

March 30, 2005

The Honorable Richard B. Cheney
President of the United States Senate
Washington, D.C. 20510

Dear Mr. President:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am pleased to provide an NRC draft bill that would amend the Atomic Energy Act of 1954 to add several new sections that would contribute to maintaining the necessary regulatory expertise required by the NRC to accomplish its regulatory mission. Salient among these are provisions that would help the NRC to expand the pool of prospective employees who have the skills to carry out the agency's tasks, enable the agency to employ former Federal employees who have skills that are critical to the performance of the Commission's duties, and encourage institutions of higher education to train their students in the skills needed to carry out NRC's work.

Specifically, this legislation would authorize the Commission:

(1) to provide financial assistance to institutions of higher learning to promote the development of academic offerings in subject areas that relate to matters that fall under the NRC's jurisdiction;

(2) to purchase promotional items of nominal value for use in recruitment of individuals for employment with the NRC;

(3) to provide lodging, transportation, and subsistence allowances to student interns hired by the NRC for summer and other short term periods of employment;

(4) to pay the costs of medical care provided to NRC staff serving in foreign countries and their accompanying dependents;

(5) to establish a program to award scholarships to undergraduate students and fellowships to graduate students to enable them to pursue education in science, engineering, or another field that the Commission determines to be critical to the Commission's mission;

(6) to establish and participate in partnership programs with institutions of higher education, including Historically Black Colleges and Universities, Hispanic Serving Institutions, and Tribal Colleges, to enhance their capacity to train personnel and students in fields that the Commission determines to be important to its regulatory mission; and

(7) to pay Federal retirees who are hired as consultants to the agency their full salary, without pension offset, for employment in a position for which there is exceptional difficulty in recruiting or retaining a qualified employee, or when a temporary emergency hiring need exists.

The enactment of the listed proposals would enhance the NRC's recruitment and retention of professional personnel. It would help to ensure that the Commission will continue to be in a position to protect the public health and safety and promote the common defense and security with respect to the civilian use of nuclear material. A draft bill (Enclosure 1) and a memorandum explaining the need for the legislation (Enclosure 2) are provided.

Sincerely,

/RA/

Nils J. Diaz

Enclosures:

1. Draft Bill
2. Legislative Memorandum

Identical letter sent to:

The Honorable Richard B. Cheney
President of the United States Senate
Washington, D.C. 20510

The Honorable J. Dennis Hastert
Speaker of the United States House
of Representatives
Washington, D.C. 20515

The Honorable George V. Voinovich, Chairman
Subcommittee on Clean Air, Climate Change,
and Nuclear Safety
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510
cc: Senator Thomas R. Carper

The Honorable Ralph M. Hall, Chairman
Subcommittee on Energy and Air Quality
Committee on Energy and Commerce
United States House of Representatives
Washington, D.C. 20515
cc: Representative Rick Boucher

The Honorable James M. Inhofe, Chairman
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510
cc: Senator James M. Jeffords

The Honorable Joe Barton, Chairman
Committee on Energy and Commerce
United States House of Representatives
Washington, D.C. 20515
cc: Representative John D. Dingell

DRAFT BILL

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "NRC Human Resources Act".

SEC. 2. PROVISION OF SUPPORT TO UNIVERSITY NUCLEAR SAFETY, SECURITY, AND ENVIRONMENTAL PROTECTION PROGRAMS.

Section 31 of the Atomic Energy Act of 1954 (42 U.S.C. 2051) is amended by—

(1) striking "authorized to make" and inserting "authorized (1) to make" in subsection b., and

(2) inserting the following at the end of subsection b.:

“, and (2) to provide grants, loans, cooperative agreements, contracts, and equipment to colleges and universities to support courses, studies, training, curricula, and disciplines pertaining to nuclear safety, security, or environmental protection, or any other field that the Commission determines to be critical to its regulatory mission.”.

SEC. 3. PROMOTIONAL ITEMS.

Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) is amended by inserting the following section:

“Sec. 170C. Promotional Items.

“The Nuclear Regulatory Commission is authorized to purchase promotional items of nominal value for use in the recruitment of individuals for employment.”

SEC. 4. LODGING AND SUBSISTENCE ALLOWANCES FOR STUDENT INTERNS; HEALTH AND MEDICAL SERVICES FOR EMPLOYEES AND THEIR DEPENDENTS SERVING IN FOREIGN COUNTRIES.

Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.), as amended by section 3, is further amended by inserting the following subsection:

“Sec. 170D. Lodging And Subsistence Allowances For Student Interns; Health and Medical Services For Employees And Their Dependents Serving in Foreign Countries.

“The Nuclear Regulatory Commission is authorized to--

“(a) pay transportation, lodging, and subsistence expenses of employees who assist scientific, professional, administrative, or technical employees of the Commission and who are students in good standing at an accredited college or university pursuing courses related to the field in which they are employed by the Commission;” and

“(b) pay the costs of health and medical services furnished, pursuant to an agreement between the Nuclear Regulatory Commission and the Department of State, to NRC employees and their dependents serving in foreign countries.”

SEC. 5. NRC SCHOLARSHIP AND FELLOWSHIP PROGRAM.

Chapter 19 of the Atomic Energy Act of 1954 (42 U.S.C. 2015 et seq.) is amended by inserting the following section:

“Sec. 242. Scholarship and Fellowship Program.

“(a) The Nuclear Regulatory Commission is authorized to carry out a program of--

“(1) awarding scholarships to undergraduate students who--

“(A) are United States citizens, and

“(B) enter into an agreement under subsection (b) to be employed by the Nuclear Regulatory Commission in the area of study for which the scholarship is awarded,

in order to enable such students to study, for at least one academic semester or equivalent term, science, engineering, or another field of study that the Commission determines is in a critical skill area related to its regulatory mission.

“(2) awarding fellowships to graduate students who--

“(A) are United States citizens, and

“(B) enter into an agreement under subsection (b) to be employed by the Nuclear Regulatory Commission in the area of study for which the fellowship is awarded,

to enable such students to pursue education in science, engineering, or another field of study that the Commission determines is in a critical skill area related to its regulatory mission, in a graduate or professional degree program offered by a United States institution of higher education.

“(b) In awarding a scholarship or fellowship under the program established by this section, the Nuclear Regulatory Commission shall require a recipient of the scholarship or fellowship to enter into an agreement that, in return for such assistance, the recipient will--

“(1) maintain satisfactory academic progress in his or her studies, as determined by criteria established by the Commission, and agrees that failure to maintain such progress shall constitute grounds upon which the Commission may terminate such assistance;

“(2) upon completion of the academic course of study in connection with which the assistance was provided, and in accordance with criteria established by the Commission, engage in employment by the Nuclear Regulatory Commission for a period specified by the Commission, which period shall be not less than one and not more than three times the period for which the assistance was provided; and

“(3) if he or she fails to meet the requirements of paragraph (1) or paragraph (2), reimburse the United States Government for the entire amount of the assistance provided the recipient under the program, together with interest at a rate determined by the Commission. The Commission may establish criteria for the partial or total waiver or suspension of any obligation of service or payment incurred by an individual under the program.

“(c) Recipients of awards of scholarships or fellowships pursuant to this section shall be selected through a competitive process primarily on the basis of academic merit and such criteria as the Nuclear Regulatory Commission may establish, with consideration given to financial need and the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act.

” (d) The Commission is authorized to appoint directly, with no further competition, public notice or consideration of any other potential candidate, an individual who has completed the academic program for which a scholarship or fellowship was awarded by the Commission.”.

SEC 6. PARTNERSHIP PROGRAM WITH INSTITUTIONS OF HIGHER EDUCATION.

Chapter 19 of the Atomic Energy Act of 1954 (42 U.S.C. 2015 et seq.) is amended by inserting the following section:

“Sec. 243. Partnership Program with Institutions of Higher Education.

“(a) DEFINITIONS.--- As used in this section--

“(1) "Hispanic Serving Institutions" has the meaning set forth in section 502(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1101(a)(5));

“(2) "Historically Black Colleges and University" has the meaning of the term "part B institution" in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2));

“(3) "Tribal Colleges" has the meaning of the term "tribally controlled college or university" in section 2(a)(4) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)(4)); and

“(4) “activities" means research, mentoring, instruction, and training.

“(b) PARTNERSHIP PROGRAM.--- The Commission may establish and participate in activities with institutions of higher education, including Hispanic

Serving Institutions, Historically Black Colleges and Universities, and Tribal Colleges, in science, engineering, or law, or in any other field that the Commission determines is important to the work of the Commission, to strengthen the capacity of such institutions to educate and train students (including present or potential employees of the Commission) and conduct research in such fields.”

SEC. 7. ELIMINATION OF PENSION OFFSET FOR CERTAIN REHIRED FEDERAL RETIREES.

Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.), as amended by sections 3 and 4, is further amended by inserting the following section:

“Section 170E. Elimination Of Pension Offset For Certain Rehired Federal Retirees.

“(a) The Nuclear Regulatory Commission may waive the application of the provisions of section 8344 or 8468 of title 5, United States Code, on a case-by-case basis for employment of an annuitant in a position in the Commission for which there is exceptional difficulty in recruiting or retaining a qualified employee, or when a temporary emergency hiring need exists.

“(b) The Nuclear Regulatory Commission shall prescribe procedures for the exercise of any authority under this section, including criteria for any exercise of authority and procedures for a delegation of authority.

“(c) An employee as to whom a waiver under this section is in effect shall not be considered an employee for purposes of subchapter II of chapter 83, or chapter 84 of title 5, United States Code.”.

SEC 8. AUTHORIZATION OF APPROPRIATIONS

For the purpose of carrying out this Act, there are authorized to be appropriated such sums as may be necessary for fiscal year 2006, and such sums as may be necessary for subsequent fiscal years.

LEGISLATIVE MEMORANDUM

SEC. 2. PROVISION OF SUPPORT TO UNIVERSITY NUCLEAR SAFETY, SECURITY, AND ENVIRONMENTAL PROTECTION PROGRAMS.

In recent years, institutions of higher learning in this country have reduced their offerings in subject areas that relate to matters that fall under the jurisdiction of the Nuclear Regulatory Commission. To help stimulate renewed academic interest in these subject areas, this section would amend section 31 of the Atomic Energy Act of 1954 to authorize the Commission to provide assistance to colleges and universities to support courses, studies, training, curricula, and disciplines relevant to nuclear safety, security, environmental protection, or any other field that the Commission determines to be critical to its regulatory mission. Under the amendment, such assistance could consist of loans, grants, cooperative agreements, contracts, or equipment.

The additional authority provided by this section would enable the Commission to foster the development of the next generation of nuclear regulatory specialists by funding university programs that would help address shortages of individuals with critical skills needed by the NRC.

SEC. 3. ELIMINATION OF PENSION OFFSET FOR CERTAIN REHIRED FEDERAL RETIREES.

Currently, if a former Federal employee who is receiving a Government retirement pension is employed as a consultant to the Commission, the NRC must deduct the amount the retiree receives as a pension from the retiree's pay. This offset effectively prevents the agency

from hiring, on a short term basis, former employees with unique knowledge and many years of specialized experience. The purpose of this section is to pay NRC or other Federal retirees who are appointed their full salary.

At NRC's request, the Office of Personnel Management (OPM) has temporarily granted the NRC authority to waive this dual compensation deduction, but only in limited circumstances. OPM has rigid requirements for approval of dual compensation limitations waivers. Obtaining either case-by-case approvals or delegated authority from OPM is a time-consuming process requiring lengthy justifications. This limits the usefulness of the waivers when they are needed quickly and turnaround time to deal with critical, emergent issues is short. Independent authority to approve waivers would enhance the NRC's ability to grant the waivers quickly, when necessary. In view of NRC's sometimes urgent need for the temporary services of former NRC employees who have retired, further legislation is needed. Providing legislative authority to the Commission to grant such waivers, on a case-by-case basis, without OPM approval, will enable the agency to bring back more expeditiously former Federal employees who are needed for the purpose of maintaining the agency's ability to protect the public health and safety and common defense and security.

In this connection, it is noteworthy that NRC acquisition regulations specifically state that it is NRC policy not to award noncompetitive contracts to former NRC employees within two years of the date of the Request for Procurement. (A waiver of the prohibition may be granted under certain circumstances.) This policy extends to an organization if a former employee is an owner or principal officer of the organization, or where the former employee will perform the particular NRC work assigned to the organization. 48 C.F.R. 2009.100. With the elimination of the pension offset, another route would become available for obtaining work by a former employee who is subject to this procurement restriction.

SEC. 4. LODGING AND SUBSISTENCE ALLOWANCES FOR STUDENT INTERNS;
HEALTH AND MEDICAL SERVICES FOR EMPLOYEES AND THEIR
DEPENDENTS SERVING IN FOREIGN AREAS.

This section would amend the Atomic Energy Act of 1954 to authorize the NRC to provide financial assistance to student interns for their lodging, transportation, and subsistence expenses. The NRC has difficulty hiring students who do not normally reside in the Washington, DC, or an NRC Regional Office area for summer and other short term periods of employment because of the areas' high cost of travel, housing, and related expenses. These student employees are a valuable source for future recruitment for NRC employment. Assistance with the high cost of housing will help ensure the agency's ability to hire the best. The Department of Agriculture and other agencies have similar authority.

This section would also authorize the NRC to pay for costs of health and medical services furnished, pursuant to an agreement with the State Department, to NRC employees and their dependents serving in foreign countries. This provision is needed so that NRC staff and their dependents who are assigned overseas could receive health and medical services from the United States embassies in those countries. The NRC has, for many years, assigned an employee to the United States Mission in Vienna, Austria. United States embassies currently provide medical care and services to employees of other Federal agencies through interagency agreements. However, the NRC is unable to obtain these services under agreements with the Department of State unless it obtains statutory authority. The Comptroller General has consistently held that medical care and treatment are personal to a Federal employee, and, therefore, payment may not be made from appropriated funds for such care and treatment unless authorized by statute. Congress has granted other agencies the authority

to provide medical services to its staff and their dependents under agreement with the State Department. Enactment of this provision would extend the same authority to the NRC.

SEC. 5. NRC SCHOLARSHIP AND FELLOWSHIP PROGRAM.

The likelihood that the NRC will experience staffing shortfalls in future years must receive attention at the present time. To maintain its ability to protect the health and safety of the public and the common defense and security, the agency must be able to recruit new employees who have the skills necessary for the NRC to continue to carry out its mission. It is to that end that this section would amend the Atomic Energy Act to authorize the NRC to establish a program to award scholarships to undergraduates studying in institutions of higher learning, for the purpose of enabling them to study science or engineering or another field of study that the Commission determines is in a skill area that is critical to the fulfillment of its regulatory mission. The section would also establish a similar program for the award by NRC of fellowships to graduate students, to enable them to pursue education in a critical skill area in a graduate or professional degree program offered by a United States institution of higher education. A student who receives such a scholarship or fellowship would have to be a citizen of the United States.

These programs would enhance the ability of the NRC to recruit new employees who have the skills necessary for the agency to replace employees who leave the agency. Each recipient of a scholarship or fellowship would be required to enter into a written agreement with the NRC to maintain satisfactory academic progress. In addition, the recipient would need to agree to be employed by the NRC, upon the recipient's completion of the education in connection with which the scholarship or fellowship was provided, for a period of not less than one and not more than three times the period for which the assistance was provided. With very

limited exception, failure to meet any of these requirements will obligate the recipient to reimburse the United States Government for the entire amount of the assistance provided, with interest.

The award of scholarships or fellowships will be based on criteria established by the Commission, including consideration of the financial need. Selection shall be made through a competitive process primarily on the basis of academic merit, with consideration to financial need and the goal of participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act. The NRC may directly appoint an individual who completed the academic program to a position in the agency without further competition, public notice, or consideration of other candidates.

This legislation will help the NRC remain competitive in recruiting qualified entry level candidates, especially in view of the increasing numbers of government and industry employees eligible to retire and the labor market trends affecting nuclear engineers, health physicists, and other occupations critical to NRC's mission. Enrollments and degrees in nuclear engineering and health physics degree programs are less than half of what they were ten years ago. Reports on labor trends prepared for the Commission, by Oak Ridge Institute for Science and Education, indicate that the available civilian labor supply of new nuclear engineering graduates and health physicists in the United States is expected to be substantially less than the number of job openings in the next few years.

Other Federal agencies have been granted statutory authority to establish programs similar to that described in this section. Recent examples of legislation that have granted such authority are the NASA Flexibility Act of 2004 (Pub. L. 108-201) and the Intelligence Reform and Terrorism Prevention Act of 2004 (Pub. L. 108-458).

SEC 6. PARTNERSHIP PROGRAM WITH INSTITUTIONS OF HIGHER EDUCATION.

This section would authorize the NRC to establish and participate in partnership programs with institutions of higher education, including Historically Black Colleges and Universities, Hispanic Serving Institutions and Tribal Colleges, for the purpose of increasing their participation in activities that will enhance their capacity to train personnel and students in science, engineering, law, or any other field that the Commission determines is critical to its regulatory mission. This could include collaborative research, mentoring, instruction, and training activities conducted at these educational institutions or conducted at NRC facilities.

Encouraging expansion of the capacity of these institutions to provide training in subject areas critical to NRC needs will enhance the ability of the NRC to find and attract new employees who have acquired the skills necessary for the agency to maintain its ability to protect the public health and safety, promote the common defense and security, and protect the environment.

SEC. 7. PROMOTIONAL ITEMS.

This section would authorize the NRC to use appropriated funds to purchase items of nominal value that can be given to attract potential employees as part of NRC's recruitment efforts. In recent years, this authority has been granted by the Congress in NRC's annual Energy and Water Development Appropriation Acts. This provision would confer permanent authority.