

Purpose:

To provide for a formal process of State participation and concurrence regarding the management and storage of radioactive materials.

Calendar No. 188

Amdt. No. 235

96TH CONGRESS
1ST SESSION

S. 562

IN THE SENATE OF THE UNITED STATES

JUNE 18 (legislative day, MAY 21), 1979
Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. MCGOVERN to S. 562, a bill to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes, viz: On page 19, insert the following after line 16:

- 1 SEC. 208. Chapter 19 of the Atomic Energy Act of
- 2 1954 is amended by inserting the following new section after
- 3 section 241:

POOR ORIGINAL

532 357

7938090621

1 “SEC. 242. NOTICE TO STATES WITH REGARD TO
2 DISPOSAL OF NUCLEAR WASTE.—

3 “a. Except as may otherwise be provided, the Chairman
4 shall notify (and publish such notice in the Federal Register)
5 the Governor, the presiding officers of the various chambers,
6 where applicable, of a State legislature, and where applica-
7 ble, the Tribal Council of any affected Indian tribe, of its
8 intent to explore a site in such State, or within an Indian
9 reservation, for the purpose of establishing, evaluating, or
10 contracting for construction of facilities intended for the stor-
11 age or disposal of radioactive materials.

12 “b. Except as may otherwise be provided, the Chairman
13 shall, after making the notification required by subsection a.,
14 and upon the request of the Governor of an affected State or
15 an affected Tribal Council, establish a Federal and State Ra-
16 dioactive Materials Management Commission (hereinafter in
17 this section referred to as the ‘Commission’) for the purpose
18 of achieving, in an expeditious manner, substantial concur-
19 rence between the State, the affected Indian tribe, and the
20 Department of Energy for each proposal made by the De-
21 partment of Energy regarding site selection, evaluation, con-
22 tracting, or construction of facilities intended for the manage-
23 ment and storage of radioactive materials including high-level
24 defense waste, spent fuel reactor assemblies, transuranic ma-
25 terials and other mid- and high-level radioactive materials.

POOR ORIGINAL

532 358

1 "c. The Commission shall consist of—

2 "(1) the appropriate officials from the Nuclear
3 Regulatory Commission designated by the Chairman,

4 "(2) a representative from the Department of
5 Energy designated by the Secretary,

6 "(3) a representative from the United States Geo-
7 logical Survey,

8 "(4) the Governor of each affected State, or his
9 designated representative,

10 "(5) a representative of any affected Tribal Coun-
11 cil,

12 "(6) not to exceed six State or local officials, or
13 interested citizens from the affected State designated
14 by the Governor, in consultation with the leadership of
15 the State legislature,

16 "(7) such other individuals to be selected at the
17 discretion of the Chairman or the Governor of the af-
18 fected State.

19 "d. The Commission shall meet to examine all proposed
20 actions to be taken under subsection a., with the objective of
21 achieving substantial concurrence on each and any socioeco-
22 nomic, institutional, technical, environmental, health, and
23 safety issues associated with such action.

24 "e. In the event that the Commission representatives of
25 the affected State determine that concurrence cannot be

1 achieved with regard to any proposed action, the Governor,
2 in consultation with the other Commission members from the
3 affected State, shall file a report stating his objections and
4 identify acceptable alternatives.

5 "f. The State legislature of any affected State may by
6 joint or concurrent resolution or by law, or in those States
7 with a unicameral legislature by single resolution, or by other
8 powers subject to each State's constitution concur or issue
9 nonconcurrence with the decision of the Commission.

10 "g. No Federal agency or its representative shall pro-
11 ceed with any project for storage or disposal of radioactive
12 materials unless the State has determined that its objections
13 have been resolved."

POOR ORIGINAL

S. 654

At the request of Mr. GOLDWATER, the Senator from North Carolina (Mr. MORAN) was added as a cosponsor of S. 654, to remove residency requirements and ease limitations applicable to respect to reclamation laws.

S. 669

At the request of Mr. BAYH, the Senator from Alabama (Mr. HAYDEN) was added as a cosponsor of S. 669, Indus-try-Funded Personnel.

S. 729

At the request of Mr. LAXALT, the Senator from Utah (Mr. GARN), the Senator from Nevada (Mr. CANNON), the Senator from Arizona (Mr. GOLDWATER), the Senator from Idaho (Mr. McCLELLAN), the Senator from North Dakota (Mr. BURR), the Senator from Alaska (Mr. BARTLETT), the Senator from New Mexico (Mr. DOMINICK), the Senator from Oregon (Mr. SIMMONS), the Senator from New Mexico (Mr. SCHMITZ), the Senator from North Carolina (Mr. MORAN), and the Senator from Louisiana (Mr. BURTON) were added as cosponsors of S. 729, to amend title 28, United States Code, relating to venue in the courts and the courts of appeals.

S. 740

At the request of Mr. WILLIAMS, the Senator from New Hampshire (Mr. DUKAKIS) was added as a cosponsor of S. 740, the Ownership Opportunity Act.

S. 839

At the request of Mr. JAVITS, the Senator from New Hampshire (Mr. DURAN) and the Senator from Alaska (Mr. BARTLETT) were added as cosponsors of the amendments of the GI Bill Extension Act.

S. 884

At the request of Mr. WALLON, the Senator from Utah (Mr. HAYDEN) was added as a cosponsor of S. 884, a bill to require the Secretary of Transportation to make grants, and to reduce the apportionment of Federal-aid highway money to States based upon the percentage of motor vehicles exceeding the 55-mph speed limit on either rural or public highway systems within the State.

S. 892

At the request of Mr. LEAHY, the Senator from South Carolina (Mr. HOLIFIELD) was added as a cosponsor of S. 892, a bill for extension of authorization appropriations for the rural development, small farm research, and farm extension programs.

S. 1070

At the request of Mr. PERCY, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 1070, a bill to require a 3-year residency requirement for persons receiving supplemental income benefits and to require every applicant for permanent residence to be a sponsor who will contract to support him for 3 years, or to have other support.

S. 1090

At the request of Mr. TALMADGE, the Senator from Indiana (Mr. BAYH) was

added as a cosponsor of S. 1090, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code relating to church retirement plans.

S. 1091

At the request of Mr. TALMADGE, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1091, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code relating to church retirement plans.

S. 1092

At the request of Mr. TALMADGE, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1092, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code relating to church retirement plans.

SENATE JOINT RESOLUTION 82

At the request of Mr. PELL, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of Senate Joint Resolution 82, a joint resolution "to declare May 18, 1979, to be 'National Museum Day'".

SENATE CONCURRENT RESOLUTION 24

At the request of Mr. DeCONCINI, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of Senate Concurrent Resolution 24, expressing the sense of the Congress on the nonenforcement of sanctions against Zimbabwe-Rhodesia.

SENATE RESOLUTION 161—ORIGINAL RESOLUTION REPORTED AUTHORIZING PRINTING OF "SPECIAL BRIDGE REPLACEMENT PROGRAM, EIGHTH ANNUAL REPORT TO CONGRESS"

Mr. RANDOLPH, from the Committee on Environment and Public Works, reported the following original resolution, which was referred to the Committee on Rules and Administration:

SENATE RESOLUTION 161

Resolved, That the annual report of the Secretary of Transportation to the Congress of the United States (in compliance with section 144, title 23, United States Code), entitled, "Special Bridge Replacement Program, Eighth Annual Report to Congress" be printed with illustrations as a Senate document.

Sec. 2. There shall be printed five hundred additional copies of such document for the use of the Committee on Environment and Public Works.

AMENDMENTS SUBMITTED FOR PRINTING

NUCLEAR REGULATORY COMMISSION AUTHORIZATION—S. 562

AMENDMENT NO. 200

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM submitted an amendment intended to be proposed by him to S. 562, a bill to require the Nuclear Regulatory Commission to give States timely notification of the transporting of nuclear wastes.

Mr. METZENBAUM, Mr. President, today I am introducing legislation which

requires the Nuclear Regulatory Commission to notify State officials when hazardous nuclear wastes are shipped through their States. This language is identical to an amendment which passed the House Interior Committee last week.

Surprisingly, the NRC does not already issue such notification to State authorities, despite the dangers that transporting such waste present to the general population. The NRC is by law given advance notification by shippers of nuclear waste, and NRC issues licenses for those shipments, but the NRC does not notify State officials when those shipments actually occur. This lack of clear NRC policy became apparent in my home area of Cleveland recently when State officials learned, almost by accident, that nuclear wastes from the Three Mile Island plant were being transported on the Ohio Turnpike through a very populous part of the State. Neither the State department of energy nor the State highway patrol were notified of those shipments.

The fact is that accidents do occur during the transporting of nuclear wastes, and we should take every precaution to avert a potential catastrophe. Between 1973 and 1977 the Ohio Department of Transportation investigated eight separate incidents involving the transportation of radioactive materials, including five involving trucks and three involving airplanes. This amendment will give State officials the advance time they need to minimize the public danger from transporting nuclear wastes by all modes, including truck, rail, and air. State officials may require that those wastes be shipped only during off-peak traffic hours or only under police escort. But, in any case, State officials have a right to know when nuclear wastes are being shipped through their State. This amendment will give State officials and the general public the information which they should have in the first place.

Mr. President, I ask unanimous consent that two newspaper articles be printed in the Record at this point.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Cleveland Plain Dealer, May 4, 1979]

TRACKING ATOM WASTES

State officials have a right to know when radioactive wastes enter Ohio. That seems to be a matter of such common sense that we are startled by the attitude of federal officials and shippers responsible for such wastes being hauled across Ohio unbeknown to officials of the state.

The attitude seems to be that since no law requires that notification be made, there is no need to do so. Pull speed ahead and damn the natives, as it were.

But in Berea, through which nuclear wastes from the Three Mile Island plant in Pennsylvania have been trucked on the Ohio Turnpike, there is an ordinance requiring two weeks' notice and a permit for transportation of hazardous substances in the city. In fact, 23 Cuyahoga County communities had similar laws on Jan. 1.

The question of jurisdiction in the case of the turnpike, which is run by an independent, quasi-public commission, could get to be sticky if an attempt were made to enforce the Berea ordinance. Also, the question

of law...

But we are in... S. 562... Chairman of... Force, who... notified of... by... State...

But... Member... Sen. Adam... Highway... should be... that... be made... with federal... wastes."

At the least... the waste-bearing... under in Ohio... selected in... State...

We cannot... every has been... and shippers... concern over safety... is to, it is... that prior... be made... through... the general...

Federal... wastes is... known. State... an accident... and local... that these... shipments... areas.

[From the... Radioactive...]

Radioactive... Island plant... tion's worst... transported... affirmed.

But he said... ferent from... the country... including Ohio... Canton.

Davis-Sear... storage site... of months... a spokesman... owns the prop...

The wastes... moving across... NRC officials... since the Mar... man for the... Commission.

They are... tory in Rich... Although... level and are... of the plant, be...

Three ships... Three Mile... and perhaps... over the next...

The wastes... ter that beca... ident, he... with decont...

NRC regula... sign of the... plants, the... solidifying the... and encasem...

Commercial...

of how a hazardous material is defined could drag through the courts.

But we are in total agreement with Robert S. Ryan, Ohio energy director and vice chairman of the Ohio Nuclear Safety Task Force, who said the state should have been notified of nuclear waste shipments—two already have been made and more are expected—as a matter of principle.

Ohio is a sovereign state and has a right—indeed, is required by its duty to its citizens—to exercise surveillance of hazardous materials within its borders.

But Ryan knew nothing of the shipments. Neither did any other state official, including Col. Adam Reiss, commandant of the State Highway Patrol, who said "I think Ohio should be notified in advance and I believe that positive inspection of each load should be made before shipment for compliance with Federal regulations covering hazardous wastes."

At the least, the state might want to escort the waste-bearing trucks from border to border in Ohio, even though the material is sealed in steel and lead casks and supposedly is accident-proof.

We cannot help but wonder whether secrecy has been employed by Federal officials and shippers due to worry about public concern over safety of nuclear materials. If that is so, it is reprehensible. It is crystal clear to us that prior notification of state officials—and through them local officials—is much the preferable alternative.

Federal responsibility for en route nuclear wastes is at best confused and at worst unknown. Since responsibility in the case of an accident ultimately would fall on state and local resources, it only stands to reason that those officials should be informed about shipments passing through their jurisdictions.

[From the Cleveland Press, May 4, 1979]

RADIOACTIVE WASTES TRUCKED THROUGH OHIO

(By Bob Medico)

Radioactive wastes from the Three Mile Island plant in Pennsylvania, site of the nation's worst nuclear accident, are being transported across Ohio, a federal spokesman affirmed.

But he said the nuclear wastes are no different from those normally shipped across the country from other nuclear power plants, including Ohio's Davis-Besse plant near Port Clinton.

Davis-Besse has transported its wastes to a storage site in Barnwell, S.C., every couple of months since it opened in late 1977, said a spokesman for Toledo Edison Co., which owns the plant with the Humating Co.

The wastes from Three Mile Island are moving across Ohio now because South Carolina officials have refused to accept them since the Mar. 28 accident, said the spokesman for the federal Nuclear Regulatory Commission.

They are now being trucked to a depository in Richland, Wash., he said.

Although radioactive, they are at a low level and are primarily sludge produced from the plant, he said.

Three shipments have been sent from Three Mile Island since the accident so far and perhaps dozens more will be transported over the next several months, he said.

The wastes do not include the cooling water that became contaminated during the accident, he said. This will be stored on site until decontaminated.

NRC regulates the preparation and packaging of the low-level wastes from nuclear plants, the spokesman said. This includes solidifying the sludge into a plastic-like form and encasing it in a metal shield.

Commercial trucking companies then haul

the wastes which, in the case of those from Three Mile Island, are taken along the Ohio Turnpike.

ERISA IMPROVEMENTS ACT OF 1979—S. 209

AMENDMENT NO. 201

(Ordered to be printed and referred to the Committee on Finance and the Committee on Labor and Human Resources.)

Mr. PELL submitted an amendment intended to be proposed by him to S. 209, a bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 for the purposes of simplifying, clarifying, and improving Federal law relating to the regulation of employee benefit plans, to foster the establishment and maintenance of plans, and for other purposes.

Mr. PELL. Mr. President, I am today submitting an amendment to the ERISA Improvements Act of 1979 (S. 209) to correct an inequity in the tax treatment of pensions for employees of nonprofit organizations.

Under the current law, employees of profitmaking organizations are given preferential tax treatment on profit-sharing plans, while no similar treatment is available to employees of nonprofit organizations or unions. My proposal would correct this inequity.

Nonprofit organizations may not, of course, sponsor profit-sharing plans for their employees. Therefore, in many cases an account is set up for the employee into which are paid regular employer contributions, the total of which may be withdrawn upon retirement. This is called a defined contribution plan. In addition, a pension plan may be set up where the employee is eligible for a certain amount per week or per month upon retirement. This is called a defined benefit plan.

Under the present law, employees must withdraw the full amount from the defined contribution plan at the same time they begin to receive the pension they have earned under the defined benefit plan in order to be eligible for preferential tax treatment. If they retire from their job before age 65 and decide to take only the lump sum they are due under the defined contribution plan, it is taxable as normal income.

However, a person who is participating in a profit-sharing plan can withdraw the proceeds before retirement and still be eligible to receive retirement benefits from the pension plan sponsored by his employer. He can income-average the lump sum he has received from the profit-sharing plan.

I do not question the fairness of this provision. I do believe however, that based on equity, persons who work for unions and public nonprofit organizations which have defined contribution plans should be eligible for the same tax treatment as persons participating in profit-sharing plans. Since, by law, nonprofit organizations and unions cannot sponsor profit-sharing plans, we should make sure that their employees do not suffer a grave inequity in taxation.

DEPARTMENT OF COMMERCE TIME PROGRAMS AUTHORIZATION—S. 640

AMENDMENT NOS. 202 AND 203

(Ordered to be printed and referred to the Committee on Commerce.)

Mr. WEICKER submitted the following two amendments intended to be proposed by him to S. 640, a bill to authorize appropriations for the fiscal year 1980 for certain maritime programs of the Department of Commerce, and for other purposes.

Mr. WEICKER. Mr. President, the Senate prepares to consider a bill to authorize appropriations for maritime programs to the Department of Commerce. I would like to call your colleague's attention to amendments I will offer.

These amendments are designed to help the U.S. fishing industry to grow to meet the future needs of the Nation.

Even though the recently passed Fisheries Conservation and Management Act of 1976, that establish a 200-mile limit, is generally working in favor of the fisherman it is not enough. Our participation in fisheries continues to grow and could reach \$2.5 billion this year. One percent of our food fish is imported.

One area of the fisheries that needs help is the shore-side facilities for processing, landing, dockage, freezing et cetera. Proper shore-side facilities are essential to the industry.

My amendments would amend the Merchant Marine Act of 1936 to provide for obligation loan guarantees and add shore-side facilities to section 607 of the same act which provides for tax deferred Capital Construction.

These amendments would not add any money to the fishery.

Mr. President I ask unanimous consent that the next of the amendments be printed in the Record.

There being no objection, the amendments were ordered to be printed in the Record, as follows:

AMENDMENT NO. 202

On page 3, after line 11, add the following: "Sec. 5. Section 1104 (a) of the Merchant Marine Act, 1936 is amended by—

(1) redesignating paragraph (1) as paragraph (2);

(2) inserting after subparagraph (2) the following:

"(4) financing or refinancing of shore-side facilities;" and

(3) inserting after paragraph (3) designated by this section) the following: "For the purpose of this paragraph the term 'fisheries facilities' means used landing, receiving, processing and distribution facilities together with equipment, including land where used."

AMENDMENT NO. 203

On page 3, after line 11, add the following: "Sec. 4. Subsection (b) of section 1104 of the Merchant Marine Act, 1936 (48 U.S.C. 1104) is amended to read as follows:

"(a) ADAPTATION RULES.—Any vessel of the United States owning or leasing more eligible vessels (as defined in section 1101(2)(1)), or one or more fisheries (as defined in subsection (b)), shall enter into an agreement with the Secretary of Commerce under, and as provided in, section 1105."

532 359

TO: BOB RYAN

RM 7717 MNBB

FM: OCA

DECONCINI AMENDMENT TO S. 562 (Nuclear Regulatory Commission
Authorization)

42 U.S.C. Sec. 2021 is amended by renumbering subparagraph (j) as new subparagraph (j) (1), and adding a new subparagraph (j) (2):

"(j) (2) The Commission, upon its own motion or upon request of the governor, may temporarily suspend all or part of its agreement with the State without notice or hearing if, in the judgement of the Commission:

(a) an emergency situation exists creating immediate danger to the health or safety of persons in the State or an area within the State, and

(b) the State has failed to take steps necessary to contain or eliminate the cause of the danger within a reasonable time after the situation arose;

provided, however, that a temporary suspension under this subparagraph shall authorize the Commission to exercise its authority only to the extent necessary to contain or eliminate the danger, and only for such time as the emergency situation exists."

INFORMAL COMMENTS ONLY

POOR ORIGINAL

532 360

POOR ORIGINAL

Purpose:

Calendar No. 188

Amdt. No. 264

96TH CONGRESS
1ST SESSION

S. 562

IN THE SENATE OF THE UNITED STATES

JUNE 19 (legislative day, MAY 21), 1979
Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. DOMENICI to S. 562, a bill to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes, viz: On page 19, insert the following after line 16:

- 1 SEC. 208. Chapter 19 of the Atomic Energy Act of
- 2 1954, is amended by adding the following new section after
- 3 section 241:

532 36A

1 "SEC. 242. STATE CONCURRENCE FOR FACILITIES
2 FOR THE GEOLOGIC STORAGE OR DISPOSAL OF RADIOAC-
3 TIVE WASTES.—

4 "a. The Secretary of Energy shall notify the Governor,
5 the State legislature, and where applicable, the Tribal Coun-
6 cil of any affected Indian tribe of its intent to explore a site in
7 such State, or within an Indian reservation, for the purpose
8 of establishing, evaluating, or contracting for the construction
9 of a facility for the geologic storage or disposal, including test
10 disposal, of high-level radioactive wastes, non-high level ra-
11 dioactive wastes including transuranium contaminated
12 wastes, or irradiated nuclear reactor fuel.

13 "b. Upon receiving a request from the Governor of any
14 State notified in accordance with subsection a., the Secretary
15 of Energy is authorized and directed to enter into negotia-
16 tions with the State for the purpose of establishing formal
17 arrangements under which the State will have the right to
18 concur or not concur in all stages in the planning, siting,
19 development, construction, and operation of the proposed fa-
20 cility. Any such arrangements entered into by the Secretary
21 of Energy shall be binding on all agencies of the Federal
22 Government.

23 "c. The Secretary of Energy shall not commence or
24 contract for any construction work for a facility for the geo-
25 logic storage or disposal, including test disposal, of high-level

532 362

1 radioactive wastes, non-high level radioactive wastes includ-
2 ing transuranium contaminated wastes, or irradiated nuclear
3 reactor fuel, until the Secretary of Energy and the State in
4 which the facility is proposed to be located have entered into
5 formal arrangements under which the State will have the
6 right to concur or not concur in all stages in the planning,
7 siting, development, construction, and operation of the pro-
8 posed facility.”.

POOR ORIGINAL