative agreement has approval to store Department-owned civilian waste at such facility from each of—

“(A) the Governor of the State in which the facility is located;
“(B) any unit of general local government with jurisdiction over the area in which the facility is located; and
“(C) any affected Indian tribe;
“(3) the Commission has issued a final decision approving or disapproving the issuance of a construction authorization for a repository under section 114(d)(1); and
“(4) the cooperative agreement provides that the quantity of high-level radioactive waste and spent nuclear fuel at the site of the facility at any one time will not exceed the limits described in section 148(d)(3) and (4).”.

(b) CONFORMING AMENDMENT.—The item relating to section 143 in the table of contents for the Nuclear Waste Policy Act of 1982 is amended to read as follows:

“Sec. 143. Conditions for cooperative agreements.”.

SEC. 104. SURVEY.

Section 144 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10164) is amended—

(1) by striking “After the MRS Commission submits its report to the Congress under section 143, the” and inserting “(a) IN GENERAL.—The”;

(2) in paragraph (6), by striking “; and” and inserting a semicolon;
(3) in paragraph (7), by striking the period at the end and inserting ‘‘; and’’; and

(4) by adding after paragraph (7) the following:

“(8) be acceptable to State authorities, affected units of local government, and affected Indian tribes.

“(b) REQUEST FOR PROPOSALS.—The Secretary shall issue a request for proposals for a cooperative agreement authorized under section 142(b)(2) before conducting a survey and evaluation under subsection (a), and shall consider any proposals received in response to such request in making the evaluation.”.

SEC. 105. SITE SELECTION.

Section 145 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10165) is amended—

(1) in subsection (a)—

(A) by striking “select the site evaluated” and inserting “select a site evaluated”; and

(B) by striking “the most”; and

(2) by striking subsection (g).

SEC. 106. BENEFITS AGREEMENT.

Section 147 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10167) is amended—
(1) by inserting “the Secretary intends to construct and operate under section 142(b)(1)” after “storage facility”; and
(2) by inserting “or once a non-Federal entity enters into a cooperative agreement under section 142(b)(2),” after “section 145,”.

SEC. 107. LICENSING.

(a) REVIEW OF LICENSE APPLICATION.—Section 148(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10168(c)) is amended by striking “section 142(b)” and inserting “section 142(b)(1)”.

(b) LICENSING CONDITIONS.—Section 148(d) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10168(d)) is amended—

(1) in paragraph (1), by striking “has issued a license for the construction of a repository under section 115(d)” and inserting “has issued a final decision approving or disapproving the issuance of a construction authorization for a repository under section 114(d)(1)”;

(2) in paragraph (2), by striking “or construction of the repository ceases”.

TITLE II—PERMANENT
REPOSITORY

SEC. 201. LAND WITHDRAWAL, JURISDICTION, AND RESERVATION.

(a) Land Withdrawal, Jurisdiction, and Reservation.—

(1) Land Withdrawal.—Subject to valid existing rights and except as provided otherwise in this section, the lands described in subsection (c) are withdrawn permanently from all forms of entry, appropriation, and disposal under the public land laws, including the mineral leasing laws, the geothermal leasing laws, and the mining laws.

(2) Jurisdiction.—Except as otherwise provided in this section, jurisdiction over the withdrawal area is vested in the Secretary. There are transferred to the Secretary the lands within the withdrawal area under the jurisdiction of the Secretary concerned on the effective date described in subsection (j)(1).

(3) Reservation.—The withdrawal area is reserved for use by the Secretary for development, preconstruction testing and performance confirmation, licensing, construction, management and operation, monitoring, closure, postclosure, and other ac-
activities associated with the disposal of high-level radioactive waste and spent nuclear fuel under the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.).

(b) Revocation and Modification of Public Land Orders and Rights-of-Way.—

(1) Public land order revocation.—Public Land Order 6802 of September 25, 1990, as extended by Public Land Order 7534, and any conditions or memoranda of understanding accompanying those land orders, are revoked.


(c) Land Description.—

(1) Boundaries.—The lands and interests in lands withdrawn and reserved by this section comprise the approximately 147,000 acres of land in Nye County, Nevada, as generally depicted on the Yucca Mountain Project Map, YMP–03–024.2, entitled “Proposed Land Withdrawal” and dated July 21, 2005.

(2) Legal description and map.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior shall—
(A) publish in the Federal Register a notice containing a legal description of the withdrawal area; and

(B) file copies of the maps described in paragraph (1) and the legal description of the withdrawal area with the Congress, the Governor of the State of Nevada, and the Archivist of the United States.

(3) Technical Corrections.—The maps and legal description referred to in this subsection have the same force and effect as if they were included in this section. The Secretary of the Interior may correct clerical and typographical errors in the maps and legal description.

(d) Relationship to Other Reservations.—The provisions of subtitle A of title XXX of the Military Lands Withdrawal Act of 1999 (sections 3011–3023 of Public Law 106–65) and of Public Land Order 2568 do not apply to the lands withdrawn and reserved for use by the Secretary under subsection (a). This Act does not apply to any other lands withdrawn for use by the Department of Defense under subtitle A of title XXX of the Military Lands Withdrawal Act of 1999.

(e) Management Responsibilities.—
(1) GENERAL AUTHORITY.—The Secretary shall manage the lands withdrawn by subsection (a) consistent with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), this section, and other applicable law. The Secretary shall consult with the Secretary concerned in discharging that responsibility.

(2) MANAGEMENT PLAN.—

(A) DEVELOPMENT.—The Secretary, after consulting with the Secretary concerned, shall develop a management plan for the use of the withdrawal area. Within 3 years after the date of enactment of this Act, the Secretary shall submit the management plan to the Congress and the State of Nevada.

(B) PRIORITY OF YUCCA MOUNTAIN PROJECT-RELATED ISSUES.—Subject to subparagraphs (C), (D), and (E), any use of the withdrawal area for activities not associated with the Project is subject to conditions and restrictions that the Secretary considers necessary or desirable to permit the conduct of Project-related activities.

(C) DEPARTMENT OF THE AIR FORCE USES.—The management plan may provide for
the continued use by the Department of the Air
Force of the portion of the withdrawal area
within the Nellis Air Force Base Test and
Training Range under terms and conditions on
which the Secretary and the Secretary of the
Air Force agree concerning Air Force activities.

(D) NEVADA NATIONAL SECURITY SITE
USES.—The Secretary may allow the National
Nuclear Security Administration to continue to
use the portion of the withdrawal area on the
Nevada National Security Site and may impose
any conditions on that use that the Secretary
considers necessary to minimize any effect on
either Project or National Nuclear Security Ad-
ministration activities.

(E) OTHER NON-YUCCA-MOUNTAIN-
PROJECT USES.—The management plan shall
provide for the maintenance of wildlife habitat
and shall provide that the Secretary may permit
non-Project-related uses that the Secretary con-
siders appropriate, including domestic livestock
grazing and hunting and trapping in accord-
ance with the following requirements:

(i) GRAZING.—The Secretary may
permit grazing to continue where estab-
lished before the effective date described in subsection (j)(1), subject to regulations, policies, and practices that the Secretary, after consulting with the Secretary of the Interior, determines to be necessary or appropriate. The management of grazing shall be conducted in accordance with applicable grazing laws and policies, including—

(I) the Act commonly known as the “Taylor Grazing Act” (43 U.S.C. 315 et seq.);

(II) title IV of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1901 et seq.); and

(III) the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.).

(ii) HUNTING AND TRAPPING.—The Secretary may permit hunting and trapping within the withdrawal area where established before the effective date described in subsection (j)(1), except that the Secretary, after consulting with the Secretary of the Interior and the State of Ne-
vada, may designate zones where, and estab-

ish periods when, no hunting or trap-

ping is permitted for reasons of public

safety, national security, administration, or

public use and enjoyment.

(F) MINING.—

(i) IN GENERAL.—Except as provided

in clause (ii), surface or subsurface mining

or oil or gas production, including slant

drilling from outside the boundaries of the

withdrawal area, is not permitted at any

time on lands on or under the withdrawal

area. The Secretary of the Interior shall

evaluate and adjudicate the validity of all

mining claims on the portion of the with-

drawal area that, on the date of enactment

of this Act, was under the control of the

Bureau of Land Management. The Sec-

retary shall provide just compensation for

the acquisition of any valid property right.

(ii) CIND-R–LITE MINE.—Patented

Mining Claim No. 27–83–0002, covering

the Cind–R–Lite Mine, shall not be af-

fected by establishment of the withdrawal

area set forth in subsection (a)(1). In that
event, the Secretary shall provide just com-
ensation.

(G) LIMITED PUBLIC ACCESS.—The man-
agement plan may provide for limited public ac-
cess to the portion of the withdrawal area under
Bureau of Land Management control on the ef-
fective date described in subsection (j)(1). Per-
mitted uses may include continuation of the
Nye County Early Warning Drilling Program,
utility corridors, and other uses the Secretary,
after consulting with the Secretary of the Inte-
rior, considers consistent with the purposes of
the withdrawal area.

(3) CLOSURE.—If the Secretary, after con-
sulting with the Secretary concerned, determines
that the health and safety of the public or the com-
mon defense and security require the closure of a
road, trail, or other portion of the withdrawal area,
or the airspace above the withdrawal area, the Sec-
retary may effect and maintain the closure and shall
provide notice of the closure.

(4) IMPLEMENTATION.—The Secretary and the
Secretary concerned shall implement the manage-
ment plan developed under paragraph (2) under
terms and conditions on which they agree.
(f) IMMUNITY.—The United States and its departments and agencies shall be held harmless and shall not be liable for damages to persons or property suffered in the course of any mining, mineral leasing, or geothermal leasing activity conducted on the withdrawal area.

(g) LAND ACQUISITION.—The Secretary may acquire lands and interests in lands within the withdrawal area. Those lands and interests in lands may be acquired by donation, purchase, lease, exchange, easement, rights-of-way, or other appropriate methods using donated or appropriated funds. The Secretary of the Interior shall conduct any exchange of lands within the withdrawal area for Federal lands outside the withdrawal area.

(h) AIR QUALITY PERMITS AND REQUIREMENTS.—

(1) AUTHORITY.—Only the Environmental Protection Agency may issue, implement, or enforce any air quality permit, or requirement relating to air quality, with respect to any Federal facility or activity described in paragraph (3).

(2) PREEMPTION.—No State or unit of general local government thereof may issue, implement, or enforce any air quality permit, or requirement relating to air quality, with respect to any Federal facility or activity described in paragraph (3).
(3) Federal facility or activity.—A Federal facility or activity described in this paragraph is a Federal facility or activity that is—

(A) subject to the requirements of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.);

(B) for the purpose of siting, constructing, or operating a repository, including the support of any such siting, constructing, or operating; and

(C) located, or occurring, in the withdrawal area.

(i) Definitions.—

(1) Nuclear waste policy act of 1982 definitions.—For purposes of this section, the terms “disposal”, “high-level radioactive waste”, “repository”, “Secretary”, and “spent nuclear fuel” have the meaning given those terms in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

(2) Other definitions.—For purposes of this section—

(A) the term “withdrawal area” means the geographic area consisting of the land described in subsection (c);
(B) the term “Secretary concerned” means the Secretary of the Air Force or the Secretary of the Interior, or both, as appropriate; and

(C) the term “Project” means the Yucca Mountain Project.

(j) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall take effect on the date on which the Nuclear Regulatory Commission issues a final decision approving the issuance of a construction authorization for a repository under section 114(d)(1) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(d)) (as so designated by this Act).

(2) EXCEPTIONS.—Subsections (c), (e)(2)(A), (h), and (i) shall take effect on the date of enactment of this Act.

SEC. 202. WATER ACCESS.

(a) AMENDMENTS.—Section 124 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10144) is amended—

(1) by inserting “(a) WATER RIGHTS ACQUISITION EFFECT.—” before “The Secretary shall give full”; and

(2) by adding at the end the following new subsection:
“(b) BENEFICIAL USE OF WATER.—Notwithstanding any other Federal, State, or local law, the use of water from any source in quantities sufficient to accomplish the purposes of this subtitle to carry out Department functions under this subtitle is declared to be a use that is beneficial to interstate commerce and that does not threaten to prove detrimental to the public interest. A State shall not enact or apply a law that discriminates against this use. The Secretary, through purchase or otherwise, may obtain water rights necessary to carry out Department functions under this subtitle.”.

(b) EFFECTIVE DATE.—This section shall take effect on the date on which the Nuclear Regulatory Commission issues a final decision approving the issuance of a construction authorization for a repository under section 114(d)(1) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(d)) (as so designated by this Act).

SEC. 203. APPLICATION PROCEDURES AND INFRASTRUCTURE ACTIVITIES.

(a) APPLICATION PROCEDURES AND INFRASTRUCTURE ACTIVITIES.—Section 114(d) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(d)) is amended—

(1) by striking “The Commission shall consider” and inserting the following:
“(1) APPLICATIONS FOR CONSTRUCTION AUTHORIZATION.—The Commission shall consider;”

(2) by striking “The Commission decision approving the first such application” and all that follows through “storage facility until such time as a second repository is in operation.”; and

(3) by adding at the end the following new paragraphs:

“(2) APPLICATIONS TO AMEND.—If the Commission issues a construction authorization for a repository pursuant to paragraph (1) and the Secretary submits an application to amend the authorization to obtain permission to receive and possess spent nuclear fuel and high-level radioactive waste, or to undertake any other action concerning the repository, the Commission shall consider the application to amend using expedited, informal procedures, including discovery procedures that minimize the burden on the parties to produce documents. The Commission shall issue a final decision on such application to amend within 1 year after the date of submission of such application, except that the Commission may extend such deadline by not more than 6 months if, not less than 30 days before such dead-
line, the Commission complies with the reporting re-
quirements established in subsection (e)(2).

“(3) INFRASTRUCTURE ACTIVITIES.—

“(A) IN GENERAL.—At any time before or
after the Commission issues a final decision ap-
proving or disapproving the issuance of a con-
struction authorization for a repository pursu-
ant to paragraph (1), the Secretary may under-
take infrastructure activities that the Secretary
considers necessary or appropriate to support
construction or operation of a repository at the
Yucca Mountain site or transportation to such
site of spent nuclear fuel and high-level radio-
active waste. Infrastructure activities include
safety upgrades, site preparation, the construc-
tion of a rail line to connect the Yucca Moun-
tain site with the national rail network (includ-
ing any facilities to facilitate rail operations),
and construction, upgrade, acquisition, or oper-
ation of electrical grids or facilities, other utili-
ties, communication facilities, access roads, and
nonnuclear support facilities.

“(B) ENVIRONMENTAL IMPACT STATE-
MENT.—If the Secretary determines that an en-
vironmental impact statement is required under
the National Environmental Policy Act of 1969
with respect to an infrastructure activity undertaken under this paragraph, the Secretary need
not consider the need for the action, alternative actions, or a no-action alternative. To the extent any other Federal agency must consider the potential environmental impact of such an infrastructure activity, the agency shall adopt, to the extent practicable, an environmental impact statement prepared by the Secretary under this subparagraph without further action. Such adoption satisfies the responsibilities of the adopting agency under the National Environmental Policy Act of 1969, and no further action is required by the agency.”.

(b) CONNECTED ACTIONS.—Section 114(f)(6) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(f)(6)) is amended by striking “or nongeologic alternatives to such site” and inserting “nongeologic alternatives to such site, or an action connected or otherwise related to the repository to the extent the action is undertaken outside the geologic repository operations area and does not require a license from the Commission”.

SEC. 204. PENDING REPOSITORY LICENSE APPLICATION.

(a) In General.—Except as provided in subsection (b), nothing in this Act or the amendments made by this Act shall apply to an application for a construction authorization described in section 114(d) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(d)) pending as of the date of enactment of this Act, or to the consideration thereof by the Nuclear Regulatory Commission.

(b) Excepted Provisions.—Subsection (a) shall not apply to section 201 or 202 of this Act, or the amendments thereunder.

SEC. 205. LIMITATION ON PLANNING, DEVELOPMENT, OR CONSTRUCTION OF DEFENSE WASTE REPOSITORY.

(a) Limitation.—The Secretary of Energy may not take any action relating to the planning, development, or construction of a defense waste repository until the date on which the Nuclear Regulatory Commission issues a final decision approving or disapproving the issuance of a construction authorization for a repository under section 114(d)(1) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(d)) (as so designated by this Act).

(b) Definitions.—In this section—

(1) the terms "atomic energy defense activity", "high-level radioactive waste", "repository", and "spent nuclear fuel" have the meanings given those...
terms in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101); and

(2) the term “defense waste repository” means the repository for high-level radioactive waste and spent nuclear fuel derived from the atomic energy defense activities of the Department of Energy, as described in the draft plan of the Department titled “Draft Plan for a Defense Waste Repository” published on December 16, 2016.

SEC. 206. SENSE OF CONGRESS REGARDING TRANSPORTATION ROUTES.

It is the Sense of Congress that the Secretary of Energy should consider routes for the transportation of spent nuclear fuel or high-level radioactive waste transported by or for the Secretary under subtitle A of title I of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10131 et seq.) to the Yucca Mountain site that, to the extent practicable, avoid Las Vegas, Nevada.

TITLE III—DOE CONTRACT PERFORMANCE

SEC. 301. TITLE TO MATERIAL.

Section 123 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10143) is amended—

(1) by striking “Delivery” and inserting “(a) In GENERAL.—Delivery”;
(2) by striking “repository constructed under this subtitle” and inserting “repository or monitored retrievable storage facility”; and

(3) by adding at the end the following new subsection:

“(b) CONTRACT MODIFICATION.—The Secretary may enter into new contracts or negotiate modifications to existing contracts, with any person who generates or holds title to high-level radioactive waste or spent nuclear fuel of domestic origin, for acceptance of title, subsequent transportation, and storage of such high-level radioactive waste or spent nuclear fuel (including to expedite such acceptance of title, transportation, and storage of such waste or fuel from facilities that have ceased commercial operation) at a monitored retrievable storage facility authorized under subtitle C.”.

TITLE IV—BENEFITS TO HOST COMMUNITY

SEC. 401. CONSENT.

Section 170 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10173) is amended—

(1) in subsection (c), by striking “shall offer” and inserting “may offer”;

(2) in subsection (d), by striking “shall” and inserting “may”;
(3) in subsection (e)—

(A) by inserting a comma after “repository”; and

(B) by inserting “per State,” after “facility”; and

(4) by adding at the end the following new subsection:

“(g) CONSENT.—The acceptance or use of any of the benefits provided under a benefits agreement under this section by the State of Nevada shall not be considered to be an expression of consent, express or implied, to the siting of a repository in such State.”.

SEC. 402. CONTENT OF AGREEMENTS.

(a) BENEFITS SCHEDULE.—The table in section 171(a)(1) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10173a(a)(1)) is amended to read as follows:

```
“BENEFITS SCHEDULE
[Amounts in millions]

<table>
<thead>
<tr>
<th>Event</th>
<th>MRS</th>
<th>Repository</th>
</tr>
</thead>
<tbody>
<tr>
<td>(A) Annual payments prior to first spent fuel receipt</td>
<td>$____</td>
<td>$____</td>
</tr>
<tr>
<td>(B) Upon first spent fuel receipt</td>
<td>$____</td>
<td>$____</td>
</tr>
<tr>
<td>(C) Annual payments after first spent fuel receipt until closure of the facility</td>
<td>$____</td>
<td>$____</td>
</tr>
</tbody>
</table>
```

(b) RESTRICTIONS ON USE.—Section 171(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10173a(a)) is amended—
(1) in paragraph (6), by striking “paragraph (7)” and inserting “paragraphs (7) and (8)”; and

(2) by adding at the end the following new paragraph:

“(8) None of the payments under this section may be used—

“(A) directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in section 1913 of title 18, United States Code;

“(B) for litigation purposes; or

“(C) to support multistate efforts or other coalition-building activities inconsistent with the siting, construction, or operation of the monitored retrievable storage facility or repository concerned.”.

(c) CONTENTS.—Section 171(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10173a(b)) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively.

(d) PAYMENTS FROM THE WASTE FUND.—Section 171(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10173a(c)) is amended by striking the first sen-
tence and inserting the following: “The Secretary shall make payments to the State of Nevada under a benefits agreement concerning a repository under section 170 from the Waste Fund.”.

SEC. 403. COVERED UNITS OF LOCAL GOVERNMENT.

(a) IN GENERAL.—The Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) is amended by inserting after section 172 the following new section:

“SEC. 172A. COVERED UNITS OF LOCAL GOVERNMENT.

“(a) BENEFITS AGREEMENT.—Not earlier than 1 year after the date of enactment of this section, the Secretary may enter into a benefits agreement with any covered unit of local government concerning a repository for the acceptance of high-level radioactive waste or spent nuclear fuel in the State of Nevada.

“(b) CONTENT OF AGREEMENTS.—In addition to any benefits to which a covered unit of local government is entitled under this Act, the Secretary shall make payments to such covered unit of local government that is a party to a benefits agreement under subsection (a) to mitigate impacts described in section 175(b).

“(c) PAYMENTS FROM WASTE FUND.—The Secretary shall make payments to a covered unit of local government under a benefits agreement under this section from the Waste Fund.
“(d) Restriction on Use.—None of the payments made pursuant to a benefits agreement under this section may be used—

“(1) directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in section 1913 of title 18, United States Code;

“(2) for litigation purposes; or

“(3) to support multistate efforts or other coalition-building activities inconsistent with the siting, construction, or operation of the repository.

“(e) Consent.—The acceptance or use of any of the benefits provided under a benefits agreement under this section by any covered unit of local government shall not be considered to be an expression of consent, express or implied, to the siting of a repository in the State of Nevada.

“(f) Covered Unit of Local Government Defined.—In this section, the term ‘covered unit of local government’ means—

“(1) any affected unit of local government with respect to a repository; and

“(2) any unit of general local government in the State of Nevada.”.
(b) CONFORMING AMENDMENTS.—

(1) BENEFITS AGREEMENT.—Section 170(a)(4) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10173(a)(4)) is amended—

(A) by inserting “made available pursuant to a benefits agreement under this section” after “under this subtitle”; and

(B) by striking “with a benefits agreement under this section” and inserting “with such benefits agreement”.

(2) LIMITATION.—Section 170(e) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10173(e)) is further amended by inserting “under this section” after “may be in effect”.

(3) TABLE OF CONTENTS.—The table of contents for the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 note) is amended by adding after the item relating to section 172, the following:

“Sec. 172A. Covered units of local government.”.

SEC. 404. TERMINATION.

Section 173 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10173c) is amended—

(1) in subsection (a)—

(A) by striking “under this title if” and inserting “under this title”;
(B) in paragraph (1), by inserting “concerning a repository or a monitored retrievable storage facility, if” before “the site under consideration”; and

(C) in paragraph (2), by striking “the Secretary determines that the Commission cannot license the facility within a reasonable time” and inserting “concerning a repository, if the Commission issues a final decision disapproving the issuance of a construction authorization for a repository under section 114(d)(1)”; and

(2) by amending subsection (b) to read as follows:

“(b) Termination by State or Indian Tribe.—A State, covered unit of local government (as defined in section 172A), or Indian tribe may only terminate a benefits agreement under this title—

“(1) concerning a repository or a monitored retrievable storage facility, if the Secretary disqualifies the site under consideration for its failure to comply with technical requirements established by the Secretary in accordance with this Act; or

“(2) concerning a repository, if the Commission issues a final decision disapproving the issuance of
a construction authorization for a repository under section 114(d)(1).”.

SEC. 405. OTHER BENEFITS.

Section 174 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10174) is amended—

(1) by striking “The Secretary, in siting” and inserting “(a) FEDERAL RESEARCH PROJECTS.— The Secretary, in siting”;

(2) by inserting “, or monitored retrievable storage facility authorized under subtitle C,” after “repository”; and

(3) by adding at the end the following:

“(b) REPORT AND PLAN FOR FEDERAL PROJECTS.— Not later than September 30, 2019, and annually thereafter, the Secretary, in consultation with other Federal agencies, the State of Nevada, affected units of local government, and affected Indian tribes, shall prepare and submit to Congress and such State, affected units of local government, and affected Indian tribes, a report identifying potential Federal projects to be located, or proposed to be located, in such State, including a plan for such Federal projects.

“(c) PRIORITY.—

“(1) IN GENERAL.—In providing any funding to institutions of higher education from the Waste
Fund, the Secretary shall prioritize institutions of higher education that are located in the State of Nevada.

“(2) DEFINITION.—In this section, the term ‘institution of higher education’ has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).”.

SEC. 406. DISPOSAL OF SPENT NUCLEAR FUEL.

Section 122 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10142) is amended by adding at the end the following: “Any economic benefits derived from the retrieval of spent nuclear fuel pursuant to this section shall be shared with the State in which the repository is located, affected units of local government, and affected Indian tribes.”.

SEC. 407. UPDATED REPORT.


TITLE V—FUNDING

SEC. 501. ASSESSMENT AND COLLECTION OF FEES.

(a) IN GENERAL.—Section 302(a)(4) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)(4)) is amended—
(1) in the first sentence—

(A) by striking “(4) Not later than” and inserting the following:

“(4) ASSESSMENT, COLLECTION, AND PAYMENT OF FEES.—

“(A) ASSESSMENT OF FEES.—Not later than”.

(B) by striking “the date of enactment of this Act” and inserting “the date of enactment of the Nuclear Waste Policy Amendments Act of 2017”; and

(C) by striking “collection and payment” and inserting “assessment”;

(2) in the second sentence, by striking “collection of the fee” and inserting “such amount”;

(3) in the third sentence, by striking “are being collected” and inserting “will result from such amounts”;

(4) in the fifth sentence, by striking “90 days of continuous session” and all that follows through the period at the end and inserting “the date that is 180 days after the date of such transmittal.”; and

(5) by adding at the end the following:

“(B) COLLECTION AND PAYMENT OF FEES.—
“(i) IN GENERAL.—Not later than 180 days after the date of enactment of Nuclear Waste Policy Amendments Act of 2017, the Secretary shall establish procedures for the collection and payment of the fees established by paragraph (2) and paragraph (3), or adjusted pursuant to subparagraph (A).

“(ii) LIMITATION ON COLLECTION.—The Secretary may not collect a fee established under paragraph (2) or (3), or adjusted pursuant to subparagraph (A)—

“(I) until the date on which the Commission issues a final decision approving or disapproving the issuance of a construction authorization for a repository under section 114(d)(1); and

“(II) after such date, in an amount that will cause the total amount of fees collected under this subsection in any fiscal year to exceed 90 percent of the amounts appropriated for that fiscal year for purposes described in subsection (d).
“(iii) Payment of full amounts.—
Notwithstanding the non-collection of a fee
by the Secretary pursuant to clause (ii) in
any fiscal year, a person who has entered
into a contract with the Secretary under
this subsection shall pay any uncollected
amounts when determined necessary by the
Secretary, subject to clause (ii), for pur-
poses described in subsection (d).”.

(b) Authority to modify contracts.—The Sec-
retary of Energy may seek to modify a contract entered
into under section 302(a) of the Nuclear Waste Policy Act
of 1982 (42 U.S.C. 10222(a)) before the date of enact-
ment of this Act to ensure that the contract complies with
the provisions of such section, as amended by this Act.

(e) Technical and conforming amendments.—
Section 302(a) of the Nuclear Waste Policy Act of 1982
(42 U.S.C. 10222(a)) is amended—

(1) in paragraph (1), by striking “paragraphs
(2) and (3)” and inserting “paragraphs (2), (3), and
(4)”;

(2) in paragraph (3), by striking “126(b)”;

(3) in paragraph (4), by striking “insure” and
inserting “ensure”.
SEC. 502. USE OF WASTE FUND.

(a) IN GENERAL.—Section 302(d) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(d)) is amended—

(1) in paragraph (1), by striking “maintenance and monitoring” and all that follows through the semicolon at the end and inserting “maintenance and monitoring of any repository or test and evaluation facility constructed under this Act;”;

(2) in paragraph (4), by striking “to be disposed of” and all that follows through the semicolon at the end and inserting “to be disposed of in a repository or to be used in a test and evaluation facility;”; and

(3) in paragraph (5), by striking “at a repository site” and all that follows through the end and inserting “at a repository site or a test and evaluation facility site and necessary or incident to such repository or test and evaluation facility; and”.

(b) CONFORMING AMENDMENTS.—The Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) is amended—

(1) in section 117(d), by inserting “designated with respect to a repository” after “such representa-
(2) in section 141(f), by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

SEC. 503. AVAILABILITY OF CERTAIN AMOUNTS.

Section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222) is amended by adding at the end the following:

“(f) AVAILABILITY OF CERTAIN AMOUNTS.—Notwithstanding any other provision of this section, the following amounts from the Waste Fund shall be made available to the Secretary for the purposes described in subsection (d), without further appropriations:

“(1) An amount equal to [___] percent of the amounts in the Waste Fund on the date of enactment of the Nuclear Waste Policy Amendments Act of 2017, on the date on which high-level radioactive waste or spent nuclear fuel is received at the Yucca Mountain site.

“(2) An amount equal to [___] percent of the amounts in the Waste Fund on the date of enactment of the Nuclear Waste Policy Amendments Act of 2017, on the date on which high-level radioactive waste or spent nuclear fuel is emplaced in a repository.

“(3) An amount equal to [___] percent of the amounts in the Waste Fund on the date of enact-
ment of the Nuclear Waste Policy Amendments Act of 2017, on the date on which decommissioning activities related to a repository commence.

“(4) An amount equal to [_____] percent of the amounts in the Waste Fund on the date of enactment of the Nuclear Waste Policy Amendments Act of 2017, on the date on which post-decommissioning maintenance or monitoring related to a repository commences.

“(5) An amount equal to any fee collected pursuant to subsection (a)(3) after the date of enactment of the Nuclear Waste Policy Amendments Act of 2017, on the date on which such fee is collected.”

TITLE VI—MISCELLANEOUS

SEC. 601. CERTAIN STANDARDS AND CRITERIA.

(a) ENVIRONMENTAL PROTECTION AGENCY STANDARDS.—

(1) DETERMINATION AND REPORT.—Not later than 2 years after the Nuclear Regulatory Commission has issued a final decision approving or disapproving the issuance of a construction authorization for a repository under section 114(d)(1) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(d)) (as so designated by this Act), the Ad-
ministrator of the Environmental Protection Agency shall—

(A) determine if the standards promulgated under section 121(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10141(a)) should be updated; and

(B) submit to Congress a report on such determination.

(2) Rule.—If the Administrator of the Environmental Protection Agency determines, under paragraph (1), that the standards promulgated under section 121(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10141(a)) should be updated, the Administrator, not later than 2 years after submission of the report under paragraph (1)(B), shall, by rule, promulgate updated standards under such section.

(b) Commission Requirements and Criteria.—

(1) Determination and Report.—Not later than 2 years after the Nuclear Regulatory Commission has issued a final decision approving or disapproving the issuance of a construction authorization for a repository under section 114(d)(1) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10141(a)).
10134(d)) (as so designated by this Act), the Commission shall—

(A) determine if the technical requirements and criteria promulgated under section 121(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10141(b)) should be updated; and

(B) submit to Congress a report on such determination.

(2) RULE.—If the Nuclear Regulatory Commission determines, under paragraph (1), that the technical requirements and criteria promulgated under section 121(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10141(b)) should be updated, the Commission, not later than 2 years after submission of the report under paragraph (1)(B), shall, by rule, promulgate updated technical requirements and criteria under such section.

SEC. 602. OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT.

(a) AMENDMENT TO THE NUCLEAR WASTE POLICY ACT OF 1982.—Subsection (b) of section 304 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10224(b)) is amended to read as follows:

“(b) DIRECTOR.—
“(1) FUNCTIONS.—The Director of the Office shall be responsible for carrying out the functions of the Secretary under this Act. The Director of the Office shall report directly to the Secretary.

“(2) TENURE.—The Director of the Office shall serve [a 5-year term].

“(3) QUALIFICATIONS.—The Director of the Office shall be appointed from among persons who have extensive expertise and experience in organizational and project management.”.

(b) TRANSFER OF FUNCTIONS.—

(1) AMENDMENT.—Section 203(a) of the Department of Energy Organization Act (42 U.S.C. 7133(a)) is amended by striking paragraph (8).

(2) TRANSFER OF FUNCTIONS.—The functions described in the paragraph (8) stricken by the amendment made by paragraph (1) shall be transferred to and performed by the Office of Civilian Radioactive Waste Management, as provided in section 304 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10224).

(c) TECHNICAL AMENDMENT.—Section 2(17) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(17)) is amended by striking “section 305” and inserting “section 304”.