



WISCONSIN LEGISLATIVE COUNCIL
PROPOSED REPORT TO THE LEGISLATURE

SPECIAL COMMITTEE ON NUCLEAR POWER

March 5, 2007

PRL 2007-07

Special Committee on Nuclear Power

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PART I

KEY PROVISIONS OF COMMITTEE RECOMMENDATION

The Special Committee on Nuclear Power recommends the following bill drafts to the Joint Legislative Council for introduction in the 2007-08 Session of the Legislature.

LRB-2129/1, Relating to Repeal of the Limits on the Construction of Nuclear Power Plants

LRB-2129/1 repeals the limits in current law on the construction of nuclear power plants. These limits establish that the Public Service Commission (PSC) may not authorize the construction of a nuclear power plant unless it finds that there is a facility with sufficient capacity to receive the spent fuel from all nuclear power plants in Wisconsin and that construction of the power plant is economically advantageous to ratepayers based on specified factors.

The repealed statute is often referred to as Wisconsin's "nuclear moratorium" statute.

LRB-2130/1, Relating to Requiring the PSC to Investigate Future Electric Supplies After the Operating Licenses of Nuclear Power Plants in the State Expire

LRB-2130/1 directs the PSC to undertake an investigation of alternative strategies that the state could pursue to meet the anticipated demand for electricity in 2033. That year, 2033, is the latest year in which the federal operating licenses of the two nuclear power plants currently operating in Wisconsin either will have expired or are expected to expire. These plants presently generate a significant portion of the electricity used in the state. The PSC must submit its report on the investigation to the Legislature within 18 months after the draft's effective date.

LRB-2131/1, Relating to Requiring the PSC to Advocate on Matters Related to the Centralized Interim Storage of, and any License Application for a Federal Repository for, High-Level Radioactive Waste and Transuranic Waste, and Requiring Nuclear Power Plant Owners and Operators to Provide Information Required by the PSC

LRB-2131/1 expands the duties of the PSC under current law regarding long-term disposal of high-level radioactive waste, including spent nuclear fuel, to also advocate on behalf of the citizens of the state on matters relating to both of the following:

- The centralized interim storage of high-level radioactive waste and transuranic waste.
- Any license application submitted to the Nuclear Regulatory Commission (NRC) for a license to operate a federal repository for the long-term disposal of these wastes.

LRB-2131/1 also requires owners and operators of nuclear power plants to assist the PSC and to provide data or other information required by the PSC in fulfilling its duties under this statute.

PART II

COMMITTEE ACTIVITY

Assignment

The Joint Legislative Council established the Special Committee on Nuclear Power and appointed the chairperson by a June 9, 2006 mail ballot. The committee was directed to study the role of nuclear power in Wisconsin's energy future, and to develop legislation that implements the recommended role, including, as appropriate, any modifications in the state's nuclear power moratorium.

Membership of the Special Committee, appointed by an August 1, 2006 mail ballot, consisted of one Senator, four Representatives, and 12 public members. A list of committee members is included as *Appendix 5* to this report.

Summary of Meetings

The Special Committee held five meetings on the following dates:

September 14, 2006
September 29, 2006
November 15, 2006
December 14, 2006
January 29, 2007

In addition, the Special Committee conducted a tour of the proposed Yucca Mountain repository for spent nuclear fuel in Nevada on December 5, 2006.

At the September 14, 2006 meeting, the committee staff presented a committee work plan, approved by Chairperson Montgomery, which proposed a series of presentations by experts on some of the many issues that must be taken into consideration when looking at policy regarding nuclear power.

Also at that meeting, **Eric Callisto**, Executive Assistant to the Chair of the PSC, discussed current and projected electric power supply and demand in Wisconsin. Next, **Jonathan Foley**, Professor of Atmospheric and Oceanic Science, presented information to the Special Committee regarding global climate change, considered to be one of the drivers behind the current reconsideration of nuclear power policy. **Paul Meier**, Director of the Energy Institute of the University of Wisconsin (UW)-Madison, presented an interactive computer simulation of a "typical" Wisconsin utility, illustrating the relative benefits of alternative sources of electric power under various scenarios. The meeting concluded with a presentation by **John Rowe**, the President, Chairman, and CEO of Exelon Corporation, a large, Chicago based energy company, regarding how corporate boards, and his company in particular, view nuclear energy in the current environment.

The September 29, 2006 meeting was held at the Point Beach nuclear power plant. At this meeting, the committee heard presentations regarding nuclear power generation technologies and power plant safety by **Michael Corradini**, Professor and Chair of the Department of Engineering Physics, UW-Madison, and member of the Special Committee, **Vicki Bier**, Professor of Industrial Engineering, UW-Madison, and **David Lochbaum**, Nuclear Safety Engineer, Union of Concerned Scientists. The meeting concluded with presentations by **Lake Barrett**, L. Barrett Consulting and former Director of the Office of Civilian Radioactive Waste Management, U.S. Department of Energy (DOE), and **Jeremi Suri**, Professor of History, UW-Madison, regarding societal responsibilities related to nuclear power generation, including the obligations of society to safely manage spent nuclear fuel and other radioactive by-products, to decommission retired power plants and decontaminate their

sites, and to safeguard nuclear materials from terrorists or rogue nations wanting to build nuclear weapons. Following the meeting, the committee toured the Point Beach nuclear power plant.

At the November 15, 2006 meeting, the Special Committee heard invited presentations regarding advanced technologies for generating electricity from coal. **Tom Hewson**, Energy Ventures Analysis, Inc., described a number of current technologies for generating electricity by burning coal and for controlling air emissions from coal combustion in power plants. **Julio Friedman**, Lawrence Livermore National Laboratory, described carbon capture and sequestration, a process by which carbon dioxide is captured from industrial emissions (such as from a coal power plant) and injected into deep geological formations, rather than being released to the atmosphere.

The committee also heard presentations regarding the federal government's proposed repository for spent nuclear fuel and other high-level radioactive waste at Yucca Mountain, Nevada. **Eric Knox**, Office of Civilian Radioactive Waste Management, DOE, described the proposed facility and discussed the timetable for licensing and opening the facility. **Steve Frishman**, Nevada Agency for Nuclear Projects, discussed Nevada's opposition to the permitting of the facility.

Mike Messenger, Ontario Energy Authority (on leave from the California Energy Commission), discussed how much of electricity demand can be met through energy conservation and various policy initiatives, including a carbon-free resources portfolio standard for the state. The meeting concluded with a presentation by **Christopher Paine**, Natural Resources Defense Council, regarding the environmental impacts of several electricity generation technologies.

On December 5, 2006, the Special Committee toured the DOE's site at Yucca Mountain in Nevada for the proposed federal repository for spent nuclear fuel and other high-level radioactive waste. The tour included detailed descriptions by DOE staff on the geology of Yucca Mountain, visiting underground alcoves excavated by DOE where research has been conducted on the nature and speed of water movement through the rocks in the mountain, and orientation to the surrounding countryside from the top of the mountain. Financial support for the tour was provided by the Midwest Office of the Council of State Governments, under a DOE grant.

At the December 14, 2006 meeting, the Special Committee heard invited presentations regarding the transportation of radioactive waste, including spent nuclear fuel. The presentations were made by **Jay Jones**, Office of Civilian Radioactive Waste Management, DOE, **Lisa R. Janairo**, Senior Policy Analyst, Midwest Office of the Council of State Governments, and **Paul Schmidt**, Chief, Radiation Protection Section, Wisconsin Department of Health and Family Services. Next, **Steve Gehl**, Energy Technology Assessment Center, Electric Power Research Institute, discussed the comparative costs of electric generation technologies, under current conditions and under various assumptions about future conditions.

Following the presentations, the committee discussed how to proceed with its discussion. It considered basing the discussion on hypothetical, preferred future mixes of generation technologies. It also discussed general principles that all committee members could agree on, to use as an underpinning of any policy recommendations the committee developed, and agreed on a preliminary set of principles.

At the January 29, 2007 meeting, the Special Committee debated a number of proposals that had been submitted by committee members prior to the meeting. The committee voted to recommend that the Joint Legislative Council introduce the three bills described in this report into the 2007-08 Legislature. In addition, the committee directed Chair Montgomery to write two letters on behalf of the committee relating to expediting the implementation of the federal policy on the management of spent nuclear fuel under the federal Nuclear Waste Policy Act of 1982, as amended. The committee declined to take up two proposals, one a bill draft to direct the PSC to study a carbon-free resources portfolio and the other a motion to request that the Joint Legislative Council create a study committee to examine alternatives for ensuring that fuels used in the transportation sector in this state are sustainable.

PART III

RECOMMENDATION INTRODUCED BY THE JOINT LEGISLATIVE COUNCIL

This part of the report provides background information on, and a description of, the drafts as recommended by the Special Committee on Nuclear Power.

LRB-2129/1

Background

Under s. 196.493, Stats., Wisconsin's "nuclear moratorium" statute, the PSC may not authorize a certificate of public convenience and necessity (CPCN) for the construction of a nuclear power plant unless it finds that:

- A federally licensed facility, or a facility outside of the United States which the commission determines will satisfy the public welfare requirements of the people of this state, with adequate capacity to dispose of high-level nuclear waste from all nuclear power plants operating in this state will be available, as necessary, for disposal of the waste; and
- The proposed nuclear power plant, in comparison with feasible alternatives, is economically advantageous to ratepayers, based upon:
 - The existence of a reliable and adequate nuclear fuel supply;
 - The costs for construction, operation, and decommissioning of nuclear power plants and for nuclear waste disposal; and
 - Any other factor having an impact on the economics of nuclear power plants, as determined by the commission.

This statute does not prohibit the construction of new nuclear power plants, but establishes specific standards for PSC approval of construction. Section 196.493 was enacted in 1983 and has not been substantively modified since then.

At least 19 other states have laws restricting the construction of new nuclear power plants in one way or another. Most require certain findings regarding waste disposal, project cost, or other matters as conditions of construction approval, or ratification of such approval by the voters or the state legislature. Others relate to the recovery of the cost of a plant by the utility that builds it. One state (Minnesota) simply bans new nuclear power plants.

In creating the Special Committee, the Joint Legislative Council specifically directed the committee to consider whether this statute should be modified.

Description

LRB-2129/1 repeals s. 196.493. The repeal takes effect on the day after the act is published.

LRB-2130/1

Background

The two operating nuclear power plants in Wisconsin, Kewaunee and Point Beach, produce a significant portion of the electricity used in the state. In 2005, these plants generated 13.3% of the electricity consumed in Wisconsin, according to the PSC's current Strategic Energy Assessment, for the period 2005-2012.

The NRC has recently renewed the operating licenses for the two reactors at the Point Beach nuclear power plant. Unit 1's operating license expires in 2030; Unit 2's license expires in 2033. Kewaunee's operating license expires in 2013. Dominion Resources, the owner of the Kewaunee nuclear power plant, has informed the NRC of its intention to apply for a license renewal for this plant in the second quarter of 2008. If approved, it appears the new operating license would expire in 2033.

Assuming both of these plants continue to operate to the end of their current or expected license periods in the early 2030's, the plants will have operated for about 60 years. Some of the members of the Special Committee noted in light of these ages of the plants and given changes in electric generating economics and technology that, in essence, it is not prudent for the state to assume that these plants will be relicensed again and operated past the early 2030's. Given the large amount of electricity generated by these plants and the projected continued growth in electricity demand projected by PSC staff in testimony to the Special Committee, the Special Committee concluded that the state should begin, in cooperation with the electric power industry and other interested persons, the planning for the replacement of these plants' electric generating capacity, focusing in particular on the mix of electric generation and conservation technologies expected to be available.

Description

LRB-2130/1 directs the PSC to undertake an investigation of alternative strategies that the state could pursue to meet the anticipated demand for electricity in 2033. As noted above in the background information, the operating licenses of the two nuclear power plants currently operating in Wisconsin are expected to have expired by that year. The investigation must be based on the development of scenarios that project in the forecast period the total demand for electricity and the proportions of electricity that are expected to be generated by different types of fuel.

The draft specifies certain elements and assumptions that the PSC must incorporate into the design and preparation of these scenarios. These elements include consideration of advanced electric generating technologies using coal as a fuel with capture of carbon emissions and advanced light water nuclear reactors and implementation of a range of energy efficiency programs and a range of regulatory programs to control carbon dioxide emissions. In addition, the PSC must identify the expected costs and environmental impacts of each scenario.

The draft directs the PSC to appoint a committee to advise the PSC on the investigation and its report on the investigation, and requires the Energy Institute of the UW-Madison to assist the PSC in conducting the investigation. The draft directs the PSC to submit its report on the investigation to the Legislature within 18 months after the draft's effective date.

The draft establishes that, in making a determination necessary for the PSC to approve a CPCN for a new large power plant or high-voltage transmission line, the PSC may not consider a factual conclusion in the PSC's report on the investigation unless the conclusion is independently corroborated in the PSC's hearing on the CPCN application.

LRB-2131/1

Background

Current state policy on the long-term disposal of high-level radioactive waste is set forth in s. 196.497, Stats. This section was initially enacted in 1981 in response to investigations of northern Wisconsin as a potential site for a nuclear waste repository, but the wording of the statute is broader than that limited context. The original law also created the Radioactive Waste Review Board and directed this board to implement the law. Subsequent legislation repealed the Radioactive Waste Review Board and the PSC is now assigned these duties.

As used in s. 196.497, “high-level radioactive waste” means either spent nuclear fuel which is packaged and prepared for disposal, or highly radioactive waste resulting from reprocessing irradiated nuclear fuel. This section also refers to “transuranic waste,” which is radioactive waste that contains long-lived elements heavier than uranium, primarily plutonium, in amounts above thresholds set in federal regulations.

Under s. 196.497, the PSC must serve as an advocate on behalf of the citizens of the state before the DOE and other federal agencies on matters related to the long-term disposal of radioactive waste and transuranic waste. The PSC must also monitor activity in Congress and the federal government related to the long-term disposal of high-level radioactive waste and transuranic waste and may advise the Congressional delegation from the state of action which is needed to protect the interests of the state.

One of the issues addressed by the Special Committee relating to the management of spent nuclear fuel is the development and licensing of the federal repository for high-level radioactive waste at Yucca Mountain in Nevada. Testimony presented to the Special Committee by DOE staff indicated that the DOE presently plans to submit its license application to the NRC for the Yucca Mountain repository by July 2008. The Special Committee felt that it was important for the PSC to represent the state’s interests in this license proceeding and in other national activities relating to the management of spent nuclear fuel, including the development of any centralized interim storage facility.

Under current law, the PSC has the authority to request information from a public utility on the operation of the utility’s power plants. As noted above, the Kewaunee nuclear power plant is owned by Dominion Resources. The Point Beach nuclear power plant is presently owned by the Wisconsin Electric Power Company. The PSC is currently reviewing an application from the Wisconsin Electric Power Company to sell the Point Beach plant to FPL Energy Point Beach, LLC, a subsidiary of FPL Group Capital, Inc. Thus, if this sale is approved by the PSC, both operating nuclear power plants in Wisconsin will be owned by entities that are not public utilities. The Special Committee determined that it would be appropriate for the PSC to have the authority to request information necessary for it to fulfill its duties under s. 196.497 from these entities, as well as from Dairyland Power Cooperative, the owner of the closed LaCrosse Boiling Water Reactor.

Description

LRB-2131/1 expands the duties of the PSC under s. 196.497 to also advocate on matters relating to the centralized interim storage of high-level radioactive waste and transuranic waste and any license application submitted to the NRC for a license to operate a federal repository for the long-term disposal of these wastes.

The draft specifies alternative forms of participation that the PSC’s advocacy may take, including any of the following:

- Participating in any proceeding before any regulatory agency of any other state or the federal government under s. 196.02 (12), Stats.

- Requesting the Attorney General to intervene under s. 196.497 (7), Stats.
- Participating in the intervention or advocacy of other states or of an interstate organization.
- Engaging in any other form of advocacy the PSC determines is appropriate.

The draft clarifies that the radioactive wastes addressed in s. 196.497 (3) are limited to “high-level radioactive waste,” making the applicability of this subsection consistent with the applicability of other provisions in s. 196.497.

Current s. 196.497 (14) requires state agencies to cooperate with the PSC in fulfilling its duties under s. 196.497. The draft requires owners and operators of closed and operating nuclear power plants to assist the PSC and provide data or other information required by the PSC in fulfilling its duties under this section.

PART IV

OTHER ACTION OF THE COMMITTEE

At its January 29, 2007 meeting, the Special Committee directed Representative Phil Montgomery, chair of the committee, to send two letters relating to the management of spent nuclear fuel.

One of the letters encourages members of Wisconsin's Congressional delegation to expedite the implementation of the federal policy on the management and disposal of high-level radioactive waste and spent nuclear fuel set forth in the Nuclear Waste Policy Act of 1982, as amended. A copy of this letter is attached as *Appendix 2* to this report.

The preparation and sending of the letter was approved by the committee by a vote of Ayes, 12 (Reps. Montgomery, Benedict, and Honadel; and Public Members Ceel, Corradini, Orth, Pickens, Rude, Schillinger, Stratton, Ward, and Weissgerber); Noes, 4 (Sen. Hansen; and Public Members Higley, Nekola, and Shaten); and Absent, 1 (Rep. Vos).

The second letter requests Senator Jeff Plale, Chair, Senate Committee on Commerce, Utilities and Rail, to jointly review with the Assembly Committee on Energy and Utilities (chaired by Representative Montgomery) the implementation of a particular provision in the state policy on the long-term disposal of high-level radioactive waste. This provision requires the PSC, if it determines that the DOE is not meeting its contractual obligations under the Nuclear Waste Policy Act with state agencies or nuclear power plant operators and if authorized by a federal court or the DOE, to direct the state agencies or operators to escrow with the PSC, instead of paying to the federal DOE, the federal fees required under this act. A copy of this letter is attached as *Appendix 3* to this report.

The preparation and sending of the letter was approved by the committee by a vote of Ayes, 16 (Reps. Montgomery, Benedict, and Honadel; Sen. Hansen; and Public Members Ceel, Corradini, Higley, Nekola, Orth, Pickens, Rude, Schillinger, Shaten, Stratton, Ward, and Weissgerber); Noes, 0; and Absent, 1 (Rep. Vos).

Appendix 1

Committee and Joint Legislative Council Votes

LRB-2129/1, LRB-2130/1, and LRB-2131/1 and were recommended by the Special Committee on January 29, 2007 to the Joint Legislative Council for introduction in the 2007-08 Session of the Legislature.

Special Committee Vote

The Special Committee voted to recommend LRB-2129/1, LRB-2130/1, and LRB-2131/1 to the Joint Legislative Council for introduction in the 2007-08 Session of the Legislature. The vote on the drafts were as follows:

- *LRB-2129/1, relating to repeal of the limits on the construction of nuclear power plants, passed by a roll call vote of Ayes, 10 (Reps. Montgomery and Honadel; and Public Members Ceel, Corradini, Orth, Pickens, Rude, Schillinger, Ward, and Weissgerber); Noes, 6 (Sen. Hansen; Rep. Benedict; and Public Members Higley, Nekola, Shaten, and Stratton); and Absent, 1 (Rep. Vos).*
- *LRB-2130/1, relating to requiring the PSC to investigate future electric supplies after the operating licenses of nuclear power plants in the state expire, passed by a roll call vote of Ayes, 11 (Reps. Montgomery and Honadel; and Public Members Ceel, Corradini, Orth, Pickens, Rude, Shaten, Stratton, Ward, and Weissgerber); Noes, 5 (Sen. Hansen; Rep. Benedict; and Public Members Higley, Nekola, and Schillinger); and Absent, 1 (Rep. Vos).*
- *LRB-2131/1, relating to requiring the PSC to advocate on matters related to the centralized interim storage of, and any license application for a federal repository for, high-level radioactive waste and transuranic waste, and requiring nuclear power plant owners and operators to provide information required by the PSC, passed by a roll call vote of Ayes, 10 (Reps. Montgomery and Honadel; and Public Members Ceel, Corradini, Orth, Pickens, Rude, Schillinger, Ward, and Weissgerber); Noes, 5 (Sen. Hansen; Rep. Benedict; and Public Members Higley, Nekola, and Stratton); Absent, 1 (Rep. Vos); and Not Voting, 1 (Public Member Shaten).*

Letter to Congressional Delegation

State of Wisconsin
JOINT LEGISLATIVE COUNCIL

Co-Chairs

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President, State Senate

STEVE WIECKERT
Representative, State Assembly



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March 5, 2007

The Honorable Herb Kohl
U.S. Senate
330 Hart Senate Office Building
Washington, D.C. 20510

Dear Congressman Kohl:

I chaired the Wisconsin Joint Legislative Council's Special Committee on Nuclear Power. This committee was directed to study the role of nuclear power in Wisconsin's energy future, including, as appropriate, any modifications in the state's nuclear power moratorium. Part of the committee's inquiry focused on the management and disposal of spent nuclear fuel. I am now writing you and other members of the Wisconsin Congressional delegation at the direction of the committee to encourage you to do everything you can to expedite the implementation of the federal policy on the management and disposal of high-level radioactive waste and spent nuclear fuel set forth in the Nuclear Waste Policy Act of 1982, as amended (hereafter, the "federal act").

The generation of electricity from nuclear power has developed in the United States through a partnership of the federal government and the electric power industry. An integral part of that partnership is the commitment made by the federal government under the federal act to take title to spent nuclear fuel and, beginning no later than January 31, 1998, dispose of the spent nuclear fuel in a federal repository. The federal act also requires operators of commercial nuclear power plants to make payments of ratepayer moneys to the federal Nuclear Waste Fund to cover the cost of the disposal of spent nuclear fuel by the federal government.

Nationally, over \$14.3 billion has been paid into the Nuclear Waste Fund as of March 2006 by electric utility customers and electric cooperative members, based on data collected by the Michigan Public Service Commission. Wisconsin customers and members have paid \$377 million into the fund.

To date, the United States government has failed in its efforts to open a repository for the permanent disposal of spent nuclear fuel and has failed to meet its commitment to begin accepting spent nuclear fuel for disposal in 1998. Furthermore, testimony to the committee by a representative of the U.S. Department of Energy (DOE) in December 2006, indicated that under the best achievable schedule, the federal Yucca Mountain repository in Nevada will not begin to

accept waste until March 2017, 19 years after the statutory deadline.

The committee is highly concerned that this failure by the federal government to fulfill its contracts under the federal act and begin accepting spent nuclear fuel has forced operators of commercial nuclear reactors across the country to incur additional expenses for the storage of spent nuclear fuel in cooling ponds and dry casks on the sites of their nuclear power plants. These expenses are passed on and ultimately born by ratepayers and cooperative members. For example, Wisconsin Electric Power Company has incurred expenses of over \$20 million on the storage of its spent nuclear fuel and dry casks at the Point Beach Nuclear Power Plant. Dairyland Power Cooperative has incurred about \$50 million in costs through the end of 2006 related to the continued on-site storage of spent nuclear fuel at its LaCrosse Boiling Water Reactor and the costs of investigating alternative storage facilities, even though that reactor closed in 1987 and is no longer generating electricity or revenues to pay these expenses. Dairyland continues to spend about \$6 million annually on these costs.


The committee also recognized that pending the licensing and opening of the Yucca Mountain Repository, interim storage of spent nuclear fuel at a centralized federal facility provides a secure means for the federal government to promptly begin accepting spent nuclear fuel that minimizes risks to the public and fulfills its commitment to manage spent nuclear fuel in a safe, cost-effective, and timely manner.

On behalf of the committee, I am writing to urgently request that you to take all necessary steps within your power to expedite the licensing, construction, and opening of the federal Yucca Mountain Repository and to establish a secure, centralized federal facility for the interim storage of spent nuclear fuel.

In addition, the committee requested that I provide to you the Resolution on Permanent Disposal of Nuclear Wastes from the 61st Annual Meeting of the Midwest Legislative Conference of the Council of State Governments, August 23, 2006. A copy of this resolution is enclosed with this letter.

Thank you for your consideration of the request in this letter. If you have any questions on the work of the Special Committee on Nuclear Power or these requests, please feel free to contact me.

Sincerely,



Representative Phil Montgomery, Chair
Special Committee on Nuclear Power

PM:ksm
Enclosure

ccs: Sen. Harry Reid, Majority Leader, U.S. Senate
Speaker Nancy Pelosi, U.S. House of Representatives
Sen. Jeff Bingaman Jr., Chairman, and Sen. Pete V. Domenici, Ranking Minority Member,
Senate Committee on Energy and Natural Resources
Sen. Byron L. Dorgan, Chairman, and Sen. Lisa Murkowski, Ranking Minority Member,
Subcommittee on Energy, Senate Committee on Energy and Natural Resources
Sen. Robert C. Byrd, Chairman, and Sen. Thad Cochran, Ranking Minority Member, Senate
Committee on Appropriations
Sen. Byron L. Dorgan, Chairman, and Sen. Pete V. Domenici, Ranking Minority Member,
Subcommittee on Energy & Water Development, Senate Committee on Appropriations
Rep. John D. Dingell, Chairman and Rep. Joe Barton, Ranking Minority Member, House
Committee on Energy and Commerce
Rep. Rick C. Boucher, Chairman, and Rep. Dennis Hastert, Ranking Minority Member,
Subcommittee on Energy and Air Quality, House Committee on Energy and Commerce
Rep. Jerry Lewis, Ranking Minority Member, House Committee on Appropriations
Rep. Peter J. Visclosky, Chairman, and Rep. David L. Hobson, Ranking Minority Member,
Subcommittee on Energy, Water Development, and Related Agencies, House Committee on
Appropriations
President George W. Bush
Samuel W. Bodman, Secretary, U.S. Department of Energy
Edward F. Sprat, III, Director, Office of Civilian Radioactive Waste
Management, U.S. Department of Energy



**61st Annual Meeting
of the Midwestern Legislative Conference
of
The Council of State Governments**

The Sheraton Chicago Hotel & Towers
Chicago, Illinois

August 20 - 23, 2006

Resolution on Permanent Disposal of Nuclear Waste

- WHEREAS,** in 1982 the Nuclear Waste Policy Act (NWPA) established policy that the federal government is responsible for safe, permanent disposal of all high-level radioactive waste, including spent nuclear fuel from commercial power reactors; and
- WHEREAS,** the scientific community generally agrees that the best long-term solution to isolating nuclear waste from the environment is permanent disposal in a geological repository; and
- WHEREAS,** since 1982, the growing demand for electricity has increased interest in the use of nuclear energy, and thereby increased attention to the issue of disposal of nuclear waste; and
- WHEREAS,** the federal effort to construct and operate a nuclear waste repository at Yucca Mountain in Nevada is already 8 years behind schedule, with the most recent estimated completion date being 2017; and
- WHEREAS,** the Midwestern consumers of nuclear-generated electricity have contributed over \$3 billion into the Nuclear Waste Fund that provides money for the development of a national repository; and
- WHEREAS,** a proposed amendment to add Section 313 to the federal FY 07 Energy and Water Development appropriations bill (H.R. 5427) would divert money from the Nuclear Waste Fund to pay for the development of "consolidation and preparation facilities" in as many as 31 states that have nuclear power plants; now therefore be it
- RESOLVED,** that the Nuclear Waste Fund is intended for permanent waste disposal and should not be used for interim storage so long as the present inequitable appropriations process exists in which dollars spent on interim storage come at the expense of the already long-delayed development of the permanent repository; and be it further

RESOLVED, the Midwestern Legislative Conference urges that the development of a permanent disposal site for nuclear waste be swiftly expedited; and be it further

RESOLVED, that the Midwestern Legislative Conference urges the U.S. Senate to reject the language of Section 313 of H.R. 5427; and be it further

RESOLVED, that copies of this resolution be sent to the U.S. Department of Energy, Midwestern Members of Congress, the Chairman of the Subcommittee on Energy and Water of the Senate Committee on Appropriations, and the President of the United States.

Letter to Senator Jeff Plale, Chair, Senate Committee on
Commerce, Utilities and Rail

State of Wisconsin
JOINT LEGISLATIVE COUNCIL

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President, State Senate

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Representative, State Assembly



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Terry C. Anderson
Director
Laura D. Rose
Deputy Director

March 5, 2007

Senator Jeff Plale, Chair
Senate Committee on
Commerce, Utilities and Rail
Room 313 South, State Capitol
Madison, WI 53703

Dear Senator Plale:

During its deliberations, the Joint Legislative Council's Special Committee on Nuclear Power, which I chair, spent considerable time reviewing the management of spent nuclear fuel as part of its study of the future of nuclear power in Wisconsin. Part of this review included an examination of s. 196.497, Stats., which sets forth the state's policy on the long-term disposal of high-level radioactive waste, including spent nuclear fuel. At its January 29, 2007 meeting, the Special Committee directed me to request your cooperation in having the Senate Committee on Commerce, Utilities and Rail jointly review with the Assembly Committee on Energy and Utilities the implementation of s. 196.497 (11s), Stats., and whether subsection (11s) should be amended. Before explaining sub. (11s) and the purpose of this review, I will first provide some background information relevant to this request.

The federal policy on the management of high-level radioactive waste, including spent nuclear fuel, is set forth in the Nuclear Waste Policy Act of 1982, as amended (hereafter, the "federal act"). The federal act directs the Department of Energy (DOE) to develop and operate a repository for the disposal of spent nuclear fuel. It also directs the DOE to enter into contracts with operators of nuclear power plants to take title to spent nuclear fuel and, beginning no later than January 31, 1998, dispose of the spent nuclear fuel in the federal repository. The federal act also requires the operators of commercial nuclear power plants to pay a fee to the federal Nuclear Waste Fund to cover the cost of disposal of spent nuclear fuel by the federal government.

The Special Committee was concerned about the slow pace of implementation of the federal act, especially the development of the federal repository at Yucca Mountain in Nevada. Staff from the DOE indicated in testimony to the Special Committee that under the most favorable circumstances the Yucca Mountain repository would begin receiving wastes in 2017, 19 years after the statutory deadline. This delay has forced operations of nuclear power plants across the country to incur additional expenses for the storage and management of their spent nuclear fuel, including, to date, over \$20 million at the Point Beach Nuclear Power Plant and

about \$50 million at the La Crosse Boiling Water Reactor (which closed in 1987).

Section 196.497 establishes a number of duties of the Public Service Commission (PSC) regarding the long-term disposal of high-level radioactive wastes. It was initially enacted in response to investigations of Wisconsin as a potential site for a nuclear waste repository. One of the provisions in the state policy, s. 196.497 (11s), Stats., requires the PSC, if it determines that the federal DOE is not meeting its contractual obligations under the federal act with state agencies or nuclear power plant operators, to direct the state agencies or operators to pay to the PSC, instead of the federal DOE, the federal fees described earlier in this letter for the period during which the DOE is not meeting its contractual obligations. The PSC may only take this action if a federal court or the DOE has authorized the PSC to receive the payment of these fees.

The withholding of the Nuclear Waste Fund fees by the state represents one type of potential strategy that the state could pursue to encourage the federal government to expedite its implementation of the federal act and fulfill its obligations under the act. The Special Committee felt that it would be appropriate for the relevant standing committees in the Legislature to review the implementation of s. 196.497 (11s), Stats., including the effect of any recent court decisions and settlements between DOE and nuclear power plant operators regarding DOE's violations of its federal contracts under the federal act. After conducting such a review, the standing committees would then be in a position to determine if any amendments to s. 196.497 (11s) would be warranted.

I hope you will look favorably on the request in this letter for a joint review of s. 196.497 (11s). If you have any questions on this request, please feel free to contact me.

Sincerely,



Representative Phil Montgomery, Chair
Special Committee on Nuclear Power

PM:ksm

Joint Legislative Council

[Joint Legislative Council Members Who Selected and Appointed Committee and Its Membership]

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This 22-member committee consists of the majority and minority party leadership of both houses of the Legislature, the co-chairs and ranking minority members of the Joint Committee on Finance, and 5 Senators and 5 Representatives appointed as are members of standing committees.

Joint Legislative Council

[Current Joint Legislative Council Members Receiving Committee Report]

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This 22-member committee consists of the majority and minority party leadership of both houses of the Legislature, the co-chairs and ranking minority members of the Joint Committee on Finance, and 5 Senators and 5 Representatives appointed as are members of standing committees.

NUCLEAR POWER

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STUDY ASSIGNMENT: The committee is directed to study the role of nuclear power in Wisconsin's energy future, and to develop legislation that implements the recommended role, including, as appropriate, any modifications in the state's nuclear power moratorium.

17 MEMBERS: 1 Senator, 4 Representatives, and 12 Public Members.

LEGISLATIVE COUNCIL STAFF: John Stolzenberg, Chief of Research Services; David L. Lovell, Senior Analyst; and Kelly Mautz, Support Staff.

Appendix 6

Committee Materials List

(Copies of documents are available at www.legis.state.wi.us/lc)

January 29, 2007 Meeting	Notice	Agenda	Audio	Minutes
<ul style="list-style-type: none"> • WLC: 0058/1, relating to repeal of the limits on the construction of nuclear power plants • WLC: 0059/1, relating to calling upon the United States congress and president of the United States to speed implementation of the Nuclear Waste Policy Act of 1982 • WLC: 0060/1, relating to requiring the public service commission to advocate on matters related to the interim storage of high-level radioactive waste and transuranic waste and the Yucca Mountain Repository • WLC: 0061/1, relating to requiring the public service commission to investigate future electric supplies after the operating licenses of nuclear power plants in the state expire • WLC: 0062/1, relating to requiring the public service commission to study a carbon free resources portfolio standard <ul style="list-style-type: none"> ○ WLC: 0069/1, an amendment to WLC: 0062/1 • Motion, for consideration at the committee's January 29, 2007 meeting, submitted by Public Member Mike Corradini (undated) • Memo, <i>Preparations for the Committee's January 26, 2007 Meeting</i>, from David L. Lovell, Senior Analyst, and John Stolzenberg, Staff Scientist (December 21, 2006) • Comments, on the Principles Drafted by the Legislative Council Study Committee on Nuclear Power and on the Scope of the Committee's Study, submitted by Public Member Katie Nekola (January 10, 2007) • Letter, to Chair Montgomery, from Public Member Charlie Higley (January 10, 2007) • Letter, to Committee Members and Chair Montgomery, from Committee Member Representative Mark Honadel (undated) • Memorandum, <i>Preparations for the Special Committee's January 29, 2007 Meeting</i>, from Public Member Mike Corradini (January 20, 2007) • Handout, <i>Proposed Legislation to Stimulate the Growth of Carbon Free Resources to Meet Electricity Demand in Wisconsin</i>, submitted by Mike Messenger, Conservation Bureau, Ontario Energy Bureau (January 24, 2007) • Economic Benefits of The Exelon Pennsylvania Nuclear Fleet, An Economic Impact Study by the Nuclear Energy Institute, submitted by John Orth (August 2006), copyrighted* • Letter to David Lovell from Melanie Ramey, President, League of Women Voters of Wisconsin (LWVWI), Marilyn Slautterback, Chair, LWVWI, Electric Energy Study Committee, and Caryl Terrell, Consultant to LWVWI, Electric Energy Study (January 26, 2007) 				
January 26, 2007 Meeting [CANCELLED]	Notice	Agenda	Audio	Minutes
<ul style="list-style-type: none"> • Memo, <i>Preparations for the Committee's January 26, 2007 Meeting</i>, from David L. Lovell, Senior Analyst, and John Stolzenberg, Staff Scientist (December 21, 2006) 				
December 14, 2006 Meeting	Notice	Agenda	Audio	Minutes
<ul style="list-style-type: none"> • Memo No. 2, <i>State Laws Limiting Construction of New Nuclear Power Plants</i> (November 29, 2006) • Memo No. 3, <i>Overview of Presentations to the Special Committee</i> (December 13, 2006) • Memorandum, <i>Plans for the Special Committee's December 14, 2006 Meeting</i>, from David L. Lovell, Senior Analyst, and John Stolzenberg, Staff Scientist (November 20, 2006) • Handbook of Radioactive Waste Transportation, Council of State Governments' Midwestern Office (August 2005) • Planning Guide for Shipments of Radioactive Materials Through the Midwestern States, Council of State Governments' Midwestern Office and the Midwestern Radioactive Materials Transportation Committee, Revision 2 (August 2006) • Suggested principles for policy changes on nuclear power, submitted by Public Member Michael Corradini (November 20, 2006) • Presentation, by Jay Jones, Physical Scientist, Office of Logistics Management, Office of Civilian Radioactive Waste Management • Presentation, by Lisa Janairo, Council of State Governments Midwestern Office • Presentation, by Paul Schmidt, Chief, Radiation Protection Section, Wisconsin Department of Health and Family Services 				

- Presentation by Steve Gehl, Technical Executive, Energy Technology Assessment Center, Electric Power Research Institute

December 5, 2006 Yucca Mountain Tour	Notice	Agenda	Audio	Minutes
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On Tuesday, December 5, 2006, the committee and interested members of the public toured the proposed spent fuel disposal facility being developed by the U.S. Department of Energy (DOE) at Yucca Mountain, Nevada. Financial support for the committee tour was provided by the Midwest Office of the Council of State Governments (CSG), under a U.S. DOE grant.

The tour was designed so that all presentations regarding spent fuel management and the Yucca Mountain facility, apart from the tour itself, and all committee discussions of the topic took place at the committee's regular meetings on November 15 and December 14, 2006, in the State Capitol, Madison.

- [Travel Reimbursement Form](#), from the Council of State Governments. (Note that the contact phone number on the form is incorrect; it should be: 920-458-5910.)
- [Yucca Mountain Access Information Form](#) (for all tour participants)
- [Yucca Mountain Travel Information](#) (for committee members only)
- [Memo](#), *Nevada Tour Plans*, from David Lovell, Legislative Council, to Members of the Special Committee (September 22, 2006)
- [Presentation](#), by Steve Frishman, Agency for Nuclear Projects, Office of the Governor, State of Nevada (November 15, 2006)
- [Notes on Yucca Mountain](#), provided by Steve Frishman
- [Presentation](#), by Eric Knox, Office of Civilian Radioactive Waste Management, U.S. Department of Energy (November 15, 2006)
- [Civilian Nuclear Waste Disposal](#), by Mark Holt (updated September 19, 2006) CRS Order Code RL33461
- [Yucca Mountain: The Making of an Underground Laboratory](#) (12:32 minute video)

November 15, 2006 Meeting	Notice	Agenda	Audio	Minutes
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- [Memo No. 1](#), *Key Wisconsin Laws and Programs Relevant to the Work of the Committee* (November 8, 2006)
- [Memo](#), from Eric Callisto, Executive Assistant to the Chairperson, Public Service Commission of Wisconsin, regarding follow-up questions (October 8, 2006)
- [Combined-Cycle Technology: Benefits, Costs and Prospects for Future Use in Wisconsin](#), Draft Report of the Public Service Commission's and Department of Natural Resources' Clean Coal Study Group (June 2006)
- [Energy Efficiency and Customer-Sited Renewable Energy: Achievable Potential in Wisconsin 2006-2015 \(Volume I: Study Results\)](#), report by the Energy Center of Wisconsin (November 2005) ECW Report Number 236-1, copyrighted*
- [Energy Efficiency Policy: Budget, Electricity Conservation, and Fuel Conservation Issues](#), by Fred Sissine (August 8, 2006) CRS RL33599
- [Civilian Nuclear Waste Disposal](#), by Mark Holt (updated September 19, 2006) CRS Order Code RL33461
- [U.S. Coal: A Primer on the Major Issues](#), by Marc Humphries (March 25, 2003) CRS RL31819
- [Renewable Energy Policy: Tax Credit, Budget, and Regulatory Issues](#), by Fred Sissine (July 28, 2006) CRS RL33588
- [False Promises: Debunking Nuclear Industry Propaganda](#), Grace Energy Initiative, distributed at the request of Public Member Katie Nekola (October 2006)
- [Brochure](#), by UniStar Nuclear (undated), distributed at the request of Public Member John Orth
- [Areva web page](#), on the European Pressurized Reactor (EPR) being built in Finland, posted at the request of Public Member Jack Weissgerber
- [Presentation](#), by Tom Hewson, Principal, Energy Ventures Analysis, Inc. (November 15, 2006)
- [Presentation](#), by Julio Freidman, Lawrence Livermore National Laboratory (November 15, 2006)
- [Presentation](#), by Mike Messenger, Conservation Bureau, Ontario Energy Authority (November 15, 2006)
- [Presentation](#), by Eric Knox, Office of Civilian Radioactive Waste Management, U.S. Department of Energy (November 15, 2006)
- [Presentation](#), by Steve Frishman, Agency for Nuclear Projects, Office of the Governor, State of Nevada (November 15, 2006)
- [Notes](#), on Yucca Mountain, provided by Steve Frishman
- [Presentation](#), by Christopher Paine, Natural Resources Defense Council (November 15, 2006)

September 29, 2006 Meeting & Tour at Point Beach Nuclear Generating Plant	Notice	Agenda	Audio	Minutes
<ul style="list-style-type: none"> • Map to Point Beach Energy Center • Civilian Nuclear Waste Disposal, by Mark Holt (February 24, 2006), CRS Order Code IB92059 • Nuclear Power Plants: Vulnerability to Terrorist Attack, by Carl Behrens and Mark Holt (August 9, 2005, CRS Order Code RS21131 • Nuclear Nonproliferation Issues, by Carl Behrens (January 20, 2006), CRS Order Code IB910091 • Price-Anderson Act Provides Effective Nuclear Insurance at No Cost to the Public, Nuclear Energy Institute (NEI) Fact Sheet (June 2006), copyrighted* • Determining the Price of Price-Anderson, by Anthony Heyes, Regulation (Vol. 25, No. 4, Winter 2002-2003), pp. 26 to 30, copyrighted* • Presentation, by Michael Corradini, Nuclear Engineering & Engineering Physics (September 25, 2006) • Presentation, by David Lochbaum, Union of Concerned Scientists (September 29, 2006) • Presentation, by Vicki Bier, Professor of Industrial Engineering, University of Wisconsin-Madison (September 29, 2006) • Presentation, by Lake Barrett, Principal, L. Barrett Consulting (September 29, 2006) • Presentation, by Jeremi Suri, Professor of History, University of Wisconsin-Madison (September 29, 2006) 				
September 14, 2006 Meeting	Notice	Agenda	Audio AM Audio PM	Minutes
<ul style="list-style-type: none"> • Committee Work Plan • Nuclear Energy Policy, CRS Report for Congress, by Mark Holt (July 20, 2006), Congressional Research Service Order Code RL 33558 • Nuclear Power: Outlook for New U.S. Reactors, CRS Report for Congress, by Larry Parker and Mark Holt (May 31, 2006), Congressional Research Service Order Code RL 33442. • Presentation, <i>Simulation of Nuclear Power and Electric Power Alternatives in Wisconsin</i>, Paul Meier, Director, UW Energy Institute (September 14, 2006) • Memo, from Eric Callisto, Executive Assistant to the Chairperson, Public Service Commission of Wisconsin, regarding follow-up questions (October 8, 2006) • Presentation by Eric J. Callisto, Executive Assistant to the Chairperson, Public Service Commission of Wisconsin (September 14, 2006) <ul style="list-style-type: none"> ○ Strategic Energy Assessment, Draft Report, Public Service Commission (June 2006) [referenced by Eric Callisto during his remarks to the committee] • Presentation, by Jonathon Foley, Professor, Atmospheric and Oceanic Science and the Gaylord Nelson Institute for Environmental Studies, UW-Madison (September 14, 2006) <ul style="list-style-type: none"> ○ Solving the Climate Problem, Technologies Available to Curb CO2 Emissions, by Robert Socolow, et al., Environment (Vol. 46, No 10, December 2004), pp. 8 to 19 [referenced by Prof. Jonathan Foley during his remarks to the committee], copyrighted* ○ Stabilization Wedges: Solving the Climate Problem with the Next Fifty Years with Current Technologies, by S. Pacala and R. Socolow, Science (Vol. 305, August 13, 2004), pp. 968 to 972 [referenced by Prof. Jonathan Foley during his remarks to the committee], copyrighted* • Remarks, of John W. Rowe, Chairman, President, and CEO, Exelon Corporation (September 14, 2006) <ul style="list-style-type: none"> ○ Ending the Energy Stalemate, A Bipartisan Strategy to Meet America's Energy Challenges, Report of the National Commission on Energy Policy (December 2004) [referenced by John Rowe during his remarks to the committee]. • Letter and Enclosures, from Representative Mark Honadel (September 14, 2006) <ul style="list-style-type: none"> ○ CSG Resolution on Permanent Disposal of Nuclear Waste ○ Article, from Environment & Climate News RE: Texas nuclear plants 				