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TODAY'S DATE:Nov. 20, 19 0 TIME :12:58 pm LEG. DAY:87 Regular

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PAGE

1987

AB 756 By Government Affairs BULLFROG COUNTY

Creates Bullfrog County and revises provisions governing counties. (BDR 20-2145)

Fiscal Note: Effect on Local Government: Yes. Effect on the State or on Industrial Insurance: No.

Read first time. 05/06 Referred to Committee on Government Affairs. To printer.

76 From printer. To committee. 05/07

05/07 76 Dates discussed in committee: 5/15 (DP+RR)

06/06 98 From committee: Do pass, and re-refer to Committee on Taxation.

06/06 Re-referred to Committee on Taxation. To committee.

06/06 98 Dates discussed in committee: 6/12 seb; 6/12 (A+DP) 06/15 107 From committee: Amend, and do pass as amended.

06/15 107 (Amendment number 1608.)

06/15 107 Placed on Second Reading File.

√06/15 107 Read second time. Amended. To printer.

06/15 107 From printer. To engrossment.

06/15 107 Engrossed. First reprint.

06/15 107 Declared an emergency measure under the Constitution.

Read third time. Passed, as amended. Title approved. (32 Yeas, 9 Nays, 0 Absent, 0 Excused, 1 Not Voting.) To **√**06/15 107 Senate.

06/16 108 In Senate.

06/16 108 Read first time. Referred to Committee on Taxation. To committee.

06/16 108 Dates discussed in Committee: 6/16 (NACT) (* = instrument from prior session)

ASSEMBLY BILL NO. 756--COMMITTEE ON GOVERNMENT AFFAIRS

MAY 6, 1987

Referred to Committee on Government Affairs

SUMMARY--Creates Bullfrog County and revises provisions governing counties.

(BDR 20-2145)

FISCAL NOTE: Effect on Local Government: Yes.

Effect on the State or on Industrial Insurance: No



EXPLANATION--Matter in italies is new, matter in brackets [] is material to be omitted

AN ACT relating to counties; providing in skeleton form for the creation and organization of Bullfrog County; authorizing a higher levy of ad valorem taxes in certain counties; making various other changes relating to counties; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- Section 1. Chapter 243 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.
- 3 Sec. 2. All of that portion of the present county of Nye lying within the 4 boundaries of the high-level nuclear waste repository is hereby created as a 5 new county, to be known as Bullfrog County.
- Sec. 3. Carson City is the county seat of Bullfrog County.
- 7 Sec. 4. Chapter 244 of NRS is hereby amended by adding thereto the 8 provisions set forth as sections 5, 6 and 7 of this act.
- 9 Sec. 5. 1. In any county in which, upon creation or as of 6 months 10 before any general election, less than 10 qualified electors reside, the
- 11 legislative commission shall appoint the members of the board of county
- 12 commissioners and the county clerk, county recorder, county auditor, sheriff,
- 13 district attorney and public administrator who, but for the provisions of this
- 14 section, would have been elected at that general election.
- 15 2. Each member of a board of county commissioners appointed pursuant 16 to this section:
- 17 (a) Must be a qualified elector of the state;

- 1 (b) Must have such other qualifications as are provided in this chapter; 2 and
- 3 (c) Must not hold any other elective office.
- 4 3. Each other officer appointed pursuant to this section must meet all 5 qualifications for the office to which he is appointed.
- 6 4. All appointments made pursuant to this section must be for the same 7 terms as if the officers were elected.
- 8 Sec. 6. In any county for which a member of the board of county 9 commissioners or any other officer is appointed pursuant to section 5 of this 10 act, the legislative commission shall continue to appoint its officers until the 11 county has maintained a total of 10 or more qualified electors as residents 12 continuously for 2 years.
- 13 Sec. 7. In any county in which the offices of county clerk, county 14 recorder, county auditor, sheriff, district attorney and public administrator 15 are all filled or to be filled by appointment pursuant to section 5 of this act, 16 the legislative commission may consolidate the offices into one or more 17 county offices if it finds that such consolidation would be in the best interests 18 of the county.
- 19 Sec. 8. NRS 244.020 is hereby amended to read as follows:
- 20 244.020 1. [County commissioners shall] Except as otherwise provided 21 in section 5 of this act, county commissioners must be qualified electors of 22 their respective counties and have such other qualifications as are provided 23 in this chapter.
- 24 2. No county or township officer [shall be] is eligible to the office of 25 county commissioner.
- 26 Sec. 9. NRS 244.025 is hereby amended to read as follows:
- 27 244.025 1. [County commissioners shall] Except as otherwise provided 28 in section 5 of this act, county commissioners must be elected by the 29 qualified electors of their respective counties.
- 2. At the general election held in 1968 and at the general election every 31 4 years thereafter, two persons [shall] *must* be elected to serve on the board 32 of county commissioners for terms of 4 years.
- 33 3. At the general election held in 1970 and at the general election held 34 every 4 years thereafter, one person [shall] *must* be elected to serve on the 35 board of county commissioners for a term of 4 years.
- 36 4. This section does not apply to counties having a population of 37 100,000 or more.
- 38 Sec. 10. NRS 244.040 is hereby amended to read as follows:
- 39 244.040 1. Any vacancy occurring in any board of county 40 commissioners must be filled by appointment of the governor. Except in
- 41 Carson City, the governor shall appoint a suitable person who is a member
- 42 of the same political party as the most recent holder of the vacant office.

- 1 2. The term of office of a person appointed to the office of county 2 commissioner pursuant to this section does not, by virtue of the 3 appointment, extend beyond 12 p.m. of the day preceding the 1st Monday of 4 January next following the next general election.
- Sec. 11. NRS 244.1505 is hereby amended to read as follows:
- 6 244.1505 1. A board of county commissioners may expend money for 7 any purpose which will provide a substantial benefit to the inhabitants of the 8 county [.] or the state. The board may grant all or part of the money to [a]:
 - (a) The state; or
- 10 (b) A private organization, not for profit, to be expended for the selected 11 purpose.
- 12 2. A grant to a private organization must be made by resolution which 13 must specify:
- 14 (a) The purpose of the grant;
- 15 (b) The maximum amount to be expended from the grant; and
- 16 (c) Any conditions or other limitations upon its expenditure.
- 17 Sec. 12. NRS 244.335 is hereby amended to read as follows:
- 18 244.335 1. Except as otherwise provided in [subsection 2,] subsection 2 and 3, the board of county commissioners may:
- 20 (a) Regulate all character of lawful trades, callings, industries, 21 occupations, professions and business conducted in its county outside of the 22 limits of incorporated cities and towns.
- 23 (b) Fix, impose and collect a license tax for revenue or for regulation, or 24 for both revenue and regulation, on such trades, callings, industries, 25 occupations, professions and business.
- 26 2. The county license boards have the exclusive power in their respective 27 counties to regulate the business of conducting a dancing hall, escort 28 service, or gambling game or device permitted by law, outside of an 29 incorporated city. The county license boards may fix, impose and collect 30 license taxes for revenue or for regulation, or for both revenue and 31 regulation, on such businesses.
- 32 3. The board of county commissioners may regulate all industries, 33 occupations, professions and business in its county which involve high-level 34 nuclear waste, including without limitation, the act of transporting the waste 35 into or through the county by motor vehicle, railroad car or any other 36 means, and may fix, impose and collect a license tax for revenue or for 37 regulation, or for both revenue and regulation, on such trades, callings, 38 industries, occupations, professions and business.
- 39 4. No license to engage in business as a seller of tangible personal 40 property may be granted unless the applicant for the license presents written 41 evidence that:

- 1 (a) The department of taxation has issued or will issue a permit for this 2 activity, and this evidence clearly identifies the business by name; or
- 3 (b) Another regulatory agency of the state or an agency of the Federal 4 Government has issued or will issue a license required for this activity.
- 5 [4.] 5. Any license tax levied for the purposes of NRS 244.3358 or 6 244A.597 to 244A.655, inclusive, constitutes a lien upon the real and 7 personal property of the business upon which the tax was levied until the tax 8 is paid. The lien must be enforced in the following manner:
- 9 (a) By recording in the office of the county recorder, within 90 days 10 following the date on which the tax became delinquent, a notice of the tax 11 lien containing the following:
 - (1) The amount of tax due and the appropriate year;
 - (2) The name of the record owner of the property;

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- (3) A description of the property sufficient for identification; and
- 15 (4) A verification by the oath of any member of the board of county 16 commissioners or the county fair and recreation board; and
- 17 (b) By an action for foreclosure against the property in the same manner 18 as an action for foreclosure of any other lien, commenced within 2 years 19 after the date of recording of the notice of the tax lien, and accompanied by 20 appropriate notice to other lienholders.
- [5.] 6. The board of county commissioners may delegate the authority to 22 enforce liens from taxes levied for the purposes of NRS 244A.597 to 23 244A.655, inclusive, to the county fair and recreation board. All information 24 concerning license taxes levied by an ordinance authorized by this section or 25 other information concerning the business affairs or operation of any licensee 26 obtained as a result of the payment of such license taxes or as the result of 27 any audit or examination of the books by any authorized employee of a 28 county fair and recreation board of the county for any license tax levied for 29 the purpose of NRS 244A.597 to 244A.655, inclusive, is confidential and 30 must not be disclosed by any member, officer or employee of the county fair 31 and recreation board or the county imposing the license tax unless the 32 disclosure is authorized by the affirmative action of a majority of the 33 members of the appropriate county fair and recreation board. Continuing 34 disclosure may be so authorized under an agreement with the department of 35 taxation for the exchange of information concerning taxpayers.
- 36 Sec. 13. NRS 361.453 is hereby amended to read as follows:
- 37 361.453 [The] 1. Except as otherwise provided in subsection 2, total ad 38 valorem tax levy for all public purposes must not exceed \$3.64 on each \$100 39 of assessed valuation, or a lesser or greater amount fixed by the state board 40 of examiners if the state board of examiners is directed by law to fix a lesser 41 or greater amount for that fiscal year.

- 1 2. The total ad valorem tax levy in a county in which one or more of the 2 county commissioners is appointed pursuant to section 5 of this act must not 3 exceed \$5 on each \$100 of assessed valuation.
- Sec. 14. As soon as practicable after the effective date of this act the legislative commission shall appoint:
- 1. To the board of county commissioners of Bullfrog County:
- 7 (a) Two persons qualified pursuant to section 5 of this act to serve until 8 12 p.m. on December 31, 1990; and
- 9 (b) One person qualified pursuant to section 5 of this act to serve until 12 10 p.m. on December 31, 1988.
- 11 2. One or more officers for Bullfrog County pursuant to the provisions of 12 sections 5 and 7 of this act.
- 3 Sec. 15. This act becomes effective upon passage and approval.



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ASSEMBLY BILL NO. 751 - Restricts power of rural electric cooperative to dispose of assets.

Mr. Robert O. Vaughan, of Vaughan, Hull and Copenhaver, Ltd., represented Wells Rural Electric Company and Mt. Wheeler Power. He said Wells Rural Electric Company requested A.B. 751. Mr. Vaughan gave a synopsis of his personal background and extensive involvement with the two power companies.

Mr. Vaughan said A.B. 751 would affect the 3 Nevada based rural power companies, the two previously mentioned and Valley Cooperative, all of which serve approximately 13,000 people. The boards of directors of each cooperative requested he voice support of A.B. 751, despite the fact it would decrease their powers and give more powers to the members. He reviewed the basic content of the bill and the problems associated with investor sell-out.

Mr. Vaughan provided written testimony ($\underline{\text{EXHIBIT D}}$). There were no questions.

ASSEMBLYMAN NEVIN MOVED TO DO PASS A.B. 751

ASSEMBLYMAN GARNER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

ASSEMBLY BILL NO. 756 - Creates Bullfrog County and revises provisions governing counties.

Assemblyman Paul W. May, Clark County District 19, spoke from prepared testimony (Exhibit E) in support of A.B. 756. He provided the committee members with a packet of information (Exhibit F) on file in the Legislative Counsel Bureau (LCB) Research Library. Mr. May made it very clear he was adamantly opposed to location of a nuclear waste repository in Nevada, Bullfrog County or elsewhere. He referred to each item in the information packet (Exhibit F) and described the boundaries of the proposed Bullfrog County on a large map (Exhibit G), on file in the LCB Research Library. He clarified that the bill should be amended to make Bullfrog County exempt from any Supplemental County and City Relief Tax (SCCRT).

Mr. Adler asked for an explanation of the differences in tax structures. Mr. May explained if Amargosa were to expand and encompass Bullfrog County, it would have a tax base of approximately \$2.99, Bullfrog would have a \$5.00 tax rate. He reiterated the financial plight of the State of Nevada and further explained the provision in the Nuclear Waste Policy Act of 1982.

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That provision, commonly referred to as GETT (Grants Equal To Taxes), allows the State of Nevada to avail itself to monies set aside and ready to be given upon application, retroactive to May 6, 1986. To date, there has been no application. The money is not drawing interest. The Federal Government would accept the tax rate in effect at the time of application, that is why he proposed the \$5.00 rate.

Senator Thomas J. Hickey, Clark County District 2, spoke from prepared testimony (Exhibit H) and provided copies of an opinion from LCB (Exhibit I). He also provided an opinion from the Attorney General's office (Exhibit J) and a small map of the proposed area (Exhibit K), which he explained.

Mr. May said the indications by Senator Hickey were quite accurate. The committee mentioned by Senator Hickey, with the exception of Nye County and Boulder City, have agreed to a distribution formula to disburse GETT money. He felt it was interesting that the others had agreed while Nye County had refused to submit to the proposal, for whatever reasons. There was a brief discussion about the GETT provisions and the perimeters of the proposed Bullfrog County, the proposed location of the repository site and the existing location of the test site.

Mr. May referred to a booklet Spent Nuclear Fuel and High Level Radioactive Waste Transportation (Exhibit L), on file in the LCB Research Library, which outlined the planned transportation routes for radioactive waste and the impact of new and improved highways and railways.

Chairman Thompson stated that he and Mr. Kerns had visited the test site and all the proposals were exactly as stated by Mr. May.

There was a general discussion regarding the area encompassed by the proposed Bullfrog County and the impact of increased population in the surrounding areas, particularly during the lengthy construction phase. Senator Hickey understood the site preparation would employ approximately 500 construction workers who would probably reside primarily in Clark County and Pahrump. It is not uncommon for people in Clark County to travel 100 miles, daily, to construction jobs and the test site.

Assemblyman Gaylyn J. Spriggs, Assembly District 36, testified in opposition to A.B. 756. She said there were problems developing new ideas and taxing properties which would otherwise be tax exempt. She indicated it was difficult to receive monies due and she did not forsee obtaining GETT money quickly. She also felt the Federal Government would probably take the State of Nevada to court, if it were to attempt the proposed legislation.

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Senator Kenneth K. Redelsperger, Central Nevada Senatorial District, stated strong opposition to A.B. 756. Southern Nye County, which is in his district, would be one area most severely He felt the attempt to devise a county of the nature proposed was constitutionally questionable. He quoted from the Nevada State Constitution, Article 4, Section 25, which states county and township government shall be uniform throughout the state. That same article, Section 26, states that commissioners shall be elected. He said he was aware of the opinion that there were ways to "get around" the constitution, but he did not see the need for it. He suggested the process might better be handled by passing a Constitutional Amendment to increase the tax rate to \$5.00 and allow a fair distribution to counties throughout the State of Nevada. If such an amendment were to pass in this Sixty-fourth Session of the Nevada State Legislature, it could be one of the first things taken up in the Sixty-fifth Session and a special session could be held, if necessary. He anticipated litigation at the state level for several reasons and he believed the Federal Government would also challenge the legislation. He expressed concern about how taxes, during the construction phase, would be disbursed. He urged the committee not to pass A.B. 756.

There was a general discussion about the constitutionality of A.B. 756 and what would happen if it were declared unconstitutional. Mr. Adler did not feel it would result in a court "battle".

Mrs. Lambert asked what amount of GETT money was available. Senator Redlesperger said that could range between \$325,000 and \$800,000, dependent on how it was requested.

Mr. May reiterated the retroactive payment of GETT money was clearly stated.

Mr. Steve Bradhurst, Planning Consultant assisting Nye County in assessing the nuclear repository system for almost 4 years, spoke from prepared testimony (Exhibit M) and referred committee members to an information packet (Exhibit N), on file with the LCB Research Library. Mr. Bradhurst addressed the impact of population growth on small areas which are not prepared to handle an influx of population. He emphasized that impact assistance is not available during site characterization, except through GETT.

There was a general discussion about population impacts and potential commutes of 4 hours per day. Chairman Thompson reiterated a 4 hour commute was not uncommon for construction workers. Mr. Bradhurst said he had asked the Department of Energy to take a poll of those people who commute via bus to the test site and determine if they would be willing to have a longer commute.

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Mr. Bradhurst referred the committee to a map of Nevada (Exhibit O), on file in the LCB Research Library, on which he had outlined (in yellow) an alternative route under consideration, which is the Tonopah and Tidewater right-of-way. He referred the committee to a chart (page 4 of Exhibit N) which points out the work force at the Nevada Test Site between January 1984 to November 1985 and he pointed out the fluctuations. He then referred to pages 5, 6 and 7 of Exhibit N, which is that portion of the Nuclear Waste Policy Act relating to financial assistance. He stated the only time local government would receive money would be after construction began. He added that could take 6 months after construction began, which would be too late to help handle the impact.

He referred to the remaining reports in Exhibit N, and reviewed the content and intent of each. He amplified that the Federal Government encourages involvement and input from local government in such projects as repository waste systems. For that reason, he felt it was critical for Nye County to be a principle player in the site selection process.

Mr. Joe S. Garcia, Chairman, Nye County Board of County Commissioners, read from prepared testimony (Exhibit P) and susequently supplied copies of letters and backup information (Exhibit Q), which he said he had mailed to every Nevada State Senator and Assemblyman. Mr. Garcia emphasized the importance of safety to the immediate area surrounding a repository site.

Mr. K. Don Dunn, Real Estate Appraiser, reviewed the details of a market value appraisal he prepared for the proposed nuclear repository site (Exhibit R) which valued the property at approximately \$55 per acre. He emphasized the appraisal was based on the condition of the site at the time it was prepared. It did not include any future market value enhancements which may result from the selection of the site as the final location for the construction of the nuclear waste repository. There were no improvements on the property at the time of the appraisal.

Mr. Bernie Merlino, Nye County Assessor, reviewed a chart outlining "Projected GETT Revenue Based on Appraisal of Proposed Yucca Mountain Repository Site" ($\underline{\text{Exhibit S}}$).

Mr. May asked Mr. Dunn if, when he performed the appraisal, he considered the land at its highest possible and best use as a nuclear repository site. Mr. Dunn said no, it was assessed as range land. Mr. May clarified there was no respect given to the fact it might be used by the Federal Government. Mr. Dunn replied that was correct.

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Mr. Adler questioned why Mr. Dunn assessed the property strictly as range land. Mr. Dunn explained that to have the highest and best use, the land must meet 3 tests: it must be economically feasible, physically possible and legally feasible. He did not feel the property met those requirements at the time. It will not be known if that site is suitable until site characterization has been completed.

Mr. Bergevin commented that he agreed with the method Mr. Dunn used to appraise the proposed site. Mr. May said he too agreed with Mr. Dunn's approach because there was no other measure available. Mr. Dunn reiterated upon selection of the site there would be other factors to be considered.

Mr. May pointed out using a large map, how little private land there was in Nye County. He said when reference was made to impact, the primary impact would be to thousands and thousands of acres of Bureau of Land Management land. He emphasized that Clark County would be the primary recipient of the impact of the repository, if it is located in the proposed site.

Mr. Roy Neighbors, representing Nye County as a special assistant to the Board of County Commissioners, spoke from prepared testimony (Exhibit T) in support of the concerns of Nye County, particularly regarding tax value of the proposed site and that its boundaries may be altered without any approval of its residents.

There was a general discussion about the value of the proposed site and the projected amount of sales tax which might be available. Mr. Neighbors did not feel it was possible to project those figures at the time.

Mr. May commented it was apparent Mr. Neighbors and the representatives of Nye County seemed to resent the fact that Bullfrog County proposes to "step into your shoes and be the recipient, to do as it sees fit, with the revenues it might derive from that source". He asked if that was correct. Mr. Neighbors said certainly that would affect the revenues of Nye County, there are 3 communities living in the shadow of Yucca Mountain. However, at no time had Nye County ever said it would take the repository if it was given the money. He adamantly reiterated that had never been the posture of Nye County.

Mr. May rephrased his question by stating he had the impression Nye County apparently resented the proposal which would essentially put Bullfrog County, if created, in the primary dollar receiving value for the proposal. He reiterated every other local government in Clark County, with the exception of Boulder City, approved having the monies distributed in an equitable manner.

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Nye County had not yet been a signator to that agreement. Hе asked Mr. Neighbors for an explanation.

Mr. Bradhurst responded to the question, stating the principle concern was that of any GETT funds received, 17% would go to Nye The people that proposed the legislation stated that County. Yucca Mountain was worth \$500 million. He said the Nuclear Waste Law stated that the existing tax rate must be applied, which was used by Mr. Dunn. He stated most of the expense in site selection as well as research and development would not reflect in the value of the land. Nye County feels the numbers are misleading.

Mr. May asked if Nye County would agree to an amendment which would guarantee its existing tax rate of \$3 out of the proposed tax rate of \$5 (three-fifths) and disburse the remaining \$2 to the other counties. Mr. Bradhurst said that recommendation had been made some time ago. Mr. Neighbors added the final decision would rest with the county commissioners.

There were no others to testify. The hearing was closed on A.B. 756.

Chairman Thompson reopened the hearing on A.B. 741.

Mr. G. P. Etcheverry, Executive Director, Nevada League of Cities, stated A.B. 741 was part of a package of two bills submitted at the request of Paine Webber, a bonding and financial firm which represents many local governments in Nevada. A.B. 741 would allow pooling funds for borrowing, which is covered under Section 12 of the bill.

ASSEMBLYMAN KERNS MOVED TO DO PASS A.B. 741.

ASSEMBLYMAN McGAUGHEY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

There being no further business to come before the committee, the meeting was adjourned at 10:15 a.m.

RESPECTFULLY SUBMITTED,

Rebecca L. Boatwright

Committee Secretary

MR. CHAIRMAN AND ESTEEMED MEMBERS OF THE ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS: THE PROPOSAL BEFORE YOU FOR CONSIDERATION TODAY IS ONE, THAT TAKEN AT FIRST IMPRESSION MIGHT APPEAR TO HAVE BEEN AUTHORED BY THE SAME INDIVIDUAL WHO AUTHORED THE WIZARD OF OZ, OR ONE OF THE BROTHERS RESPONSIBLE FOR MOST OF THE FAIRY TALES COMMON TO THE CIVILIZED WORLD TODAY.

AFTER ALL, ASSEMBLY BILL 675 WOULD PROPOSE TO CREATE A NEW COUNTY IN NEVADA: A COUNTY WITHOUT HUMAN HABITATION: A COUNTY WHOSE COUNTY SEAT WOULD BE LOCATED AT CARSON CITY, NEVADA, A GEOGRAPHIC AREA REMOVED SOME 300 MILES FROM THE NEW COUNTY; A COUNTY WHOSE COMMISSIONERS WOULD BE APPOINTED BY THE INTERIM LEGISLATIVE COMMITTEE, AN INTERIM ARM OF THE LEGISLATURE, AND WHOSE ADMINISTRATIVE POSITIONS COUNTY RECORDER, AUDITOR, SHERIFF, DISTRICT ATTORNEY AND PUBLIC ADMINISTRATOR.....ALSO TO BE APPOINTED BY THE LEGISLA-TIVE COMMISSION: AND FURTHER PROVIDE THAT ALL THE AFOREMEN-TIONED COUNTY OFFICES MAY BE CONSOLIDATED INTO ONE OR MORE. AND MOST IMPORTANT OF ALL A POINTS WITH A 150 TAX NATE THE MEDIA, ALWAYS ON THE LOOKOUT FOR THE HUMOROUS ASPECTS OF LIFE TO GIVE SOME BALANCE TO THE MORE SERIOUS AND OFF TIMES DEPRESSING NEWS THAT THEY CARRY, HAS SEIZED UPON THIS PROPOSAL WITH ADMITTEDLY LESS THAN ENTHUSIASTIC ACCEPTANCE.

HOWEVER, I SHALL DO MY BEST, MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, BY MY TESTIMONY TODAY, TO EXPLAIN MORE CAREFULLY WHAT I PERCEIVE AS A BILL OF GREAT VALUE AND MERIT.

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THE MEASURE BEFORE YOU IS BEING HEARD IN SKELETON DRAFT FORM. AND BEFORE I PROCEED FURTHER, LET ME STATE THAT I AM ADAMANTLY OPPOSED TO THE LOCATION OF A NUCLEAR WASTE REPOSITORY IN NEVADA, BULLFROG COUNTY, OR ELSEWHERE. HOWEVER, I FIND MYSELF IN THE COMPANY OF A GREAT MAJORITY OF NEVADANS WHO, WHILE OPPOSED TO THAT SITING, ARE SOMEWHAT RECONCILED TO THE FACT THAT NEVADA HAS ALREADY BEEN SELECTED BY THE DEPARTMENT OF ENERGY FOR THE SITE OF THE FIRST, AND PROBABLY ONLY HIGH LEVEL NUCLEAR WASTE DUMP IN THE ENTIRE 50 STATES. (UNIVERSITY OF NEVADA POLL, APRIL, 1987).

IF THAT IS TO BE THE CASE, EVEN OVER THE OBJECTION OF A LARGE MAJORITY OF NEVADANS, THEN THE BASIC THRUST OF AB 675 IS TO PROVIDE THAT THE STATE OF NEVADA, AND LOCAL GOVERNMENTS THEREIN, BE IN THE MOST ADVANTAGEOUS POSITION POSSIBLE TO SECURE THE HIGHEST DEGREE OF TAXES AND GRANTS ALLOWED BY THE FEDERAL GOVERNMENT TO ANY ENTITY SELECTED FOR THE NUCLEAR WASTE REPOSITORY. THE NUCLEAR WASTE REPOSITORY POLICY ACT OF 1982 CARRIES IN IT A PROVISION. SECTION 116 (C) (3) PROVIDES FOR AN AMOUNT EACH FISCAL YEAR EQUAL TO THE AMOUNT SUCH STATE AND UNIT OF GENERAL LOCAL GOVERNMENT RESPECTIVELY WOULD RECEIVE, WERE THEY AUTHORIZED TO TAX SUCH SITE CHARAC-TERIZATION ACTIVITIES AT SUCH SITE, AND THE DEVELOPMENT AND OPERATION OF SUCH REPOSITORY, AS SUCH STATE AND UNIT OF GENERAL LOCAL GOVERNMENT TAX THE OTHER REAL PROPERTY AND INDUSTRIAL ACTIVITIES OCCURRING WITHIN SUCH STATE AND UNIT OF GENERAL LOCAL GOVERNMENT.

THE CURRENT TAX RATE IN NYE COUNTY IS APPROXIMATELY \$1.62\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmathbf{1}\fmathbf{1}\fmathbf{1}\fmathbf{1}\fmathbf{1}.62\fmathbf{1}\fmath

THE MEASURE YOU HAVE BEFORE YOU TODAY CALLS FOR NEWLY CREATED COUNTY OF BULLFROG TO HAVE A \$5.00 TAX RATE, THE HIGHEST ALLOWED UNDER THE NEVADA STATE CONSTITUTION \bullet OVERNIGHT. ($\bullet \bullet \bullet \bullet \bullet \bullet \bullet$)

PERHAPS IT WOULD BE WISE TO STEP BACK A MOMENT TO LOOK AT HOW THIS PROPOSAL BEGAN. IT WAS ON MARCH 17TH OF THIS YEAR WHEN SENATOR HICKEY, CHAIRMAN OF THE LEGISLATIVE SUBCOMMITTEE ON HIGH LEVEL NUCLEAR WASTE, INVITED ME TO MEET WITH HIM AND OTHER MEMBERS OF HIS COMMITTEE. THE THRUST OF THAT MEETING, AND AT WHICH I WAS DELIGHTED, WAS TO DEVISE ANY CONSTITUTIONALLY ACCEPTABLE MANNER OF OBTAINING THE HIGHEST TAX RATE POSSIBLE FOR THE PROPOSED YUCCA MOUNTAIN REPOSITORY.

THE MEASURE BEFORE YOU DOES EXACTLY THAT. TURNING TO THE BILL ITSELF: DRAFTED IN SKELETON FORM, BECAUSE I REALIZE THAT WITH THE BRILLIANCE, INTELLIGENCE, AND GENERAL ACCUMULATED KNOWLEDGE MAKING UP THIS COMMITTEE, THAT IT COULD CERTAINLY BE IMPROVED ON BY THE MEMBERS SEATED HERE TODAY.

NOW LET US LOOK AT THE PARKET BEFORE YOU SECTION 2 OF THE BILL BASICALLY CREATES BULLFROG COUNTY:

SECTION 3 ESTABLISHES CARSON CITY AS THE COUNTY SEAT; SECTION 5 PROVIDES FOR THE APPOINTMENT BY THE LEGISLATIVE COMMISSION OF THE BOARD OF COUNTY COMMISSIONERS AND OFFICERS OF BULLFROG COUNTY: SECTION 6 PROVIDES FOR THE CONTINUED APPOINTMENT OF THOSE COMMISSIONERS AND OFFICERS BY THE LEGISLATIVE COMMIS-SION UNTIL SUCH TIME AS BULLFROG COUNTY HAS MAINTAINED A TOTAL OF TEN OR MORE QUALIFIED ELECTORS, AS RESIDENTS CONTINU-OUSLY FOR TWO YEARS; SECTION 11 PROVIDES THAT ANY BOARD OF COUNTY COMMISSIONERS MAY SPEND MONEY, OR GRANT MONEY TO THE STATE; SECTION 12 PROVIDES THAT ANY COUNTY MAY REGULATE ALL INDUSTRY, OCCUPATIONS, AND BUSINESS IN ITS COUNTY WHICH INVOLVE HIGH LEVEL NUCLEAR WASTE, WHETHER LICENSED BY THE STATE OR AN AGENCY OF THE FEDERAL GOVERNMENT; SECTION 13, SUB 2, PROVIDES FOR A \$5 RATE TO BE ESTABLISHED IN BULLFROG COUNTY: SECTION 15 CALLS FORTH ACTION TO BECOME EFFECTIVE ON PASSAGE AND APPROVAL.

I WOULD FURTHER PROPOSE TO EXEMPT BULLFROG COUNTY FROM ANY DISTRIBUTION THAT MIGHT RESULT NOW OR AT A FUTURE TIME FROM THE SUPPLEMENTARY CITY/COUNTY RELIEF TAX. I HAVE DELIBERATELY AVOIDED PUTTING IN THIS SKELETON LEGISLATION ANY FORMULA TO DISTRIBUTE THE MONIES THAT WOULD FALL TO BULLFROG COUNTY. I REALIZE FULL WELL THE IMPACT CONTIGUOUS COUNTIES SUCH AS NYE WOULD HAVE, WERE THE REPOSITORY TO BE SITUATED IN BULLFROG COUNTY, BUT I SUBMIT THAT THE LEGISLATURE BEING THE ULTIMATE

RECIPIENT OF THE MONEY, WOULD CERTAINLY RECOGNIZE THE IMPACT ON CONTIGUOUS AND/OR OTHER COUNTIES IN THE GENERAL PROXIMITY OF BULLFROG, AND HAVING BEEN A MEMBER OF THIS AUGUST BODY FOR SOME 20 YEARS HAVE FULL CONFIDENCE IN THE FAIRNESS AND GOOD JUDGMENT OF THE LEGISLATURE TO RETURN IN A FAIR-TO-ALL MANNER ANY MONIES DERIVED THROUGH THE CREATION OF BULLFROG COUNTY.

THAT CONCLUDES MY TESTIMONY, AND I WILL BE DELIGHTED TO ACCEPT ANY QUESTIONS FROM YOU, MR. CHAIRMAN, OR MEMBERS OF THE COM-

INFORMATIONAL PACKET

(Bullfrog County)

In your packet find the following:

- 1) Las Vegas Review Journal editorial dated April 22, 1987 Nye County's foresight.
- 2) Memo from LCB Research regarding tax rates in Nye County.
- 3) Explanation and intent of proposed legislation.
- \mathcal{L} 4) Copy of skeleton bill.
 - 5) Area map.
 - 6) Memo from LCB regarding rents equal to taxes (GETT). Provision of Nuclear Waste Policy Act.
 - 7) News article from Nevada Appeal dated March 25, 1987 regarding Senator Johnson's remarks.
 - 8) Memo from LCB including Senator Johnson's press release dated March 25, 1987.
 - 9) Memo from LCB Research and background information on 1909 legislation which would have provided for the creation of Bullfrog County at that time.

Nye County s toresignt

It must be spring because the folks in Nye County seem to be waking up and smalling the roses. It all has to do with the nuclear waste repository pre-

It all has to do with the nuclear wasts repository pregram, commonly known as the nuke dump.

The residents in central Nye County have come up with a novel way of taking advantage of the Department of Energy's program. Their resconing seems to be that the momentum behind locating a sucher dump at Yucca Mountain, shout 100 miles northwest of Les Vegas, may be unstoppa-

shout 100 miles northwest of Les Veges, may be unstoppable. And regardless of whether the dump eventually does end up in their backyard, they ought to start preparing for that nossibility.

Their sovel little plan seeks to increase the tax base of the land around the proposed Yucca Mountain site. By anparing almost 50 square miles of land around Yucca Mountain, the town of Amargon Valley will increase the tax rate for the area by 70 percent.

"This tax increase won't affect anyone living there because not a soul inhabits the desolate desert now.

But it will have a dramatic benefit for the town and county if and when the nuclear waste program comes to Nevede: Nye County's officials will have ensured themselves of milking as much revenue as possible from the federal government.

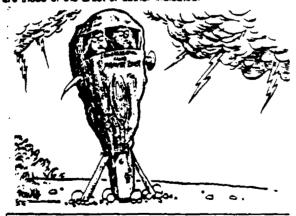
Unities the federal law that started the whole nuclear dump ruckus, the local government that eventually gets the repository will also get grants from the Energy Department equal to what the dump would have generated in property and business taxes if it were a private company.

The grants were written into the program as a way of helping the host communities pay for the economic and soci problems that will come with the repository: thousands of workers and untold stress on the area's infrastructure.

The Nye County planners who have come with this method of making sure they get their fair share should be commended for their foresight in the face of this emotionally charged lesse.

They may be making their county's residents the taxrichest people on earth. Why the whole idea could end up adding a new word to government vocabulary: taxgetter insteed of taxpayer.

The views expressed above are those of the Las Veg. Review-Journal. All other opinions expressed on these paging those of the artist or author indicated.



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4/22/87

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April 27, 1987

MEMORANDUM

TO:

Assemblyman Paul y. May, Jr.

FROM:

Donald M. Bayer, Senior Research Analyst

High-Level Radioactive Waste Program

SUBJECT:

Tax Rate Change in Nye County Through Annexation of

Yucca Mountain to Town of Amargosa Valley

This memorandum is in response to your request for information concerning the tax rate change if Yucca Mountain is annexed to the town of Amargosa Valley in Nye County, Nevada.

Background:

A recent editorial in the Las Vegas Review-Journal stated that "By annexing almost 50 square miles of land around Yucca Mountain, the town of Amargosa Valley will increase the tax rate by 70 percent."

I spoke with Janice A. Wright who is deputy executive director for local government finance with Nevada's department of taxation. Ms. Wright explained that the current tax rate breakdown is as follows:

Nye County - \$1.62 per \$100 of assessed valuation; and

Amargosa Valley - \$2.92 per \$100 of assessed valuation.

She also explained that an increase in assessed valuation would allow for a reduction in the tax rate when computing the maximum combined allowable revenue from ad valorem and sales tax pursuant to chapter 354 of Nevada Revised Statutes.

She noted further that until the new property was assessed, it is not possible for the department of taxation to compute the new tax rate.

If you request further explanation, you may wish to call Ms. Wright (885-4892).

DMB/en HLRW-1:MEM074-75

EXPLANATION AND INTENT OF PROPOSED LEGISLATION

EVEN THOUGH I AM ADAMANTLY OPPOSED, AND WISH TO GO ON RECORD AGAIN AT THIS TIME IN OPPOSITION TO THE LOCATION OF A NUCLEAR WASTE REPOSITORY IN NEVADA, I FEEL IT INCUMBENT UPON MYSELF, OTHERS, AND THIS LEGISLATURE TO PREPARE ITSELF AND THE CITIZENS OF THIS STATE IN THE EVENTUALITY THAT THE FEDERAL GOVERNMENT, OVER OUR COLLECTIVE OBJECTIONS, SELECTS NEVADA AS THE FIRST SITE FOR A NUCLEAR WASTE REPOSITORY. CONSEQUENTLY, LEGISLATION WILL SHORTLY BE INTRODUCED CALLING FOR THE CREATION OF A NEW COUNTY IN NEVADA.

BULLFROG COUNTY, THE NEW PROPOSED ENTITY, WILL CONSIST
PRIMARILY OF THE AREA AROUND YUCCA MOUNTAIN PRESENTLY
UNDER CONSIDERATION BY THE U.S. DEPARTMENT OF ENERGY FOR
A HIGH LEVEL NUCLEAR SITE REPOSITORY.

THE PROPOSED SITE IS CURRENTLY LOCATED IN NYE COUNTY, NEVADA, AND UNDER EXISTING LAW THE MAXIMUM TAXES ALLOWED BY THE NEVADA CONSTITUTION COULD NOT BE COLLECTED, AND THOSE THAT ARE WOULD REMAIN ONLY WITHIN NYE COUNTY ITSELF.

UNIQUE FEATURES OF THE PROPOSED LEGISLATION CALLING FOR A NEW COUNTY WOULD BE AS FOLLOWS:

- 1. THE COUNTY COMMISSIONERS AND NECESSARY COUNTY OFFICERS OF BULLFROG COUNTY WOULD BE APPOINTED BY THE LEGISLATIVE COMMISSION, AN INTERIM ARM OF THE LEGISLATURE.
- 2. THE COUNTY SEAT OF THE NEW COUNTY WOULD BE CARSON CITY.

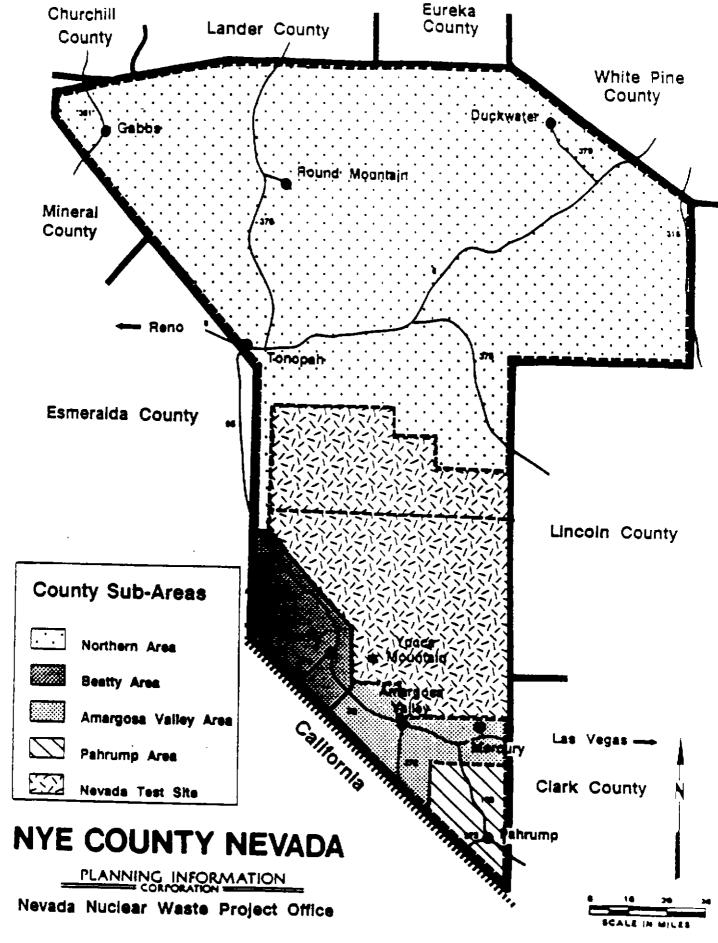
THE PRIMARY REASONS FOR THIS APPROACH ARE VARIED:

- 1. OBTAIN THE MAXIMUM TAX RATE ALLOWABLE FOR THE PURPOSE OF TAXING THE REPOSITORY, ANCILLARY FACILITIES THERETO, AND THOSE BUSINESSES ASSOCIATED WITH THE VENTURE TO THE HIGHEST DEGREE POSSIBLE.
- 2. PROVIDE THAT THE STATE OF NEVADA IS THE BENEFICIARY OF THOSE REVENUES, NOT ONE SINGLE COUNTY.
- 3. ESTABLISH A SINGLE GEOGRAPHIC ENTITY TO DEAL WITH THE FEDS, AS OPPOSED TO A COUNTY AND A STATE, EACH ALONG SEPARATE PATHS.
- 4. BY HAVING CARSON CITY DESIGNATED AS THE COUNTY SEAT OF BULLFROG COUNTY, THERE IS MADE AVAILABLE IN CLOSE PROXIMITY LEGISLATIVE, EXECUTIVE, STAFF, AND THE LEGAL EXPERTISE NECESSARY IF ACTION OR A REACTION TO FEDERAL ACTIVITIES NEEDS TO BE ADDRESSED.
- 5. PLACES NEVADA IN A BETTER POSITION TO WORK WITH OUR NEVADA CONGRESSIONAL DELEGATION.
- THE BILL WOULD ALLOW ALL COUNTY COMMISSIONERS
 TO REGULATE ALL INDUSTRIES, OCCUPATIONS,
 PROFESSIONS AND BUSINESS IN ITS COUNTY WHICH
 INVOLVE HIGH-LEVEL NUCLEAR WASTE, INCLUDING
 WITHOUT LIMITATION, THE ACT OF TRANSPORTING
 THE WASTE INTO OR THROUGH THE COUNTY BY MOTOR
 VEHICLE, RAILROAD CAR OR ANY OTHER MEANS, AND
 MAY FIX, IMPOSE AND COLLECT A LICENSE TAX FOR
 REVENUE OR FOR REGULATION, OR FOR BOTH REVENUE
 AND REGULATION, ON SUCH TRADES, CALLINGS,
 INDUSTRIES, OCCUPATIONS, PROFESSIONS AND

BUSINESS.

ONCE AGAIN, THIS PROPOSAL SHOULD NOT AND MUST NOT BE CONSTRUED OR INTERPRETED TO INDICATE A WILLINGNESS OR A DESIRE ON BEHALF OF ANY OF US, OR ANY MEMBER OF THE LEGISLATURE, TO ACQUIESCE TO THE LOCATION OF A NUCLEAR REPOSITORY FOR HIGH LEVEL RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL ANYWHERE IN NEVADA.

HOWEVER, RECENT EVENTS HAVE HEIGHTENED OUR CONCERNS, AND BY THIS PROPOSED ACTION WE ARE ATTEMPTING TO CONSOLIDATE OUR FORCES, PLAN OUR STRATEGY IN OPPOSITION, AND TO SPEAK WITH A SINGLE VOICE, THE LOUDEST WE CAN MUSTER; A VOICE THAT WILL CARRY FROM CARSON CITY TO WASHINGTON D.C.; A VOICE THAT WILL SAY WE JUST SAID NO.



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April 13, 1987

MEMORANDUM

TO:

Assemblyman Paul & May, Jr.

FROM:

Donald M. Bayer, Senior Research Analyst

High-Level Radioactive Waste Program

SUBJECT:

Grants Equal to Taxes (GETT) Provision of Nuclear

Waste Policy Act (NWPA)

This memorandum is in response to your rquest for information pertaining to the grants equal to taxes provision of the Nuclear Waste Policy Act.

Background

In accordance with sections 116(c)(3) and 118(b)(4) of the NWPA, the United States Department of Energy (DOE) will make payments during the site characterization, repository development and operation phases of the high-level radioactive waste repository program in amounts equal to those which the eligible jurisdiction would receive if the facility was owned, developed and operated as a private venture.

In the case of Yucca Mountain, Nevada, the site characterization phase began on May 28, 1986. According to the U.S. Department of Energy's directive on payments of GETT, the eligible jurisdiction may receive payments from commencement (May 28, 1986) through termination of site characterization activities.

Evaluation of Provision as It Applies to the State of Nevada

You asked specifically if the state can receive GETT payment retroactively. You also asked whether a new state tax law enacted after the start of site characterization but before the state requests GETT payments would apply retroactively.

Interpretation of the Act

1. Department of Energy --

I spoke with Roger Gale (202-586-2277) who is the director of Public Policy and Outreach for the DOE in Washington, D.C. Mr. Gale expressed his belief that upon the date (May 28, 1986) when the President named the three sites--Yucca Mountain, Nevada; Hanford, Washington; and Deaf Smith County, Texas--for site characterization, each state became eligible to receive GETT payments from the Federal Government.

2. Nevada --

Jan Needham (885-5627), who is the senate bill drafting advisor for the Nevada legislature, advised me that it was her opinion that the state could apply for GETT funds based on the laws that exist at the time the application is submitted to the Federal Government.

Summary and Conclusion

It would appear from comment received from the DOE and Nevada legislative counsel that the payment of GETT funds can be retroactive. It would also appear that the basis for the request would be the tax law that is in effect at the time of the request. You may, however, want to verify the legal opinion by speaking directly with Ms. Needham.

If you have any other questions on this matter, you may wish to call Jan Needham at 885-5627 or call me at 885-5392.

DMB/en HLRW-1:MEM069-70

Nevada would be paid to accept nuke dump

NA 3-25-87 By DAVID KOENIG Appeal Washington Bureau

WASHINGTON Nevada and other states would be offered \$100 million a year, plus bomises, to necept a high-level nuclear waste, million a year until the dump is dump, under legislation introduced. filled today by two key senators

The government would begin ne-Washington and Texas, and allow any other state one year to accept the dump

But the primary author of the bill Sen J Bennett Johnston, D La again limited that Nevada is the leading candidate

"Other scientists have written at and the scientists have pointed out Nevada is a very likely billion apiece site," Johnston said at a press conference today with co-author James McCline, R Idaho, but added "that is not my judgment, that is the scientists' judgment "

Johnston is chairman of the Senate Energy Committee, and Mc Clure is the too Republican on that panel, which in the past year has turned into a war zone over the federal government's search for a nuclear waste dump

over miclear waste could be ended if a state accepts the money offered in his bill - a \$100 million bonus for signing an agreement, \$50 million a year until the dump opens, another \$100 bonus upon opening and \$100

In exchange for the money, the target state would waive its current gotiating a price with Nevada. Tight to veto the dump or sue the government to step construction

> Although the payments could stretch over 30 years or longer, Johnston said the bill would save the government money by channatme the need for costly studies at all three leading sites in Nevada, Washington and Texas

Those studies are negged at \$1

"This would be entirely consensual," Johnston said "There is no requirement any state must enter into one of these agreements."

He optimistically declared that the reward being offered is "an ofter that no one can refuse '

But if early reaction from leading public officials is any indication, Nevada can turn down the cash

Gov Richard Bryan labelled the offer "nuclear blackmail," and Johnston said years of turmoil said, "Nevada is not for sale. I for

one am not going to be a party to built in Tennessee this policy of disaster "

Sen. Harry Reid, D-Ney, said the state's residents oppose the dump and "efforts to negotiate a high ticket price tag to buy us off won't change our opposition

Johnston said he has asked officials in all three affected status to "nust think about this - instead of rushing to a political judgment "

He seemed puzzled by the vehement reaction to his bill - since Nevada stands to get no money if Yucca Mountain in Nye County is chosen under current law

"Il you are a Western state and you think you might get the renository, all this does is give you a chance to agree in advance to be paid \$100 million a year while receiving (spent nuclear) fuel," Johnston said

"If you don't like that deal, you don't have to accept it "

A nuclear dump "is going to happen to somebody anyway," Johnston said

to an optimistic tone. Johnston even suggested that "there may well be a competition" amone states eager to take a cash settlement to accept the dump or a bribe that Congress will never actemporary facility planned to be cept."

McClure suggested that the hostile and uncomittioned opposition to its also impractical because of the site being selected for the nation's the dump by officials in the three cost of the proposed settlement leading states may mellow once the eosts states have an offer to consider

"H is obvious under current conditions they think the benefits, and there are benefits, are not great chough to induce them to even think it may be a good deal," McCline

"We've put this out on the table and people will start shooting at it " The first shots have already been heed

Reid said the bill would sidesten environmental sateguards, and warned that a nuclear waste accident would have a "debilitating and irreversible impact ' on fourism, the state's leading industry

"Nevada has already contributed more than its share to the national detense, and enough is enough," Reid said in a statement issued by his office.

He referred to the state's role in nuclear testing and its several nulllary bases

Rep. James Billiav D-Nev. called the Johnston-McClure bill "a pit states against one another, and

"We are worrying about frimming millions of dollars from defense turn is to show that site is OK." spending and there is talk of raising taxes." Bilbray said

"Where are we going to get \$100 million, year in and year out, for this?"

Bryan, in an interview with the Las Vegas Review-Journal, said the Johnston bill "would set aside all considerations of health and safety, and it would dangle a bail of hundreds of millions of dollars in front of whichever state decides to accept this program "

Bryan said the payment would boost the state's economy but the dump "is going to last forever," and vowed to continue opposing Ne vada's selection

Sen Chic Hecht, R-Nev, said be may "have doubts" about the proposal but praised Johnston for "considering new ways of approaching this problem "

Environmental groups may also oppose the proposal

Kerki Kehoe, lobbyist for the Environmental Policy Institute, said

He said the full was designed to Johnston's reward system could lead to a dangerously mademate nuclear waste

"Once you've manowed it down to one sile, the institutional momen-Kr.bue said

"If would set a bad environmental standard because you are not comparing it to other sites or finding the best site, you are just seeing who will take it at the lowest price "

The Johnston-McClure bill would amend the 1982 law which set guidelines for building a nuclear dump in the West by 1998, and another one in The East after that

Planning for the Western dump is behind schedule. Jargely because of profests about the government's selection process, and plans for the Eastern dump are on hold

Johnston, a longtime supporter of nuclear power, said the process has been damaged by unfounded fears about nuclear waste

Nuclear waste as a scientific challenge is a relatively easy to solve problem, with no great barm to the areas involved," he said. calling safety questions "a percerved problem

STATE OF NEVADA

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April 7, 1987

MEMORANDUM

TO:

Assemblyman Paul W. May Jr.

FROM:

Donald M. Bayer, Senior Research Analyst

High-Level Radioactive Waste Program

SUBJECT:

Location of Nuclear Power Plants in United States

and Possible Shipment Routes for High-Level

Radioactive Waste (HLRW)

This memorandum is in response to your request for information concerning the location of the nuclear power plants in the U.S. You also asked about the highway routes and railroad lines which may be utilized for the shipment of HLRW.

NUCLEAR POWER PLANT LOCATION

The enclosed map illustrates in a general location all of the nuclear power plants in the U.S. As of January 1, 1987, there were 105 plants in operation. As you will note from the map, the majority of the plants are located east of the Rocky Mountains.

POSSIBLE SHIPMENT ROUTES FOR HERW

The Western Interstate Energy Board, a coalition of 16 Western States one of whose duties is review of the U.S. Department of Energy's HLRW transportation planning effort, has prepared a document entitled "Spent Nuclear Fuel and High Level Radioactive Waste Transportation." (Copy enclosed.) This "white paper" includes five maps which illustrate possible truck and rail routes to the two candidate sites located in Nevada and Washington. The map on

page 15 of the booklet includes a possible rail and truck system which assumes the monitored retrievable storage facility (MRS) in Oak Ridge, Tennessee, is in operation.

If you need any additional information on these matters, give me a call at 885-5392.

DMB/en Enc. HLRW-1:MEM063-64

Nuclear Power Plants in the United States



Reactors With Operating License Reactors With Construction Parmit Reactors On Order

Atomic Industrial Forum, Inc.

| | 105 Reactors operable 20 Reactors with construction permits 2 Reactors on order | 91.538 WWe 23 320 MWe |
|-------------------------|---|--------------------------|
| 127 Tatel 117 Add Leafs | 127 Tani | |

January 1, 1887

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March 27, 1987

MEMORANDUM

TO:

Members, Nevada Legislative Committee on

High-Level Radypactive Waste

FROM:

Donald M. Bayer, Senior Research Analyst

SUBJECT:

Proposed Federal Legislation Regarding High-Level

Radioactive Waste Repository (Senator Bennett

Johnston, Democrat -- Louisiana)

Senator Hickey asked me to forward to you copies of a press release and the bill which was introduced by Senator Bennett Johnston pertaining to the U.S. Department of Energy's (DOE's) high-level radioactive waste siting program.

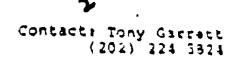
As you will note, the bill (amending the Nuclear Waste Policy Act) provides an incentive payment schedule for the state which enters into an agreement with the DOE to permit detailed site characterization of a site within the state.

Under the revised act, it appears that Nevada, Texas and Washington will be the first states to have an opportunity to negotiate an agreement. In addition, the measure provides that other states will be given an opportunity to enter into an agreement if none can be executed with Nevada, Texas or Washington.

If you have any question on the enclosed material, give me a call at 885-5392.

OMB/en Encs.

HLRW-1: MEMO56



JOHNSTON BILL WOULD PAY \$100 MILLION YEARLY TO N-WASTE SITE

(Washington, D.C.) - Sen. Bennett Johnston (D-La.), Chairman of the Senate Energy Committee, today introduced legislation to provide annual payments of \$100 million to a state which agrees to accept a permanent disposal site for high-level nuclear waste.

The proposal would also authorize creation of a temporary Monitored Retrieval Storage (MRS) facility and provide for annual payments of \$50 million to a state which accepts that facility,

According to Johnston, the incentives are needed because the effort to designate a site for nuclear waste disposal "was very seriously damaged" when the Department of Energy last year halted the search for a second repository, to be located in the Eastern U.S.

"As a result of that action," Johnston said, "the states selected for a potential first repository in the West have demanded a shutdown of that part of the program as well. Somehow a new consensus must be developed to allow the program to go forward."

In addition, Johnston said the creation of a temporary "RS facilility would help the federal government keep a commitment to accept spent fuel from civilian nuclear reactors beginning in 1998.

Once incentive agreements are signed by states to accept an MRS and to accept a first repository, the search for a second repository would be deferred.

Johnston said the legislation is not designed to "short circuit" the provisions of the 1982 Nuclear Waste Policy Act but to "move that technical process foward by addressing some of the political issues" related to nuclear waste disposal.

"Any state that hosts a nuclear waste facility will be performing an immanse service to the nation, and we should be willing to pay them for that service," Johnston said.

The senator predicted that the incentives would allow the Department of Energy to narrow its final studies or "site characterizations" for a first repository to one location, rather than three, saving an estimated \$2 billion in the cost of the program. Payments to states hosting the permanent repository and the temporary MRS facility would be drawn from these savings under Johnston's proposal.



lear Maste Policy Act Amendments Act of 1987

Summary of Major Provisions March 25, 1987

Leaves titles I-III of the existing Nuclear-Waste Policy sended.

Adds new title IV that provides an alternative procedurating a repository.

Under this procedure, DOE would negotiate an incentive at with one of the three states with candidate sites you, Nevada or Texas). For 12 months after enactment any tate with a suitable site could also seek to enter into an we agreement with DOE for a repository.

Under an incentive agreement a state would receive:

- 100 million at execution of the agreement;
- \$ 50 million annually until the opening of the y;
 - \$100 million at the opening of the facility; and
 - \$100 million annually until closure of the facility.

-third of any payment must be passed through to units of overnment affected by the facility.

In return a state would agree to expedite construction of ility and waive its right to judicial review of issues by the agreement and its right to veto the facility under of the Act.

A Review Panel would be established to participate with the design and operation of the facility.

Construction of a monitored retrievable storage facility orized.

...

E

2

- l payments it received under the agreement, plus interest. The
- 2 SECRETARY OF THE TREASURY SHALL DETERMINE THE RATE OF INTEREST; 10
- 3 *(6) THE PARTIES TO THE AGREEMENT SHALL SHARE WITH ONE
- 4 ANOTHER INFORMATION RELEVANT TO THE LICENSING PROCESS FOR THE
- 5 REPOSITORY OR MONITORED RETRIEVABLE STORAGE FACILITY, AS IT
- 6 BECOMES AVAILABLE: AND
- 7 "(7) THE STATE OR AFFECTED INDIAN TRIBE PARTICIPATE IN THE
- 8 DESIGN OF THE REPOSITORY OR MONITORED RETRIEVABLE STORAGE
- 9 FACILITY AND IN THE PREPARATION OF DOCUMENTS REQUIRED UNDER LAW
- 10 OR REGULATION GOVERNING THE EFFECTS OF THE FACILITY ON THE PUBLIC
- 11 HEALTH AND SAFETY.
- 12 "(C) THE SECRETARY SHALL MAKE PAYMENTS TO THE STATES OR .
- 13 AFFECTED INDIAN TRIBES UNDER THIS SECTION FROM THE NUCLEAR WASTE
- 14 FUND ESTABLISHED BY SECTION 302(C) OF THIS ACT. THE SIGNATURE OF
- 15 THE SECRETARY ON A VALID INCENTIVE AGREEMENT UNDER SECTION 401(A)
- 16 SHALL CONSTITUTE A COMMITMENT BY THE UNITED STATES TO MAKE
- 17 PAYMENTS IN ACCORDANCE WITH SUCH AGREEMENT.
- 18 "REVIEW PANEL
- 19 "SEC. 403.(A) THE REVIEW PANEL REQUIRED TO BE ESTABLISHED BY
- 20 SECTION 402(B)(2) OF THIS ACT SHALL CONSIST OF A CHAIRMAN
- 21 SELECTED BY THE SECRETARY IN CONSULTATION WITH THE GOVERNOR OF
- 22 THE STATE OR GOVERNING BODY OF THE AFFECTED INDIAN TRIBE, AS
- 23 APPROPRIATE, AND SIX OTHER MEMBERS AS FOLLOWS:
- 24 "(1) TWO MEMBERS SELECTED BY THE GOVERNOR OF THE STATE OR
- 25 GOVERNING BODY OF THE AFFECTED INDIAN TRIBE;

- 1 EARLIEST PRACTICABLE DATE, AT THE SITE DESIGNATED IN THE
- 2 INCENTIVE AGREEMENT.
- 3 "(C) WHILE AM INCENTIVE AGREEMENT UNDER THIS TITLE WITH
- 4 RESPECT TO A MONITORED RETRIEVABLE STORAGE FACILITY IS IN EFFECT

5

- 6 "(1) THE SECRETARY AND THE COMMISSION SHALL NOT BE SUBJECT T
- 7 THE REQUIREMENTS OF TITLE I WITH RESPECT TO A SECOND REPOSITORY:
- 8 AND
- 9 "(2) THE COMMISSION SHALL NOT BE SUBJECT TO THE REQUIREMENTS
- 10 OF SECTION 114(D) WITH RESPECT TO THE EMPLACEMENT IN THE FIRST
- 11 REPOSITORY OF A QUANTITY OF SPENT FUEL CONTAINING AN EXCESS OF
- 12 70,000 METRIC PONS OF HEAVY METAL OR A QUANTITY OF SOLIDIFIED
- 13 HIGH-LEVEL PADICACTIVE WASTE RESULTING FROM THE REPROCESSING OF
- 14 SUCH A QUANTITY OF SPENT FUEL.
- 15 "TERMINATION
- 16 "SEC. 406.(A) THE SECRETARY MAY TERMINATE AN INCENTIVE
- 17 AGREEMENT UNDER THIS TITLE IF (I) THE SITE UNDER CONSIDERATION IS
- 18 DISQUALIFIED FOR ITS FAILURE TO COMPLY WITH GUIDELINES AND
- 19 TECHNICAL REQUIREMENTS ESTABLISHED BY THE SECRETARY IN ACCORDANCE
- 20 WITH THIS ACT, (II) THE SECRETARY DETERMINES THAT THE COMMISSION
- 21 CANNOT LICENSE THE FACILITY WITHIN A REASONABLE TIME. (III) THE
- 22 STATE OR AFFECTED INDIAN TRIBE FAILS TO ADHERE TO THE AGREEMENT
- 23 IN A MANNER THE SECRETARY FINDS TO BE A SUBSTANTIAL BREACH OF THE
- 24 AGREEMENT, (IV) THE SECRETARY DETERMINES THE STATE OR AFFECTED
- 25 INDIAN TRIBE TO BE DILATORY IN EXECUTING ITS RESPONSIBILITIES
- 26 UNDER THE AGREEMENT, OR (V) THE STATE OR AFFECTED INDIAN TRIBE
- 27 DEFAULTS UNDER THE AGREEMENT.

- 2 INCENTIVE AGREEMENT UNDER THIS TITLE ONLY IF THE SECRETARY
- 3 DISQUALIFIES THE SITE UNDER CONSIDERATION FOR ITS FAILURE TO
- 4 COMPLY WITH TECHNICAL REQUIREMENTS ESTABLISHED BY THE SECRETARY
- 5 IN ACCORDANCE WITH THIS ACT OR THE SECRETARY DETERMINES THAT THE
- 6 COMMISSION CANNOT LICENSE THE PACILITY WITHIN A REASONABLE TIME.
- 7 "(C) IF AN INCENTIVE AGREEMENT IS TERMINATED UNDER THIS
- 8 . SECTION, THE SECRETARY MAY, FOR A PERIOD OF 12 MONTHS AFTER THE
- 9 DATE OF TERMINATION, NEGOTIATE A NEW INCENTIVE AGREEMENT UNDER
- 10 THIS TITLE OR PROCEED UNDER THE PROCEDURES OF TITLES I AND III OF
- 11 THIS ACT TO DEVELOP REPOSITORIES OR MONITORED RETRIEVABLE STORAGE
- 12 FACILITIES AS APPROPRIATE.
- 13 "(D) IF A NEW AGREEMESA" HAS NOT BEEN REGOTIATED WITHIN 12
- 14 MONTHS AFTER TERMINATION OF THE PREVIOUS AGREEMENT, THE SECRETARY
- 15 SHALL PROCEED UNDER THE PROCEDURES OF TITLES I AND III OF THIS
- 16 ACT TO DEVELOP REPOSITORIES OR MONITORED RETRIEVABLE STORAGE
- 17 FACILITIES AS APPROPRIATE.
- 18 "MISCELLANEOUS PROVISIONS
- "SEC. 407.(A) THIS TITLE DOES NOT AFFECT THE PROVISIONS OF
- 20 TITLES I AND III OF THIS ACT EXCEPT TO ESTABLISH AN ALTERNATIVE
- 21 PROCEDURE FOR THE DEVELOPMENT OF REPOSITORIES AND MONITORED
- 22 RETRIEVABLE STORAGE FACILITIES.
- 23 . "(B) THE POWERS AND DUTIES OF THE SECRETARY UNDER THIS ACT
- 24 ARE NOT AFFECTED BY THIS TITLE EXCEPT AS EXPRESSLY STATED IN THE
- 25 TITLE.

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- 26 "(C) IN IMPLEMENTING THE AUTHORITIES CONTAINED IN THIS TITLE,
- 27 THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 SHALL NOT APPLY.

- "(D) THE COMMISSION SHALL NOT CONSIDER ANY CHANGES IN THE
- 2 SCHEDULE FOR OPENING A REPOSITORY OR HONITORED RETRIEVABLE
- 3 STORAGE FACILITY RESULTING FROM THE IMPLEMENTATION OF THIS TITLE
- 4 IN ANY PROCEEDING INVOLVING A CIVILIAN NUCLEAR POWER REACTOR.
- SEC. 3. THE TABLE OF CONTENTS OF THE NUCLEAR WASTE POLICY 5
- ACT OF 1982 IS AMENDED BY ADDING THE FOLLOWING AT THE END:
- 7 "TITLE IV - INCENTIVE AGREEMENTS
- "SEC. 401. AUTHORITY TO ENTER INTO INCENTIVE AGREEMENTS.
- "SEC. 402. CONTENT.
- 10 "SEC. 403. REVIEW PANEL.
- "SEC. 404. ACTION ON REPOSITORY. 11
- "SEC. 405. ACTION ON MRS. 12
- "SEC. (DE. TERMINATIONAL 13
- "SEC. 407. MISCELLANOUS PROVISIONS.". 14

SIALE OF NEVADA

LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
CAPITOL COMPLEX
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LOUIS W BERGEVIN, Assemblyman, Chairman Donald A Rhodes, Director, Secretary INTERIM FINANCE COMMITTEE (702) 885-51

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LINDA S JESSEN. Legislative Counsel (702) 885-5627 JOHN R. CROSSLEY Legislative Auditor (702) 885-5622 ROBERT E ERICKSON. Research Director (702) 885-5637

April 23, 1987

MEMORANDUM

TO:

Assemblyman Paul May

FROM:

Robert E. Erickson, Research Director

SUBJECT:

Proposed Legislation Which Would Have Created

Bullfrog County

You asked for background information pertaining to the bill considered by the 1909 Nevada legislature which would have created Bullfrog County from the southern end of Nye County. The northern boundary of Bullfrog County would have been an east-west line located approximately midway between Tonopah and Beatty. This proposed county was named for the old Bullfrog Mining District and its initial county seat would have been temporarily established at the town of Rhyolite.

Enclosed you will find a copy of Assembly Bill No. 77 of the 1909 session, plus excerpts from the journals of the senate and assembly relating thereto.

If you require any further assistance, please let me know.

REE/11p:M10 Enc. AB 17 - 1909 BULLFROG COUNTY

TWENTY-FOURTH SESSION.

63

By Mr. Bulmer (by leave):

Assembly Bill No. 73—An Act to provide for union school districts,

and matters properly connected therewith.

On motion of Mr. Bulmer, duly seconded, rules were suspended, reading so far had was considered first reading, rules further suspended, bill read second time by title, and referred to Committee on Education.

By Mr. McIntosh (by leave):

Assembly Bill No. 74—An Act prohibiting gambling, providing for the destruction of gambling property, and other matters relating thereto.

On motion of Mr. Allen, duly seconded, rules suspended, reading so far had considered first reading, rules further suspended, bill read second time by title, and referred to Committee on Public Morals.

By Mr. Todd (by leave):

Assembly Bill No. 75—An Act to fix and regulate the salary and compensation of the Constable of East Fork Township, Douglas County, State of Nevada.

On motion of Mr. Church, duly seconded, rules suspended, reading so far had considered first reading, rules further suspended, bill read second time by title, and referred to Douglas Delegation.

By Mr. Brandon (by leave):

Assembly Bill No. 76—An Act to provide for the relief of W. C. Ruddell. On motion of Mr. Brandon, duly seconded, rules suspended, reading so far had considered first reading, rules further suspended, bill read second time by title, and referred to Humboldt Delegation.

By Mr. Gallagher (by leave):

Substitute for Assembly Bill No. 6—An Act to regulate the sale of stocks by stock exchanges, and by persons, corporations, partnership or associations engaged in buying or selling stocks, and providing for a violation thereof.

On motion of Mr. Gallagher, duly seconded, the rules were suspended, the reading so far had was considered first reading, the rules were further suspended, the bill was read second time by title, and referred to Committee on Mines and Mining.

By Mr. Chas. A. Kane (by leave):

Assembly Bill No. 77—An Act to create and establish the County of Bullfrog.

On motion of Mr. Kane, duly seconded, the rules were suspended, reading so far had considered first reading, rules further suspended, bill read second time by title, and referred to Committee on Counties and County Boundaries.

By Mr. Brandon (by leave):

Assembly Bill No. 78—An Act to abolish the office of Mining District Recorder in the State of Nevada, and regulating the duties of the County Recorder.

On motion of Mr. Brandon, duly seconded, rules suspended, reading so far had considered first reading, rules further suspended, bill read second time by title, and referred to Committee on Mines and Mining. By Mr. Bergman (by leave):

Assembly Bill No. 79—An Act to amend section one of an Act entitled "An Act requiring foreign corporations doing business in the State of Nevada to publish annual statements," approved March 28, 1901.

On motion of Mr. Bergman, duly seconded, rules suspended, reading so far had considered first reading, rules further suspended, bill read second time by title, and referred to Committee on corporations.

MOTIONS AND RESOLUTIONS.

On motion of Mr. Winter, the report of the Committee on Ways and Means, concerning the University of Nevada, was adopted, and the Speaker appointed Messrs. Allen, Brandon, and Curtin as a Committee of three, in compliance with the report.

GENERAL FILE AND THIRD READING.

On motion of Mr. Neill, duly seconded, Assembly Bill No. 39 was placed at the bottom of the file.

On motion of Mr. Smith, duly seconded, Assembly Bill No. 26 was placed at the bottom of the file.

On motion of Mr. Ferguson, duly seconded, the rules were suspended, and Assembly Bill No. 59 was considered engrossed, placed on its third reading and final passage, and passed by the following vote:

YEAS-Messrs. Allen, Aylesworth, Bergman, Blake, Brandon, Brogan, Brooks, Bulmer Church, Clark, Conaway, Curtin, Dodge, Duborg, Ellis, Farnsworth, Ferguson, Fitzgerald, Folsom, Gallagher, Chas. A. Kane, Matt. Kane, Leary, Luke, Lunsford, McCafferty, McIntosh, McNamara, Merten, Neill, O'Brien, Pollard, Raycraft, Reynolds, Ross, Schoer, Smaill, Smith, Todd, Winter, Woolcock, Woolley, and Mr. Speaker-43. NAYS-None.

Absent-Messrs. Berry, Bradshaw, Burke, and Hunter-4. Not voting-Mr. Riddell.

Assembly Bill No. 52 was placed at the bottom of the file.

On motion of Mr. Bulmer, duly seconded, Assembly Bill No. 48 was referred to Committee of the Whole.

On motion of Mr. Duborg, duly seconded, Senate Bill No. 16 was referred to Committee of the Whole.

On motion of Mr. Folsom, duly seconded, Substitute for Assembly Bill No. 22 was placed at the bottom of the file until such time as it could be printed.

MOTIONS AND RESOLUTIONS.

The following resolution was offered by Mr. Folsom:

Whereas, A committee of investigation into the affairs of the State University having been appointed, and consisting of Messrs. Allen, Brandon, and Curtin; therefore be it

Resolved. That the said committee be and is hereby granted leave of absence from this Assembly at all times, while in the discharge of their duties, while acting as such committee.

Mr. Dodge offered the following amendment to the resolution, which was adopted:

"That they be given the power to employ such clerical assistance as they desire to enable them to perform their duties with celerity."

The resolution, as amended, was adopted.

THE TWENTY-THIRD DAY.

Carson City (Tuesday), February 9, 1909.

House convened at 11 a.m.

Mr. Speaker in the chair.

Roll called.

All present except Mr. Hunter, who was excused.

Prayer by the Chaplain, Rev. Chas H. Powell.

The Journal of the previous day was read and approved.

REPORTS OF COMMITTEES.

Mr. Speaker:

Your Committee on Railroads and Corporations have had Assembly Bill No. 55 under consideration, and beg leave to report favorably on the same, with the recommendation that it do pass, with the following amendments:

Amend the title by inserting after the word "violation," "of the provisions."

Amend Section 2, line 10, by striking out the word "which," and inserting in lieu thereof the words "when it."

Amend Section 2, line 11, by striking out the word "every," and inserting in lieu thereof the words "on any."

FRANK WINTER. Chairman.

Mr. Speaker:

Your Committee on Counties and County Boundaries have had Assembly Bill No. 77 under consideration, and beg leave to report the same without recommendation.

CHAS, A. KANE, Chairman.

Mr. Speaker:

Your Committee on Mines and Mining have had Assembly Bill No. 6 under consideration, and beg leave to report favorably on the same, with the recommendation that it B. H. SMITH.

Chairman.

Mr. Speaker:

Your Committee on Mines and Mining have had Assembly Bill No. 78 under consideration, and beg leave to report favorably on the same, with the recommendation that it do pass. B. H. SMITH.

Chairman.

Mr. Speaker:

Your Committee on Mines and Mining have had amended Assembly Bill No. 15 under consideration, and beg leave to report the same without recommendation.

B. H. SMITH. Chairman.

Mr. Speaker:

The Churchill Delegation have had Senate Bill No. 17 under consideration, and beg leave to report favorably on the same, with the recommendation that it do pass.

Also, Assembly Bill No. 63 under consideration, and beg leave to report favorably on

the same, with the recommendation that it do pass.

LEM ALLEN. J. W. FERGUSON.

MESSAGES FROM THE SENATE.

SENATE CHAMBER, CARSON CITY, NEVADA, February 8, 1909.

To the Honorable the Assembly:

I have the honor herewith to present for the consideration of your honorable body Senate bill No. 27, which passed the Senate by the following vote: Yeas, 19; nays, none.

Also, Senate Bill No. 26, which passed the Senate by the following vote: Yeas, 19: nays, none.

Also, Assembly Bill No. 54, which passed the Senate by the following vote: Yeas, 16; nays, none; absent. 3.

Secretary of the Senate.

MOTIONS AND RESOLUTIONS.

On motion of Mr. McCafferty, Assembly Bill No. 15 was made a special order of business for Monday, February 15th, at 1:30 p. m.

On motion of Mr. McNamara, Assembly Bill No. 77 was made a special order of business for Thursday, at 11:30 a. m.

NOTICES OF BILLS.

Mr. Smaill gave notice that he would at some future date introduce a bill, upon the request of the State Surveyor-General, entitled "An Act to provide for the reclamation and occupancy of lands subject to acceptance by the State of Nevada under the provisions of the Acts of Congress approved August 14, 1894, June 11, 1896, and March 3, 1901, and to repeal all Acts in conflict therewith."

INTRODUCTION AND FIRST READING.

Senate Bill No. 27.

On motion of Mr. Allen, duly seconded, rules suspended, reading so far had considered first reading, rules further suspended, bill read second time by title, and referred to Elko Delegation.

Senate Bill No. 26.

On motion of Mr. Allen, duly seconded, rules suspended, reading so far had considered first reading, rules further suspended, bill read second time by title, and referred to Lyon Delegation.

By Washoe Delegation (by leave):

Assembly Bill No. 80—An Act to provide for certain improvements to the State University.

On motion of Mr. Lunsford, duly seconded, rules suspended, reading so far had considered first reading, rules further suspended, bill read second time by title, and referred to Committee on Way and Means.

On motion of Mr. Winter, the rules were suspended, and a report received from the Select Committee of the Elko Delegation on Senate Bill No. 27.

The committee reported Senate Bill No. 27 favorably, with recommendation that it do pass.

On motion of Mr. Winter, Senate Bill No. 27 was taken up out of regular order, and placed on third reading and final passage, and passed by the following vote:

YEAS-Messrs. Allen, Aylesworth, Bergman, Berry, Blake, Bradshaw, Brandon, Brogan, Brooks, Bulmer, Burke, Church, Clark, Conaway, Dodge, Duborg, Farnsworth, Ferguson, Fitzgerald, Folsom, Gallagher, Chas. A. Kane, Matt. Kane, Leary, Luke, Lunsford, McCafferty, McIntosh, McNamara, Merten, Neili, O'Brien, Pollard, Raycraft, Reynolds, Riddell, Ross, Schoer, Smaill, Smith, Todd, Winter, Woolcock, Woolley, and Mr. Speaker-45.

Absent-Messrs. Curtin, Ellis, and Hunter-3.

By Washoe Delegation (by leave):

Assembly Bill No. 81—An Act authorizing and directing the Board of

THE TWENTY-FIFTH DAY.

Carson City (Thursday), February 11, 1909.

House convened at 11 a.m.

Mr. Speaker in the chair.

Roll called.

All present except Messrs. Bradshaw, Gallagher, and Ross, who were excused.

Prayer by the Chaplain, Rev. Chas. H. Powell.

The Sergeant-at-Arms announced a message from the Senate.

The Journal of the previous day was read and approved.

PETITIONS.

Mr. Chas. A. Kane presented a petition relating to the proposed division of Nye County.

REPORTS OF COMMITTEES.

Mr. Speaker:

Your Committee on Judiciary have had Assembly Bill No. 67 under consideration and beg leave to report favorably on the same, with the recommendation that it do pass. Also, Assembly Bill No. 68, and beg leave to report favorably on the same, with the recommendation that it do pass.

Also, Assembly Bill No. 82, and beg leave to report favorably on the same, with the recommendation that it do pass.

Also, Assembly Bill No. 64, and beg leave to report favorably on the same, with the recommendation that it do pass.

recommendation that it do pass.

Also, Assembly Bill No. 84, and beg leave to report favorably on the same, with the recommendation that it do pass.

T. A. BRANDON, Chairman,

Mr. Speaker:

Your Committee on Agriculture have had Senate Bill No. 13 under consideration, and beg leave to report favorably on the same, with the recommendation that it do pass.

LEM ALLEN, Chairman,

Mr. Speaker:

Your Committee, the Washoe Delegation, have had Senate Bill No. 8 under consideration, and beg leave to report favorably on the same, with the recommendation that it do ness

Also, Senate Bill No. 81, and beg leave to report unfavorably on the same, with the recommendation that it do not pass.

Also, Assembly Bill No. 33, and beg leave to report the same back without recom-

Also, Senate Bill No. 20, and beg leave to report unfavorably on the same, with the recommendation that it do not pass.

E. R. Dodge, Chairn

MESSAGES FROM THE SENATE.

SENATE CHAMBER, CARSON CITY, NEVADA, February 10, 1909.

To the Honorable the Assembly:

I have the honor herewith to present for the consideration of your honorable body Substitute for Senate Bill No. 9, which passed the Senate by the following vote: Yeas, 10; nays, 9.

Also, Senate Concurrent and Joint Resolution No. 1, which passed the Senate by the following vote: Yeas, 18; nays, none; absent, 1.

Also, Senate Bill No. 14, which passed the Senate by the following vote; Yeas, 18; nays, none; absent, 1.

Also, Senate Bill No. 15, which passed the Senate by the following vote: Yeas, 16; nays, none; absent, 1; not voting, 2.

W. M. GRIMES, Secretary of the Senate.

SPECIAL ORDER.

Assembly Bill No. 77, referring to the division of Nye County, was taken up and placed on third reading.

On motion of Mr. Folsom, the House took a recess until 2 p. m.

HOUSE IN SESSION

At 2 p. m.

Mr. Speaker in the chair.

Roll called.

All present except Messrs. Bradshaw, Gallagher, and Ross.

The Sergeant-at-Arms announced a message from the Senate.

Assembly Bill No. 77 was taken up.

Mr. Berry introduced an amendment, which was carried by roll call, by the following vote:

YEAS-Messrs. Allen, Aylesworth, Berry, Blake, Brooks, Bulmer, Clark, Dodge, Duborg, Ferguson, Fitzgerald, Hunter, Matt. Kane, Luke, McNamara, Merten, Reynolds, Riddell, Schoer, Smith, Winter, Woolcock, and Mr. Speaker-23.

NAYS-Messrs. Bergman, Brandon, Brogan, Burke, Church, Conaway, Curtin, Ellis, Folsom, Chas. A. Kane, Leary, Lunsford, McCafferty, McIntosh, Neill, O'Brien, Pollard, Raycraft, Smaill, Todd, and Woolley-21.

Absent-Messrs. Bradshaw, Farnsworth, Gallagher, and Ross-4.

On motion of Mr. Winter, rules were suspended, Assembly Bill No. 77 was considered engrossed, placed on third reading and final passage, and passed, with amendments, by the following vote:

YEAS-Messrs. Allen, Aylesworth, Bergman, Blake, Brandon, Brogan, Brooks, Bulmer, Burke, Church, Clark, Conaway, Curtin, Dodge, Ferguson, Fitzgerald, Folsom, Hunter, Chas. A. Kane, Leary, Luke, Lunsford, McCafferty, McIntosh, Neill, O'Brien, Pollard, Raycraft, Reynolds, Riddell, Schoer, Smaill, Todd, Winter, Woolcock, and Woolley-36.

NAYS-Messrs. Berry, Duborg, Ellis, Matt. Kane, McNamara, Merten, Smith, and Mr.

Absent-Messrs. Bradshaw, Farnsworth, Gallagher, and Ross-4.

On motion of Mr. Folsom, the House adjourned until Monday, February 15, 1909, at 11 a.m.

Approved:

J. B. GIFFEN.

Speaker of the Assembly.

Attest: HARRY J. COOGAN,

Chief Clerk of the Assembly.

GENERAL FILE AND THIRD READING.

Assembly Bill No. 16—An Act to provide for the maintenance, operation, and necessary equipments for the State Agricultural Experiment Farm, situated at Logan, Lincoln County, Nevada, for the years 1909–1910, and making an appropriation therefor.

Placed on third reading and final passage, and passed by the follow-

ing vote:

YEAS—Senators Balzar, Bell, Brossemer, Carpenter, Coryell, Douglass, Easton, Holmes, House, Locklin, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury—17. NAYS—None.

Absent-Senators Boyd and Hunter-2.

Assembly Bill No. 61—An Act for the relief of Arley B. Shon and J. E. Weir, for services rendered to, and money expended for, the Nevada Historical Society.

Senator Douglass moved that Assembly Bill No. 61 be laid upon the table indefinitely.

Lost.

Placed on third reading and final passage, and passed by the following vote:

YEAS—Senators Bell, Carpenter, Coryell, Easton, Holmes, House, Locklin, Mack. Pyne, Reymers, Syphus, Tallman, and Woodbury—13.

NAYS—Senators Balzar, Brossemer, and Douglass—3.

Absent—Senators Boyd, Hunter, and Kendall—3.

Senate Bill No. 38.

Senator Tallman moved that Senate Bill No. 38 be made a special order for Tuesday, February 23, 1909, at 1:45 p. m.

Carried.

REPORTS OF COMMITTEES.

Mr. President:

Your Committee on Enrolled Bills have carefully compared Senate Bill No. 16 with the engrossed copy, find the same correctly enrolled, and have this day delivered the same to the Governor.

J. W. LOCKLIN, Chairman.

Senator Bell moved that the Senate adjourn until Monday, February 15th, at 11 a.m.

Carried.

Approved:

GEO. D. PYNE,

President of the Senate.

Attest: W. M. GRIMES,

Secretary of the Senate.

THE TWENTY-NINTH DAY.

Carson City (Monday), February 15, 1909.

The Senate was called to order at 11 a.m.

President pro tem. Pyne presiding.

Roll called, and the following Senators answered to their names:

Senators Balzar, Bell, Carpenter, Coryell, Easton, Holmes, House, Hunter, Kendall, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury—15.

Absent Senators Boyd, Brossemer, Douglass, and Locklin-4.

Quorum present.

Prayer by the Chaplain, Rev. Father Gartland.

Senator Coryell requested leave of absence for Senators Boyd and Locklin.

Granted.

Senator Bell requested leave of absence for Senator Douglass for the week, on account of sickness.

Granted.

Journal of Thursday, February 11th, read and approved.

A message from the Assembly was announced.

REPORTS OF COMMITTEES.

Mr. President:

Your Committee on Enrolled Bills have carefully compared Senate Enrolled Bill No. 17 with the engrossed copy, find the same correctly enrolled, and have this day delivered the same to the Governor.

J. W. LOCKLIN.

Chairman.

MESSAGES FROM THE ASSEMBLY.

ASSEMBLY CHAMBER,

CARSON CITY, NEVADA, February 15, 1909.

To the Honorable the Senate:

I have the honor herewith to present for the consideration of your honorable body Assembly Bill No. 77, which passed the Assembly by the following vote: Yeas, 37; nays, 8; absent, 3.

HABRY J. COOGAN, Chief Clerk of Assembly.

ASSEMBLY CHAMBER,

CARSON CITY, NEVADA, February 15, 1909.

To the Honorable the Senate:

I have the honor to present for the consideration of your honorable body Assembly Bill No. 39, which passed the Assembly by the following vote: Yeas, 44; nays, 2; absent, 2.

Frank L. Reber, Assistant Clerk of Assembly.

INTRODUCTION AND FIRST READING.

Assembly Bill No. 39—An Act concerning franchises for furnishing electric light, heat, and power.

Senator Coryell moved that the rules be suspended, reading so far

had considered first reading, rules further suspended, bill be read second time by title, and referred to Committee on Judiciary.

Carried.

80

Assembly Bill No. 77—An Act to create and establish the County of Bullfrog, and to define the boundaries and establish the county seat thereof, providing for the government of said county so created and established, and for the regulation of the affairs of Bullfrog County and Nye County, in respect to the operation and effect of this Act.

Senator Tallman moved that the rules be suspended, reading so far had considered first reading, rules further suspended, bill be read second time by title, and referred to Committee on Counties and County Boundaries.

Carried.

GENERAL FILE AND THIRD READING.

Senate Bill No. 11-An Act to fix and regulate the salaries of certain state officers of the State of Nevada, and to repeal all Acts and parts of Acts in conflict with this Act.

Placed on third reading and final passage, and passed by the following vote:

YEAS—Senators Balzar, Bell, Brossemer, Carpenter, Coryell, Easton, Holmes, House, Hunter, Kendall, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury-16.

NAYS-None.

Absent-Senators Boyd, Douglass, and Locklin-3.

SPECIAL ORDERS.

Senator Bell moved that Senate Bill No. 29, which was a special order for 11:30 a. m., be made a special order for Thursday, February 18th, at 11:15 a.m.

Carried.

Senator Easton moved that the Senate take a recess until 2 p. m. Carried.

SENATE IN SESSION

At 2 p. m.

President pro tem. Pyne presiding.

Roll called, and the following Senators answered to their names:

Senators Balzar, Bell, Brossemer, Carpenter, Coryell, Easton, Holmes, House, Hunter, Kendall, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury-16. Absent-Senators Boyd, Douglass, and Locklin-3.

Quorum present.

Senator Reymers moved that the Senate adjourn until 11 a.m., Tuesday, February 16, 1909.

Carried.

Approved:

GEO. D. PYNE.

President of the Senate.

Attest: W. M. GRIMES,

Secretary of the Senate.

THE THIRTIETH DAY.

Carson City (Tuesday), February 16, 1909.

The Senate was called to order at 11 a.m.

President pro tem. Pyne presiding.

Roll called, and the following Senators answered to their names:

Senators Balzar, Bell, Brossemer, Carpenter, Coryell, Easton, Holmes, House, Hunter, Kendall, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury-16. Absent-Senators Boyd, Douglass, and Locklin-3.

Quorum present.

Prayer by the Chaplain, Rev. Father Gartland.

Journal of Monday, February 15th, read and approved.

Senator Kendall requested leave of absence for Senators Boyd, Douglass, and Lockin.

Granted.

A message from the Assembly was announced.

REPORTS OF COMMITTEES.

Mr. President:

Your Committee on Judiciary have had Senate Bill No. 31 under consideration. and beg leave to report favorably on the same, with the recommendation that it

Also, Assembly Bill No. 26, and beg leave to report favorably on the same, with the recommendation that it do pass.

CLAY TALLMAN.

Chairman.

MESSAGES FROM THE ASSEMBLY.

ASSEMBLY CHAMBER. CARSON CITY, NEVADA, February 16, 1909.

To the Honorable the Senate:

I have the honor herewith to present for the consideration of your honorable body Assembly Joint and Concurrent Resolution No. 4, which passed the Assembly by the following vote: Yeas, 42; nays, none; absent, 6.

FRANK L. REBER. Assistant Clerk of Assembly.

INTRODUCTION AND FIRST READING.

Senator Reymers requested permission to introduce a bill without previous notice.

Granted.

By Senator Pyne:

Senate Bill No. 40—An Act to protect benevolent, humane, fraternal, or charitable corporations in the use of their names and emblems, and providing penalties for the violation thereof.

Senator Tallman moved that the rules be suspended, reading so far had considered first reading, rules further suspended, bill be read secand time by title, and referred to Committee on Judiciary.

Carried.

Senator Tallman moved that quotation marks be inserted after the word "Nevada," in line fourteen, section one.

Carried.

Senator Tallman moved that after the word "franchise," in section one, line thirty-seven, the following be inserted: "provided, that every person, company, association, or corporation accepting the benefits of the provisions of this Act, as hereinafter provided, shall pay annually two per cent of its net profits, made in furnishing such electric light, heat, and power, to the county or counties in which such person, company, association, or corporation is engaged in business."

Carried.

Placed on third reading, and passed by the following vote:

YEAS—Senators Balzar, Boyd, Brossemer, Coryell, Easton, Holmes, House, Hunter, Kendall, Locklin, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury—16.

NAYS-Senators Bell and Carpenter-2.

Absent-Senator Douglass.

Senator Coryell moved that the Senate take a recess until 2 p. m. Carried.

SENATE IN SESSION

At 2 p. m.

President pro tem. Pyne presiding.

Roll called, and the following Senators answered to their names:

Senators Balzar, Bell, Boyd, Brossemer, Carpenter, Coryell, Douglass, Easton, Holmes, House, Hunter, Kendall, Locklin, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury—19.

All present.

A message from the Assembly was announced.

REPORTS OF COMMITTEES.

Mr. President:

Your Committee on Federal Relations have had Senate Joint and Concurrent Resolution No. 9 under consideration, and beg leave to report favorably on the same, with the recommendation that it do pass.

A. C. House, Chairman.

Mr. President:

The White Pine Delegation have had Senate Bill No. 76 under consideration, and beg leave to report favorably on the same, with the recommendation that it do pass.

A. C. House, Chairman.

Mr. President:

Your Committee on Counties and County Boundaries have had Assembly Bill No. 77 under consideration, and beg leave to report on the same without recommendation.

ZEB. KENDALL, Chairman.

Mr. President:

Your Committee on Enrolled Bills have carefully compared Senate Substitute Enrolled Bill No. 34 with the engrossed copy, find the same correctly enrolled, and have this day delivered the same to the Governor.

J. W. LOCKLIN, Chairman.

Mr. President:

Your Committee on Public Lands have had Assembly Bill No. 106 under consideration, and beg leave to report favorably on the same, with the recommendation

that the words "five per cent." on line twenty-five, section d, of original bill, be amended so as to read "six per cent."

R. L. Douglass,

Chairman,

MESSAGES FROM THE ASSEMBLY.

ASSEMBLY CHAMBER, CARSON CITY, NEVADA, March 2, 1909.

To the Honorable the Senate:

I have the honor herewith to present for the consideration of your honorable body Assembly Bill No. 83, which passed the Assembly by the following vote: Yeas, 45; nays, none; absent, 3.

FRANK L. REBER,
Assistant Clerk of Assembly.

INTRODUCTION AND FIRST READING.

Senators Boyd and Pyne requested permission to introduce bills without previous notice.

Granted.

By Senator Boyd:

Senate Bill No. 77—An Act to amend an Act entitled "An Act to regulate the exercise of eminent domain," approved March 27, 1907.

Senator Boyd moved that the rules be suspended, reading so far had considered first reading, rules further suspended, bill be read second time by title, and referred to Committee on Judiciary.

Carried.

By Senator Pyne:

Senate Bill No. 78—An Act to provide for the fees and compensation of County Recorders of the various counties of this State.

Senator Tallman moved that the rules be suspended, reading so far had considered first reading, rules further suspended, bill be read second time by title, and referred to Committee on Judiciary.

Carried.

Assembly Bill No. 83—An Act for the establishment of normal training schools, and for the maintenance and control of the same.

Senator Tallman moved that the rules be suspended, reading so far had considered first reading, rules further suspended, bill be read second time by title, and referred to Committee on Education.

Carried.

Assembly Bill No. 75—An Act to fix and regulate the salary and compensation of the Constable of East Fork Township, Douglas County, State of Nevada.

Senator Mack moved that further consideration of Assembly Bill No. 75 be indefinitely postponed.

Carried.

Senate Bill No. 65.

Senator Boyd moved that the bill be referred to Committee of the Whole.

Carried.

Senate Bill No. 66.

Senator Locklin moved that the bill be referred to Committee of the Whole.

Substitute for Assembly Bill No. 58.

Senator Hunter moved that the bill be referred to Committee of the Whole.

Carried.

Senate Bill No. 57.

Senator Mack moved that the bill be referred to Committee of the Whole.

Carried.

Assembly Bill No. 77—An Act to create and establish the County of Bullfrog, and to define the boundaries and establish the county-seat thereof, providing for the government of said county so created and established, fixing the fees and compensation of witnesses in criminal cases in said Bullfrog County, and for the regulation of the affairs of Bullfrog County and Nye County, in respect to the operation and effect of this Act.

Senator Tallman moved that Assembly Bill No. 77 be made a special order for Thursday, March 4, 1909, at 2:30 p. m., to follow Senate Bill No. 53.

Carried.

GENERAL FILE AND THIRD READING.

Senate Joint and Concurrent Resolution No. 9, relative to the just consideration to be accorded those wearing the uniform of the United States whether in the army or navy, regardless of rank.

Placed on third reading and final passage, and passed by the follow-

ing vote:

YEAS—Senators Bell, Boyd, Brossemer, Carpenter, Coryell, Douglass, Easton, Holmes, House, Kendall, Locklin, Mack, Pyne, Reymers, Taliman, and Woodbury—16.

NAYS—Senator Balzar.

Absent-Senators Hunter and Syphus-2.

SPECIAL ORDERS.

Assembly Bill No. 43—An Act to regulate the hours of employment of working men in open-pit and open-cut mines, so as to better protect the health and safety of those engaged in such work or occupation, and providing penalties for the violation thereof.

Placed on third reading and final passage, and passed by the follow-

ing vote:

YEAS—Senators Balzar, Bell. Boyd, Brossemer, Carpenter, Coryell, Douglass, Easton, Holmes, House, Hunter, Kendall, Locklin, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury—19.

NAYS-None.

Senate Concurrent Resolution No. 6, proposing to amend section three article eleven of the Constitution of Nevada.

Senator Tallman moved that the resolution be rereferred to Committee on Judiciary.

Carried.

GENERAL FILE AND THIRD READING.

Senate Bill No. 76—An Act making the County Treasurer of White Pine County ex officio City Treasurer of the City of Ely, providing for his compensation, and other matters relating thereto, and repealing all Acts or parts of Acts in conflict herewith.

Senator House moved that the rules be suspended and bill considered engrossed.

Carried.

Placed on third reading and final passage, and passed by the following vote:

YEAS—Senators Balzar, Bell, Boyd, Brossemer, Carpenter, Coryell, Easton, Holmes, House, Kendall, Locklin, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury—17.

NAYS-None.

Absent-Senators Douglass and Hunter-2.

Assembly Bill No. 106—An Act to amend sections eight and nine of an Act entitled "An Act to provide for the selection and sale of lands that have been or may hereafter be granted by the United States to the State of Nevada," approved March 12, 1885, as amended March 11, 1889, as amended January 26, 1899.

Senator Bell moved the adoption of the amendment recommended by the committee, in striking out the words "five per cent" and inserting the words "six per cent" where they appear in the bill.

Carried

Placed on third reading and final passage, and passed by the following vote:

YEAS—Senators Balzar, Bell, Boyd, Brossemer, Coryell, Easton, Holmes, House, Kendall, Locklin, Mack, Pyne, Reymers, and Woodbury—14.

NAYS-Senators Syphus and Tallman-2.

Absent-Senators Carpenter, Douglass, and Hunter-3.

Senator Syphus moved that the Senate resolve itself into Committee of the Whole.

The Senate resolved itself into Committee of the Whole, Senator Reymers presiding.

REPORT OF COMMITTEE OF THE WHOLE.

Mr. President:

Your Committee of the Whole have had under consideration Senate Bill No. 57, and beg leave to report favorably on the same, with the recommendation that it do pass as amended.

Also, Senate Bill No. 66, Senate Bill No. 65, and Substitute for Assembly Bill No. 58, and beg leave to report favorably upon the same, with the recommendation that they do pass.

Senator Boyd moved the adoption of the report of the Committee of the Whole.

Carried.

A message from the Assembly was announced.

GENERAL FILE AND THIRD READING.

Senate Bill No. 57—An Act to provide for the collection, arrangement, and display of the mineral products of the State of Nevada, at the American Mining Congress, to be held in Goldfield, Esmeralda County, Nevada, during the month of October, 1909.

Senator Tallman moved to amend section three by adding: "provided, that in case any exhibitor shall not desire his exhibit returned, the same shall be shipped to and become the property of the University of Nevada, for the use and benefit of the Mackay School of Mines."

Carried.

SPECIAL ORDERS.

Senate Bill No. 53—An Act to provide for the direct nomination of candidates for public office by electors, political parties, and organizations of electors, without conventions, at elections to be known and designated as primary elections, determining the tests and conditions upon which electors, political parties, and organizations of electors may participate in any such primary election, and establishing the rates of compensation for primary election officers serving at such primary elections, providing for the organization of political parties and the promulgation of their platforms, and providing the methods whereby the electors of political parties may express their choice at such primary elections for United States Senator, to provide for the registration of voters for said primary elections and the compensation of Registry Agents, and to provide penalties for violating the provisions of this Act.

Senator Locklin moved that the rules be suspended and bill considered engrossed.

Carried.

Placed on third reading and final passage, and passed by the following vote:

YEAS—Senators Bell, Boyd, Carpenter, Coryell, Easton, Holmes, House, Hunter, Kendall, Locklin, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury—16.

NAYS—Senator Brossemer.

Absent-Senators Balzar and Douglass-2.

Assembly Bill No. 77—An Act to create and establish the County of Bullfrog, and to define the boundaries and establish the county-seat thereof, providing for the government of said county so created and established, and for the regulation of the affairs of Bullfrog County and Nye County, in respect to the operation and effect of this Act.

Senator Tallman moved to amend as follows: Section twelve, line one, after the word "county" insert "all moneys due Nye County."

Carried.

Senator Tallman moved to amend as follows: Section fourteen, line twelve, after word "of" insert "County of."

Carried.

Senator Tallman moved to strike out numerals "\$2,400" in lines six, eight, and ten, section seventeen, and insert "\$1,800." Line nine, change "\$3,000" to "\$2,400." Insert in line nine, after "\$2,400," the words "together with a commission of three per cent on all licenses and personal property collected by him."

Carried.

Senator Tallman moved to amend section eighteen, line two, after the word "administrator" insert "and except the fees and commissions to be received by the Sheriff, as provided in last preceding section." Strike out in lines seven and eight the words "the fees and mileage received by him."

Carried.

Senator Tallman moved to strike out section twenty-three and insert as follows, in lieu thereof: "It shall be the duty of the County Recorder of Bullfrog County to transcribe such portions of the records of Nye County relating to property situated in the County of Bullfrog, as the Board of County Commissioners of Bullfrog County may deem

necessary, in proper books, to be provided for that purpose, by said Board of County Commissioners. Said County Recorder and his deputies and asistants shall be allowed their actual and necessary expenses while engaged in said work. It shall be the duty of the County Clerk and the County Recorder of the County of Nye to deliver to the County Clerk and County Recorder of the County of Bullfrog, respectively, all documents and files pertaining exclusively to property situated in Bullfrog County or to the business and affairs of said Bullfrog County."

Carried.

Senator Tallman moved that section twenty-seven be amended to read: "This Act shall take effect immediately."

Carried.

Senator Kendall moved that Assembly Bill No. 77 be laid upon the table.

Roll call was demanded.

Yeas—Senators Balzar, Bell, Boyd, Brossemer, Carpenter, Coryell, Easton, Holmes, House, Hunter, Kendall, Locklin, Pyne, Reymers, and Woodbury—15.

NAYS—Senators Syphus and Tallman—2. Absent—Senators Douglass and Mack—2.

Motion carried.

Senator Bell moved that the Senate adjourn until 11 a.m., Friday, March 5th.

Carried.

Approved:

GEO. D. PYNE.

President of the Senate.

Attest: W. M. GRIMES,

Secretary of the Senate.

TWENTY-FOURTH SESSION.

Placed on third reading and final passage, and passed by the following vote:

YEAS—Senators Balzar, Bell, Brossemer, Carpenter, Coryell, Douglass, Easton, Holmes, House, Hunter, Kendall, Locklin, Mack, Pyne, Reymers, Syphus, and Woodbury—17.

NAYS—Senator Tallman. Absent—Senator Boyd.

Senate Bill No. 83—An Act to provide for the government of the State Prison of the State of Nevada, and repealing other Acts in so far as they conflict with the provisions of this Act.

Senator Syphus moved that the rules be suspended and bill considered engrossed.

Carried.

Placed on third reading and final passage, and passed by the following vote:

YEAS—Senators Balzar, Bell, Boyd, Brossemer, Carpenter, Coryell, Douglass, Easton, Holmes, House, Hunter, Kendall, Locklin, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury—19.

NAYS-None.

A message from the Assembly was announced.

Assembly Bill No. 59.

Senator Reymers moved that the bill be laid upon the table. Carried.

Substitute for Senate Bill No. 40—An Act to protect benevolent, fraternal, and charitable organizations and corporations in the use of their names and emblems, and providing penalties for the violation thereof.

Senator Boyd moved that the rules be suspended and bill considered engrossed.

Carried.

Placed on third reading and final passage, and passed by the following vote:

Yeas—Senators Balzar, Bell, Boyd, Brossemer, Carpenter, Coryell, Douglass, Easton, Holmes, House, Kendall, Locklin, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury—18.

NAYS-None.

Absent-Senator Hunter.

Senate Bill No. 80.

Senator Syphus moved that Senate Bill No. 80 be recommitted to the Committee on Mines and Mining.

Carried.

Senator Coryell moved that the Senate take Assembly Bill No. 25 from the table.

Carried.

Senator Tallman moved that the Engrossing Committee be instructed to have an engrossed copy of Assembly Bill No. 77 made as amended in the Assembly.

Carried.

MESSAGES FROM THE ASSEMBLY.

ASSEMBLY CHAMBER, CARSON CITY, NEVADA, March 5, 1909.

To the Honorable the Senate:

I have the honor herewith to present for the consideration of your honorable body Assembly Bill No. 153, which passed the Assembly by the following vote: Yeas, 37; nays, 5; absent, 6.

Also, Assembly Bill No. 157, which passed: Yeas, 41; nays, 1; absent, 6.

Frank L. Reber, Assistant Clerk of Assembly.

INTRODUCTION AND FIRST READING.

Senator Tallman requested permission to introduce a bill without previous notice.

Granted.

By Senator Tallman:

Senate Bill No. 97—An Act to repeal an Act entitled "An Act to provide for licensing itinerant and unsettled merchants, traders, peddlers, and auctioneers," approved March 24, 1905.

Senator Tallman moved that the rules be suspended, reading so far had considered first reading, rules further suspended, bill be read second time by title, and referred to Committee on Judiciary.

Carried.

Assembly Bill No. 153—An Act to amend section two of an Act entitled "An Act to prevent the unlawful destruction of fish and game, to provide for the appointment of Fish and Game Wardens in the several counties of this State, and to define their duties and compensation," approved March 12, 1901.

Senator Holmes moved that the rules be suspended, reading so far had considered first reading, rules further suspended, bill be read second time by title, and referred to Committee on Fish and Game.

Carried.

Assembly Bill No. 157—An Act to amend an Act entitled "An Act to amend section four of an Act entitled 'An Act to prevent the unlawful destruction of fish and game, to provide for the appointment of Fish and Game Wardens in the several counties of this State, and to define their duties and compensation,' approved March 12, 1901," approved March 16, 1903.

Senator Holmes moved that the rules be suspended, reading so far had considered first reading, rules further suspended, bill be read second time by title, and referred to Committee on Fish and Game.

Carried.

GENERAL FILE AND THIRD READING.

Assembly Bill No. 25.

Senator Reymers moved that the bill be indefinitely postponed.

Roll call demanded.

YEAS—Senators Balzar, Brossemer, Easton, Holmes, Kendall, Locklin, Mack, Reymers, and Syphus—9.

NAYS—Senators Coryell, Douglass, House, Pyne, Tallman, and Woodbury—6. Absent—Senators Bell, Boyd, Carpenter, and Hunter—4.

Motion for indefinite postponement carried.

GENERAL FILE AND THIRD READING.

Senator Tallman moved that Assembly Bill No. 77 be taken from the table.

Carried.

Senator Tallman moved that Assembly Bill No. 77 be referred to the Committee on Judiciary.

Carried.

Senator Syphus moved that the Senate resolve itself into Committee of the Whole.

Carried.

The Senate resolved itself into Committee of the Whole, Senator Carpenter presiding.

REPORT OF COMMITTEE OF THE WHOLE.

Mr. President:

Your Committee of the Whole have had under consideration Senate Bill No. 112, and beg leave to report favorably on the same, and recommend that it do pass, with the following amendments: Section seven, line two, strike out the words "one hundred and fifty thousand dollars" and insert "one hundred thousand dollars"; line four, after the word "appropriated" insert the following: "the same to be transferred to the State Prison Building Fund."

Senator Mack moved the adoption of the report of the Committee of the Whole.

Carried.

INTRODUCTION AND FIRST READING.

Senator Tallman requested permission to introduce a bill without previous notice.

Granted.

By Senator Tallman:

Senate Bill No. 125—An Act to define and regulate the business of banking, creating a State Banking Board and defining its powers and duties, and providing for a Bank Examiner and the examination and supervision of banking corporations, providing a guaranty fund for the protection of depositors, and for the appointment of receivers in certain cases, fixing penalties for the violation thereof, and other matters relating thereto.

Senator Tallman moved that the rules be suspended, reading so far had considered first reading, rules further suspended, bill be read second time by title, and referred to Committee on Banking.

Carried.

By Senator Pyne:

Senate Bill No. 126—An Act concerning the granting of franchises by Boards of County Commisioners, prescribing the terms under which said franchises shall be granted, and repealing certain Acts pertaining thereto, and allowing corporations, associations, and persons having franchises obtained under other laws of this State to obtain the benefits of this Act, and providing for other matters properly connected therewith.

Senator Boyd moved that the rules be suspended, reading so far had considered first reading, rules further suspended, bill be read second time by title, and referred to Committee on Judiciary.

Carried.

Senator Balzar moved that the Senate take a recess until 2 p. m. Carried.

SENATE IN SESSION

At 2 p. m.

President pro tem. Pyne presiding.

Roll called, and the following Senators answered to their names:

Senators Balzar, Bell, Boyd, Brossemer, Carpenter, Coryell, Douglass, Easton, Holmes, House, Hunter, Kendall, Locklin, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury—19.

All present.

REPORT OF CONFERENCE COMMITTEE.

Mr. President:

Your Conference Committee, with like committee from the Assembly, in the matter of Senate Bill No. 59, beg leave to report that said committee have met in conference and have agreed to recommend that the Senate and Assmbly do pass said bill with the following amendment: In section two, line two, strike out the words "owned or."

J. W. LOCKLIN,

Chairman.

Senator Brossemer moved the adoption of the report of the Conference Committee.

Carried.

REPORTS OF COMMITTEES.

Mr. President:

Your Committee on Enrolled Bills have carefully compared Senate Enrolled Bills Nos. 42 and 45, and Senate Substitute Bill No. 36 with the engrossed copies, find the same correctly enrolled, and have this day delivered the same to the Governor.

J. W. Locklin,

Chairman.

Mr. President:

Your Committee on Counties and County Boundaries have had Resolution No. 7 under consideration, and beg leave to report unfavorably on the same, with the recommendation that it do not pass.

Z. KENDALL,

Chairman.

Mr. President:

Your Committee on Mines and Mining have had Assembly Bill No. 148 under consideration, and beg leave to report unfavorably on the same, with the recommendation that it do not pass.

Z. KENDALL, Chairman.

GENERAL FILE AND THIRD READING.

Assembly Bill No. 169.

Senator Mack moved that the bill be referred to Committee of the Whole.

Carried.

Senate Bill No. 112.

Senator Syphus moved the adoption of the following amendment: Section seven, line two, strike out "and fifty," making it read "one hundred thousand dollars"; line four, after the word "appropriated" add the words "The same to be transferred to the State Prison Building Fund."

Carried.

Senator Syphus moved that the rules be suspended and bill considered engrossed.

Carried.

REPORTS OF COMMITTEES.

Mr. President:

Your Committee on Elections have had Assembly Bill No. 129 under consideration, and beg leave to report the same without recommendation.

L. N. CARPENTER, Chairman.

Mr. President:

Your Committee on Judiciary have had Senate Substitute for Senate Bill No. 130 under consideration, and beg leave to report favorably on the same, with the recommendation that it do pass.

Also, Assembly Bill No. 77, and beg leave to report on the same by introducing a substitute, and recommending that the substitute do pass.

CLAY TALLMAN,

Chairman.

Mr. President:

Your Committee on Enrolled Bills have carefully compared Senate Substitute Enrolled Bills Nos. 32, 59, and 107 with the engrossed copies, find the same correctly enrolled, and have this day delivered the same to the Governor.

J. W. LOCKLIN,

Chairman.

INTRODUCTION AND FIRST READING.

Senator Holmes was granted permission to introduce a bill without previous notice.

By Senator Holmes (by request):

Senate Bill No. 137-An Act to provide for the formation of corporations sole, for the administration of the temporalities of religious denominations, societies, and churches, and for the management of the estate and property thereof, and for the continuation of the corporate existence in case of vacancy.

Senator Holmes moved that the rules be suspended, reading so far had considered first reading, rules further suspended, bill be read sec-

ond time by title, and referred to Committee on Judiciary.

Carried.

Senator Boyd moved that the Joint Committee appointed to investigate the affairs of the State Bank and Trust Company and State Bank Commission, be granted one day additional time.

Carried.

On motion of Senator Tallman, Substitute for Assembly Bill No. 77

was adopted.

Senate Substitute for Assembly Bill No. 77-An Act to create and establish the County of Bullfrog, and to define the boundaries and establish the county-seat thereof, providing for the government of said county so created and established, and for the regulation of the affairs of Bullfrog County and Nye County, in respect to the operation and effect of this Act.

Senator Tallman moved that the rules be suspended, reading so far had considered first reading, rules further suspended, bill be read second time by title, and referred to the Nye Delegation.

Carried.

GENERAL FILE AND THIRD READING.

Senate Bill No. 131.

Senator Bell moved that the rules be suspended and bill considered engrossed.

Carried.

Placed on third reading, and passed by the following vote:

YEAS-Senators Balzar, Bell, Boyd, Brossemer, Carpenter, Coryell, Douglass, Easton, Holmes, House, Hunter, Kendall, Locklin, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury-19.

NAYS-None.

Senate Bill No. 118.

Senator Syphus moved that the rules be suspended and bill considered engrossed.

Placed on third reading, and passed by the following vote:

YEAS-Senators Balzar, Bell, Boyd, Carpenter, Coryell, Douglass, Easton, Holmes, House, Hunter, Kendall, Locklin, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury-18.

NAYS-Senator Brossemer.

Assembly Bill No. 119.

Placed on third reading, and passed by the following vote:

YEAS-Senators Balzar, Bell, Boyd, Brossemer, Carpenter, Coryell, Easton, Holmes, House, Hunter, Kendall, Locklin, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury-18.

NAYS-Senator Douglass.

SPECIAL ORDERS.

Assembly Bill No. 74.

Senator Tallman moved to amend section one as follows (Exhibit A): "Section 1. It shall be unlawful for any person to deal, play or carry on, open or conduct, in any capacity whatever, any game of faro, monte, roulette, lansquenet, rouge et noir, rondo, tan, fan-tan, studhorse poker, seven-and-a-half, twenty-one, hokey-pokey, craps, klondyke, poker, whist, bridge whist, five hundred, solo, frog, or any other card game, or any banking or percentage game, played with cards, dice, or any device for money, property, checks, credit or any representative of value; or any gambling game in which any person keeping, conducting, managing, or permitting the same to be carried on receives, directly or indirectly, any compensation or reward, or any percentage or share of money or property played, for keeping, running, carrying on or permitting the said game to be carried on, or to play, maintain, or keep, any slot machine played for money or for checks, or tokens redeemable in money; or to buy, sell or deal in pools, or make books on horse races; and any person who violates any of the provisions of this section shall be guilty of a felony, and upon conviction thereof shall be imprisoned in the State Prison for a period of not less than one year, nor more than five years."

Senator Tallman moved the adoption of the amendment.

Roll call demanded, resulting as follows:

YEAS-Senators Balzar, Bell, Boyd, Brossemer, Carpenter, House, Kendall, Locklin, Pyne, Syphus, and Tallman-11.

NAYS-Senators Coryell, Douglass, Easton, Holmes, Hunter, Mack, Reymers, and Woodbury-8.

Motion carried.

Senator Tallman moved to amend section three as follows: Strike out all words in line four beginning with the word "or" up to and including the word "gambler," in line seven. In line seven, after the word "thereof" insert "such persons."

Carried.

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Special order for Thursday Feb 11. 1909 211 130 RM.

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AN' ACT.

To create and establish the County of Bullfrog, and to define the boundaries and establish the County Seat thereof, providing for the Government of said County so created and established, fixing the fees and compensation of witnesses in criminal cases in said Bullfrog County, and for the regulation of the affairs of Bullfrog County and Mye County, in respect to the operation and effect of this Act.

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Made a special order for Thur. Mar. 4, 1909 or 280 P. M. to fallow S. B 53.

Har. 5.1909 Engrossment elech instructed to make a proper coppy of lite as amended in the assembly and Senate Mar. 16,1009 Taken from table and referred to My Esp. Delegation.

AN ACT.

To create and Establish the County of Bullfrog, and to define the boundaries and establish the County Seat thereof, profiding for the Government of said County so created and established, the County Seat County, and for the regulation of the affairs of Bullfrog County and Nye County, In respect to the operation and effect of this Act.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

SECTION 1. The County of Bullfrog is hereby created and established, same to embrace all that portion of Nye County, as heretofore existing, lying south of the First Standard Parallel South of the Mount Diablo Base Line.

The county seat of said County of Bullfrog is hereby SECTION 2. established, temporarily, at the town of Rhyolite, at which place the various county offices of said County of Bullfrog shall be temporarily situated, provided that if, at any time, within sixty days after the organization of the Board of County Commissioners of said Bullfrog County as provided in Section Five (5) of this Act, a petition signed by one-fourth of the qualified electors residing in the territory hereby established as Bullfrog County, according to the registration lists for the last general election, petitioning that a special election be called for the purpose of changing the county seat, be presented to the Board of County Commissioners of said County, the said Board shall cause a special election to be called for thwith in the manner provided by law for calling special elections, except that the notice of said election shall be thirty days; at said election the question shall be on the choice for county seat, and the ballots prepared therefor shall read essentially as follows: - " County Seat," and the voter shall write in the blank space the name of

the town in said Bullfrog County for which he votes for County Seat; at such special election, qualified electors who shall have been regitered for the last general election, shall not be required to register for said special election. The Board of County Commissioners shall canvass the results of said election in the manner provided by law, as the town receiving the highest number of votes shall become the permanent county seat of Bullfrog County, provided further, that in case no sufficient petition shall be presented to said Board of County Commissioners within sixty days after the organization of said Board, as in this Section provided, then the said town of Rhyolite shall become the permanent county seat of Bullfrog County.

SECTION 3. The County Officers of the County of Nye residing in that portion of the County of Nye which is hereby made the County of Bullfrog, shall hold the same offices in the said County of Bullfrog, as they now hold in the County of Nye; and they are hereby declared to be legal officers of said Bullfrog County; such officers shall hold office until the next general election in said County of Bullfrog, and until their successors are duly elected and qualified according to law. Any vacancies thus caused in the offices of Nye County shall be filled in the manner now provided by law.

SECTION 4. Within ten days after the passage of this Act, the Governor shall appoint the remaining members of the Board of County Commissioners of said Bullfrog County not provided for by the operation of the provisions of Section three (3), preceding.

SECTION 5. Within ten days after said appointment by the Governor, as provided in Section four (4) preceding, the County Commissioners of said Bullfrog County shall meet at the County Seat of said Bullfrog County, and legally qualify and organize; and at said first meeting they

shall appoint the remaining County Officers provided for in this Act whose offices shall not have been filled by the operation of Section three (3) of this Act; said officers so appointed to qualify at once on their appointment, and to hold office until the next general election in Bullfrog County, and until their successors are duly elected and qualified according to law.

SECTION 6. The County of Bullfrog shall be and remain a portion of the Fifth Judicial District of the State of Nevada, and each of the counties composing said District shall pay its portion of the salary of the Judge of said District, in the manner and amount prescribed by law.

All suits and proceedings, civil and criminal, now pend-SECTION 7. ing in the District Court of the Fifth Judicial District of the State of Nevada, in and for Nye County, wherein the cause of action accrued, or the offense is alleged to have been committed within the territory included within the boundary of the County of Bullfrog as by this Act established; and all actions now pending in said Courts for the recovery of such property or of any interest therein, or for the determination of any form of such right or interest, or for the determination of any interest in, or partition of, real property, or for the foreclosure of any mortgage or other lien on real property, where the subject of the action is situated within the territory included within the boundary of said County of Bullfrog; and all civil cases now pending in said Court wherein the defendant or a majority of the defendants, if there be more than one, reside in said County of Bullfrog, shall, as soon as the said County of Bullfrog is organized. be transferred by the Clerk of said Mye County, on an order of the Judge of the District Court thereof, to the Court of like jurisdiction in said County of Bullfrog. The County of Bullfrog shall pay to the

Clerk of the District Court of the County of Nye, the fees allowed by law for making and certifying to all copies and transcripts necessary to effect a complete transfer of said suits and proceedings to the District Court in and for Bullfrog County, but in all civil cases so transferred, the expense of making said transfer shall be taxed as costs, as other costs are taxed, to the parties to said suits and rpoceedings.

SECTION 8. All witnesses summoned on behalf of the State in criminal cases within and for the County of Bullfrog in the Fifth Judicial Disptrict, shall receive as compensation, (\$3.00) Three Dollars per diem from the date of their appearance at Court, as per subpoena, until excused. The Clark of said Court shall keep a pay-roll, enrolling therein all names of witnesses, the number of days in attendance and the actual number of miles traveled by the most practical route in coming to and going from said Court, for which said witnesseshall receive ten cents (10) per mile for each mile so traveled, in addition to the per diem compensation above provided for. The Clark of said Court shall forthwith give a statement of such amount to the County Auditor, who shall draw his warrant upon the County Treasurer for the payment of such witnesses.

SECTION 9. In all criminal cases where the defendant is unable to defray the expenses of his witnesses, he shall make an affidavit setting forth that fact, whereupon the Court may, in its discretion, order the Clerk to issue subpoenas for said witnesses, and their names shall be entered on the witness pay-roll; provided, that no defendant shall summon more than two witnesses to prove the same fact at the expense of the State, and that the Judge before whom the case is tried, shall certify that the testimony of said witness was material and relevant to the matter tried.

The indebtedness of Mye County, exclusive of the SECTION 10. bonded indebtedness, shall be apportioned between the Counties of Nye and Bullfrog in the ratio of the taxable property in said Nye and Bullfrog Counties, respectively, as shown by the assessment rolls for the year, 1908, provided that there shall be deducted from the portion of said indebtedness apportioned to Bullfrog County, and added to the portion apportioned to Nye County, an amount equal to the interest of Bullfrog County in Nye County property, to be determined as provided in Section welve (18) of this Act. provided that all county property situated within the boundaries of Bullfrog County shall be and remain the property of Bullfrog County, and proper allowance therefor shall be made to Mye County in making the apportionment provided for in this Act, provided further, that in case the interest of Bullfrog County in Mye County property as so determined, shall exceed in value the amount of Nye County indebtedness, exclusive of bonded indebtedness, apportioned to Bullfrog County, then the difference shall be paid to Bullfrog County by Mye County, on demand, after the expiration of one year from the approval of this Act.

ness less accrued sinking funds) of Mye County, existing en Boomber 31, 1908 shall be apportioned between Mye County and Bullfrog County in the ratio of the taxable property in said respective Counties, according to the assessment roll for the year 1908, and the amount apportioned to Bullfrog County shall be paid by said County to Mye County, at the times and in the amounts as same shall become due under the law authorizing, and the contract or contracts creating, said bonded indebtedness.

All monies now in the Treasury of Nye County and all monies that may come into the Treasury of said County from taxes for the year 1908, and previous years, together with all monies arising from the redemption of lands sold for taxes for the year 1908, and previous years, and from all other sources of revenue, exclusive of monies belonging to town, school district, bonds interest fund; and sinking funds, shall be apportioned between the County of Nye and the County of Bullfrog, in the ratio of the taxable property in said Counties, respectively, as shown by the assessment rolls for the year 1908, and the Treasurer of Nye County shall pay to Bullfrog County its proportion of said monies, on demand, as soon as the amount thereof has been apportioned and adjusted, as provided in Section thereof has been apportioned and adjusted, as provided in Section thereof has been apportioned and adjusted.

SECTION 13. The title to all property situate in the County of Bullfrog, on which taxes have or may become delinquent, and which said property has been or may be, forfeited to, and bid in by, Nye County, shall vest in and become the property of Bullfrog County, and on demand of the Commissioners of Bullfrog County, for a tax deed to said property, or any part thereof, the County Commissioners of Nye County shall forthwith cause the execution and delivery to Nye County, of a good and sufficient tax deed, conveying said property to Bullfrog County.

SECTION 14. The election precincts, school districts, road districts, cities, towns and townships embraced within the territory comprising the County of Bullfrog, shall be as heretofore fixed and established during the time the same composed a part of Nye County until otherwise changed by the Board of County Commissioners of Bull frog County; and the officers heretofore elected or appointed to office in said precincts, districts, cities, towns, and townships

shall hold their respective offices in the County of Bullfrog until their successors are appointed or elected and qualified the same as if the County of Bullfrog had not been created; and the registration lists, school censuses, and the records of said offices, respectively, are hereby made the same in the County of Bullfrog as they were heretofore in the County of Mye. And the County Treasurer of the County of Mye is hereby anthorized and directed to pay to the County Treasurer of Bullfrog, on demand, as soon as said County of Bullfrog shall become organized, the sums of money held by him as custodian for said precincts, school districts, cities, towns and townships, rendering proper account with each of said funds.

To determine the value of all county property, ex-SECTION 15. clusive of money, tax slaims and roads and bridges: within ten days after the passage of this Act, the Board of County Commissioners of Nye County shall appoint an appraiser who shall be a resident and tax payer of said Nye County; the Board of County Commissioners of Bullfrog County, at the first meeting of said Board, shall also appoint an appraiser who shall be a resident and tax payer of Bullfrog County: the two appraisers thus appointed, shall, within five days after their appointment, meet in the lower of Tonopah, Nye County, Nevada, and appoint a third appraiser who shall be a resident of the State of Nevada, but not a resident or tax payer of either Mye or Bullfrog Counties. Said three appraisers so appointed, shall, within five days after the appointment of said last appraiser, meet in the low of Tonopah and thereupon, after being duly sworn to faithfully discharge the duties by this Act imposed, proceed to examine and appraise the cash value of all county property of Mye County, exclusive of money, tax claims and roads and bridges; in making said

appraisal, such county property as is situate within the boundaries

Towns A

city many

separately; the decision of the majority of said three appraises as to the value of said property shall control. As soon as said which chall be majority of said three appraisers appraisers shall have completed said appraisal, they shall certify the results thereof to the respective clerks of the Boards of County Commissioners of Nye and Bullfrog Counties; said appraisers shall receive as compensation for their services, the sum of \$10.00 per day, together with their actual and necessary expenses in making said appraisal, same to be paid by Bullfrog County the same as other County bills are paid.

The Board of County Commissioners of Nye County, SECTION 16. jointly with the Board of County Commissioners of Bullfrog County, shall have full power and authority to apportion, adjust and settle, all matters of property, indebtedness and revenue, proper to be apportioned, adjusted and settled, under the provisions of this Act; and for these purposes the said Commissioners of the County of Bullfrog shall meet the Commissioners of the County of Nye at Tonopah. State of Nevada, at any time after the completion of the appraisal provided for in Section (12) of this Act, upon five days notice being given by the Commissioners of Bullfrog County to the Clerk of the Board of County Commissioners of Nye County, and a majority of said united Boards of Commissioners shall be a legal quorum to make said apportionments, adjustments and settlements of all of said matters of property, indebtedness and revenue, and from the decisions and adjust ments so made by the said Boards of Commissioner of said Counties, acting jointly as aforesaid, any county interested or any person aggrieved, may institute an action in the District Court of the Judicial District in which the County in which said adjustment is being made is situated, to review the acts of said join!

Boards of Commissioners, and in the said action a change of venue may be taken as in other civil cases, upon good cause shown by either party to such proceedings. In case there should be no quorum present at any such meeting between the Commissioners of the County of Bullfrog and the County of Nye, or in case said joint Boards of Commissioners, or a majority thereof, shall fail to agree on the adjustment of the revenue and county property and the apportionement thereof. and the apportionment of indebtedness, then at the request of either of said Boards of County Commissioners, the Governor of the State is hereby authorized and directed to appoint some disinterested person to adjust and settle said matters of property, funds and indebtedness. From the decisions and adjustments so made by said Commissioners appointed by the Governor, an action may be instituted in the District Court as above provided with reference to the decisions and adjustments made by the Boards of County Commissioners. For the purpose of aiding the said joint Boards of County Commissioners, or said Commissioner appointed by the Governor, in making the apportionments, adjustments and settlements in this Section provided for, the respective officers of Nye County shall render said joint Boards of Commissioners, or either of said Boards, on demand, such necessary reports, data, or information, as said joint Boards, or either of said Boards, may require, for which purpose all books and records in any of the offices of said Nye County, shall be open to the inspection of said Boards, or either of them, and their authorized agents and attorneys; and any failure on the part of said officers to comply with said demand on reasonable notice thereof, or to exhibit said books and records, shall be a misdemeanor. The members of the respective Boards of County Commissioners of said Nye County and Bullfrog County, shall be allowed their actual and necessary expenses in making said apportionments, adjustments and settlements, each County to pay for the

expenses of its own Commissioners.

tive compensations, shall be as follows: Three County Commissioners at a salary of Six Hundred Dollars (\$600.00) each, per annum; together with mileage allowed by law; one County Clerk, who shall be exofficio Clerk of the District Court of Bullfrog County, and ex-officio Clerk of the Board of County Commissioners, at an annual salary of Twenty-four Hundred Dollars (\$2400.00); one County Recorder, who shall be ex-officio Auditor, at an annual salary of Twenty-four Hundred Dollars (\$2400.00); one Sheriff, who shall be ex-officio Assessor, at an annual salary of Three Thousand Dollars (\$3000.00); one District Attorney, at an annual salary of Twenty-four Hundred Dollars (\$2400.00); one County Surveyor and one Public Administrator.

except the County Surveyor and Public Administrator, from any source or for any purpose, shall be paid over to the County Treasurer at the end of each month, to be by him credited to, and placed in, the General Fund, and each of said officers shall deliver to the Treasurer and Auditor, respectively, at the end of each month, a full and complete statement of all monies received and paid out during the said month and for the purposes thereof; provided that the Sheriff shall be allowed to deduct from fees and mileage received by him, the actual and necessary traveling or other expenses of himself and deputies in the performance of his or their duties, and provided the salaries herein provided for shall be paid in equal monthly installments.

SECTION 19. The Sheriff, Clerk, Treasurer, Recorder and Dis-**Leventien 17
trict Attorney, provided for in Section feurteen (14) of this Act, shall have such deputies and assistants, as the Board of County Commissioners may deem necessary to provide, their compensation to be fixed by said Board and paid as other salaries are paid.

SECTION 20. Said Board of County Commissioners are hereby required to furnish for the convenient use of said County Officers and for other County purposes, such rooms, offices, jails, furniture, books and stationery as are suitable and necessary for the proper conduct of all County business.

SECTION 21. The City, Town, County and School District, licenses, taxes and poll taxes, levied for the year 1909, upon persons, property and business situated within the limits of the territory hereby established as Bullfrog County, which shall remain or become due and unpaid subsequently to the taking effect of this Act, shall be due to, and collected by, the proper officers of said Bullfrog County and paid into the Treasury thereof, and the said Board of County Commissioners is hereby authorized to levy such further and additional taxes for the years 1909 and 1910, as may be necessary to defray the expenses of said County.

SECTION 22. All copies and excerpts from the records and files certified as correct and true by the legal custodian thereof now on file or of record in the official records of Nye County may be recorded or filed in the official records or files of Bullfrog Cpunty, the same as original papers; and when so filed or recorded shall become for all legal purposes, the same as original records and files.

SECTION 23. The Board of County Commissioners of the County of Bullfrog, shall, as soon as practicable after said County shall be organized, receive bids for making transcripts of the records of said County of Nye, of all property situated in the County of Bullfrog, or

such portion thereof as said Board may deem necessary, and transcribing the same as provided by law, in the proper record books to be prowided by the said County of Bullfrog for that purpose; and the said Board of County Commissioners of the County of Bullfrog shall award such contract to the lowest responsible bidder therefor, and for the faithful performance of said contract, said Board of County Commissioners shall require a good and sufficient bond in the sum of not less than Ten Thousand Dollars (\$10,000.00) nor more than Twanty-five Thousand Dollars (\$25,000.00) to be approved by said Board of County Commissioners. The Board of County Commissioners may reject any and all bids for transcribing said records, in case the lowest bid is deemed by said County Commissioners to be too high. The County Clerk and the County Recorder of the County of Mye shall afford every reasonable opportunity and facility for transcribing such records. Said transcribed records, when accepted by the Board of County Commissioners of said Bullfrog County, shall become for all legal purposes, the same as original records and files.

SECTION 24. All members of the Legislature elected from Nye County, who, at the time of their election, were residents of that portion of Nye County hereby detached and established as Bullfrog County, shall retain their offices as members of the Legislature for their respective enexpited terms, but as representatives of Bullfrog County; at the general election in 1910, Bullfrog County shall elect two Assemblymen and Nye County five Assemblymen, and thereafter Bullfrog County shall be entitled to one Senator and two Assemblymen; and Nye County to One Senator and five Assemblymen.

SECTION 25, The County of Bullfrog shall be and remain a portion of the Fifth Educational Supervision District of Nevada.

SECTION 26. All Acts and parts of Acts in conflict herewith, are hereby repealed.

Section 27. This Act shall not take effect until it shall have been submitted to the voters of Nye County at the next general election and received a majority of the votes cast at said election in favor of its becoming a law

MAP 03 Number waste Repostory Site Yucca mt., NV

Assentibly Government Affairs
MRY 15, 197

PRESENTATION BY SENATOR THOMAS J. HICKEY MAY 15, 1987

THE REASON FOR ESTABLISHING BULLFROG COUNTY, AS PROPOSED BY ASSEMBLY BILL 756, IS VERY SIMPLE. IT IS TO MAXIMIZE IMMEDIATELY THE AMOUNT OF REVENUE AN ELIGIBLE ENTITY MAY RECEIVE UNDER THE GRANTS EQUAL TO TAXES PROVISIONS OF THE NUCLEAR WASTE POLICY ACT.

SINCE THE BEGINNING OF NEVADA'S PARTICIPATION IN THE HIGH-LEVEL RADIOACTIVE WASTE PROGRAM, THE LEGISLATURE HAS MADE IT CLEAR THAT TO IMPLEMENT AN EFFECTIVE OVERSIGHT PROGRAM IT IS NECESSARY TO INVOLVE PARTICIPANTS FROM ALL OF THE AFFECTED JURISDICTIONS.

IT IS FOR THIS REASON THAT A LOCAL GOVERNMENT PLANNING GROUP WAS FORMED. THE GROUP INCLUDES REPRESENTATIVES FROM CLARK, LINCOLN AND NYE COUNTIES, AND THE CITIES OF CALIENTE, HENDERSON, LAS VEGAS AND NORTH LAS VEGAS.

IT IS WITH THE SAME LOGIC THAT GRANTS EQUAL TO TAXES SHOULD BE APPROACHED DIRECTLY BY THE LEGISLATURE BECAUSE IT HAS BROAD, STATEWIDE RAMIFICATIONS. MY VIEW OF THIS ISSUE MAY DIFFER PERHAPS FROM OTHERS WHO DO NOT BELIEVE THAT THIS IS A STATEWIDE PROBLEM. I SUBMIT THAT NYE COUNTY WILL NOT BE ALONE IN EXPERIENCING RISK OR ECONOMIC AND SOCIAL IMPACTS IF THE HIGH-LEVEL RADIOACTIVE WASTE REPOSITORY IS LOCATED IN NEVADA. IT IS NECESSARY, THEREFORE, THAT AN EQUITABLE SYSTEM OF DISTRIBUTING THIS FEDERAL REVENUE BE ESTABLISHED. THE BULLFROG COUNTY BILL PROVIDES THE BASIC UNDERLYING STRUCTURE FOR THIS ALLOCATION SYSTEM.

A GROUP OF LOCAL GOVERNMENTS IN THE SOUTHERN PORTION OF THE STATE HAS BEEN WORKING WITH LEGISLATIVE STAFF TO PREPARE A PIECE OF LEGISLATION THAT WILL COMPLEMENT THE BULLFROG PROPOSAL PERFECTLY. THIS COMPLEMENTARY PROPOSAL WILL BE INTRODUCED IN THE SENATE TODAY. IT REQUIRES THE CENTRAL ASSESSMENT AND TAXATION OF THE PROPOSED REPOSITORY SITE AT THE MAXIMUM RATE, AS IS PROVIDED IN THE BULLFROG COUNTY MEASURE. THE PROPOSAL ALSO GIVES SPECIAL SIGNIFICANCE TO THE IMPACTED COUNTIES IN SOUTHERN NEVADA.

THIS COMPLEMENTARY APPROACH HAS BEEN REVIEWED BY THE ATTORNEY GENERAL'S OFFICE AND THE LEGISLATIVE COUNSEL. THEY ARE IN AGREEMENT AS TO ITS CONSTITUTIONALITY. I HAVE COPIES OF THEIR OPINIONS FOR THE RECORD.

IN CLOSING, I WOULD LIKE TO THANK YOU FOR YOUR TIME AND ENCOURAGE YOUR POSITIVE SUPPORT FOR BOTH A.B. 756, THE BULLFROG COUNTY PROPOSAL, AS WELL AS THE COMPLEMENTARY BILL REGARDING GRANTS EQUAL TO TAXES. I HOPE THAT THE SENATE WILL BE SENDING THIS PROPOSAL TO YOU VERY SOON.

en:5/14/87

STATE OF NEVADA LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710

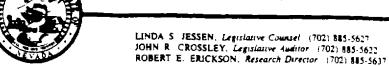
DONALD A. RHODES, Director (702) 885-5627

March 11, 1987



INTERIM FINANCE COMMITTEE (702) 885-564: MARVIN M SEDWAY, Assemblyman, Chairman

Daniel G. Miles, Fiscal Analysi Mark W. Sievens, Fiscal Analysi



Senator Thomas J. Hickey Senate Chambers

Dear Senator Hickey:

13

Through Donald M. Bayer, Senior Research Analyst, you have asked for a review and assessment of an opinion written by Harry W. Swainston, Deputy Attorney General, concerning an interpretation of section 116(c)(3) of the Nuclear Waste Policy Act of 1982 (NWPA), 42 U.S.C. 10101 et seq. Specifically, you have asked for an opinion as to the validity of the responses given by Mr. Swainston to questions 1, 2, 4 and 8 presented by Robert R. Loux, Director, Nuclear Waste Project Office.

Section 116(c)(3) reads as follows:

The Secretary shall also grant to each State and unit of general local government in which a site for a repository is approved under Section 112(c) an amount each fiscal year equal to the amount such State and unit of general local government, respectively, would receive were they authorized to tax site characterization activities at such site, and the development and operation of such repository, as such State and unit of general local government tax the other real property and industrial activities occurring within such State and unit of general local government. Such grants shall continue until such time as all such activities, development, and operation are terminated at such site.

QUESTION ONE

The first question posed by Mr. Loux is whether Congress intended that "the GETT would be based upon a full tax equivalency." The term "GETT" is interpreted to refer to grants equal to the taxes that could otherwise be imposed on a taxable entity. It is the opinion of this office that the basis for grants equal to taxes is full tax equivalency.

When there is no ambiguity and the meaning of a statute is clear, a court will not resort to the rules of statutory interpretation to ascertain legislative intent. Hamilton v. Rathbone, 175 U.S. 414, 44 L.Ed. 219, 20 S.Ct. 155 (1899); State ex rel. Hess v. County Commissioners, 6 Nev. 104 (1870), cited, State Odd Fellows Savings & Commercial Bank v. Quillen, 11 Nev. 109 (1896); Demosthenes v. Williams, 97 Nev. 611, 637 P.2d 1203 (1981). A statute is clear and unambiguous if the words have one meaning which is not contradicted by other language in the same act. Foley Brothers, Inc. v. Filardo, 336 U.S. 281, 93 L.Ed. 680, 69 S.Ct. 575 (1949). It seems clear from a close reading of section 116(c)(3) itself that Congress intended that grants to a state and units of general local government be based on the full taxing authority that these entities might establish if instrumentalities of the federal government such as the Department of Energy were acting in the capacity of taxpayer business entities and private property owners.

Even if one were to reject the premise that section 116(c)(3) is clear and unambiguous, an analysis of its legislative history, an extrinsic aid to statutory construction, would lead to the same conclusion of full tax equivalency.

QUESTION TWO

The second question asked by Mr. Loux assumes full tax equivalency, selection of Yucca Mountain for site characterization, and ultimate selection of the Nevada site as the location for the first repository. It queries, "what are the grant implications relative to Department of Energy facilities and those of federal contractors and other federal instrumentalities associated with NWPA activities in counties other than Nye County? Does the phrase 'at such site,' as used in section 116(c)(3), limit the concept of full tax equivalency?"

The phrase "at such site" should not limit full tax equivalency. The only hindrance to the ability of the state or a local government to tax an activity related to site characterization at Yucca Mountain is federal tax immunity. Grants from the federal government may be received solely for federal actions that may not be touched because of the doctrine of federal tax immunity. As was stated in the answer to Question One, the legislative history of section 116(c)(3), tracing the inception of its language, does not lead one to believe that it was the intent of Congress to limit the ability of state and local governments to

obtain revenues from taxes in the same measure to which they would have been entitled in the absence of the NWPA. Because section 116(c)(3) by implication requires state and local governments to declare and put into effect their power to tax, each part of the proposed nuclear waste program must be examined, and a determination made as to whether or not it is immune from federal taxation. Assuming a nonimmune activity, one must proceed to determine such issues as allocation of grants among state and local units of government, determination of value, allotment of revenue, and effect on preexisting tax base. One must also examine each separate tax levied by the state to ascertain whether it is site-related.

In sum, the phrase "at such site" should not limit full tax equivalency. Also, Department of Energy facilities and those of federal contractors and other federal instrumentalities associated with NWPA activities in counties other than Nye County may be considered to be included in formulas to arrive at "grants equal to taxes," as these entities may otherwise be subject to taxation if they were not immune.

QUESTION FOUR

Mr. Loux's fourth question is, "Are the properties and activities, including transportation, associated with the United States Department of Energy repository program of an 'interstate and intercounty nature' and therefore subject to the requirements of NRS 361.320?"

NRS 361.320 provides in pertinent part:

At the regular session of the Nevada tax commission commencing on the 1st Monday in October of each year, the Nevada tax commission shall establish the valuation for assessment purposes of any property of an interstate and intercounty nature, which must in any event include the property of all interstate or intercounty railroad, sleeping car, private car, street railway, traction, telegraph, water, telephone, air transport, electric light and power companies, together with their franchises, and the property and franchises of all railway express companies operating on any common or contract carrier in this state. (Emphasis added.)

Webster's Seventh New Collegiate Dictionary defines the term "interstate" as "of, connecting, or existing between two or more states esp. of the U.S." By analogy, intercounty would be defined as, of, connecting, or existing between two or more counties. It seems apparent that, because Yucca Mountain is being considered as the first high-level nuclear waste repository for the nation and because a number of ancillary support activities will take place in other locations in Nevada, these properties and activities associated with the repository program are "of an interstate and intercounty nature," and therefore fall within the requirements of NRS 361.320. Additionally, the entire state will share the risk and the stigma of having located within its borders the nation's first nuclear waste repository.

QUESTION EIGHT

The final question that Mr. Loux asks is as follows:

If the Nevada Legislature were to enact a law requiring a 100 percent assessment of valuation for all hazardous waste activities, would a constitutional amendment be necessary to reconcile the uniformity of tax provisions in Article 10, Section 1 of the Nevada Constitution? Would a tax based on toxicity require uniformity?

Section 1 of article 10 of the Nevada constitution requires the legislature to provide by law for a uniform and equal rate of assessment and taxation. This provision has been construed to require that all ad valorem taxes be of a uniform rate or percentage so that one species of property is not taxed at a higher rate than another. State of Nevada v. Eastabrook, 3 Nev. 173 (1867). Therefore, one type of property, such as a facility for the storage or disposal of high-level radioactive waste, may not be taxed while other property in the state is not. If such a tax were to be imposed on such a facility, that tax would also have to be imposed on all other property in this state.

The provisions of section 1, article 10 of the Nevada constitution, however, refer only to the levy of ad valorem taxes on all property, and do not apply to licenses or fees imposed for conducting any business or profession. Ex Parte Robinson, 12 Nev. 263 (1877). Therefore, an excise tax could be imposed on such facilities for the privilege of operating within this state. Although the tax could not be based on the assessed

valuation of the property, it could be based on the amount of waste stored or disposed, per weight or cubic foot, or in the alternative, on the concentration of radiation contained in the waste. In this manner, revenue could be raised without affecting the current level of property taxes.

The opinion of this office to a large degree does not deviate in its conclusions regarding answers to question 1, 2, 4 and 8, from those conclusions expressed by Hr. Swainston.

Very truly yours,

Linda S. Jessen

Legislative Coursel

LSJ:msb

cc: Donald M. Bayer, Senior Research Analyst

APPENDIX C

LEGAL OPINION

NEVADA OFFICE OF THE ATTORNEY GENERAL



OFFICE OF THE ATTORNEY GENERAL

NEVADA AGENCY FOR NUCLEAR PROJECTS
Capitol Complex
Evergreen Center
1802 North Carson St., Suite 252
Carson City, Nevada 89710
(702) 885-5866

January 2, 1987

Robert R. Loux, Director Nuclear Waste Project Office Capitol Complex Carson City, NV 89710

Dear Mr. Loux:

You have requested an opinion concerning the interpretation of Section 116(c)(3) of the Nuclear Waste Policy Act of 1982 (NWPA), 42 U.S.C. 10101 et seq., in terms of Congressional intent and in relation to a number of aspects of Nevada law. Section 116(c)(3) reads as follows:

The Secretary shall also grant to each State and unit of general local government in which a site for a repository is approved under Section 112(c) an amount each fiscal year equal to the amount such State and unit of general local government, respectively, would receive were they authorized to tax site characterization activities at such site, and the development and operation of such repository, as such State and unit of general local government tax the other real property and industrial activities occurring within such State and unit of general local government. Such grants shall continue until such time as all such activities, development, and operation are terminated at such site.

The reference to grants equivalent to the taxes which could otherwise be imposed upon a taxable entity have become known as GETT, a shorthand expression for grants equivalent to taxes. The Department of Energy, which will administer the grants prefers to refer to them as payments equivalent to taxes or PETT. We will refer to them as GETT.

You have posed the following:

QUESTIONS

- 1. Did Congress intend the GETT would be based upon a full tax equivalency?
- 2. Assuming the question of full tax equivalency is answered in the affirmative, recognizing Yucca Mountain has been selected for site characterization, and assuming it is selected as the location for the first repository, what are the grant implications relative to Department of Energy facilities and those of federal contractors and other federal instrumentalities associated with NWPA activities in counties other than Nye County? Does the phrase "at such site," as used in Section 116(c)(3), limit the concept of full tax equivalency?
- 3. Does the definition of State and/or unit of general local government in Section 116(c)(3) include school districts, other political subdivisions and legislatively created units of local government whether general or specific?
- 4. Are the properties and activities, including transportation, associated with the United States Department of Energy repository program of an "interstate and intercounty nature" and therefore subject to the requirements of NRS 361.320?
- 5. Is a cost of reproduction less depreciation valuation methodology appropriate in terms of assessing site related facilities and are there any statutory restrictions on valuation which would limit its application? What is the effect of a unique, dedicated repository use on value?
- 6. Are distinct and delineated boundaries necessary predicates to the valuation of the real property component of the Yucca Mountain site? Are there any present boundaries which would establish a property situs?
- 7. May the State and units of general local government qualify for a grant for site characterization related activities which preceded the approval of the Yucca Mountain site for site characterization on May 28, 1986?
- 8. If the Nevada Legislature were to enact a law requiring a 100 percent assessment of valuation for all hazardous waste activities, would a

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constitutional amendment be necessary to reconcile the uniformity of tax provisions in Article 10, Section 1 of the Nevada Constitution? Would a tax based on toxicity require uniformity?

ANALYSIS OF QUESTION ONE

The phrase "full tax equivalency" does not appear in Section 116(c)(3) of the Nuclear Waste Policy Act (hereinafter, the Act) but the notion is suggested by the following language of the Section:

The Secretary shall also grant...an amount...equal to the amount such State and unit of general local government, respectively, would receive were they authorized to tax site characterization activities at such site, and the development and operation of such repository as [they] tax the other real property and industrial activities occurring [therein].

The question is whether Congress intended that the grants to the State and units of general local government authorized by Section 116(c)(3) would be based upon the full taxing authority which these governmental entities might impose if the Department of Energy and other instrumentalities of the federal government were acting as private property owners and tax paying business concerns. An analysis of this question must perforce begin with an analysis of Congressional intent as it appears from the legislative history of the Act.

The language now contained in Section 116(c)(3) first appeared in the House bill, HR 3809, as it was reported from the Committee on Interior and Insular Affairs on March 29, 1982. That language can be found at Section 116(b)(3) of the bill. Although similar language was not contained in another House bill, HR 6598, when it was introduced on June 15, 1982, identical language was included in HR 6598 by the House Energy and Commerce Committee when it reported the bill on August 20, 1982. No elucidation upon the statutory language is contained in the Committee's report. See Rept. 97-785, 97th Congr., p. 73. The language in HR 6598 as reported appears in Section 116(b)(3). The current statutory language remained in ER 3809 through final House passage. See 128 Cong. Rec. H8799 and amendment by the Senate, 128 Cong. Rec. S14484-514503, S15621-515670. It appeared, as well, in the House acceptance of the Senate amendments. See 128 Cong. Rec. H10516-H10524. change throughout was the subsection designation.

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In the Senate bill, S 1662, which had been introduced prior to House action, there was no mention of grants equal to, or in lieu of, state taxation. S 1662, as reported from the Senate Environment and Public Works Committee on November 30, 1981, addressed compensation for affected states in the context of a "cooperative agreement." Section 701(c) of that bill provided:

provide for compensation to the State or Indian tribe for (1) the cost of State or Indian tribe participation in the development of the facility, including the acquisition of any necessary independent technical and licensing information and (2) impacts caused by the siting, development, construction and operation—of a repository.... Further the cooperative agreement shall provide a method for determining the appropriateness and amount of any royalty or assessment to the State or Indian tribe for the use of its property. location or other natural resource. (Emphasis supplied.)

This language was in effect when the Senate passed S 1662 on April 29, 1982.

Because the present statutory language refers to state and local government taxing authority, it is important, in analyzing legislative intent, to know the extent of the State's authority as the Congress perceived it at the time of the statute's enactment. It is also important to note that the law on this subject changed during the course of Congressional consideration of the Nuclear Waste Policy Act.

Historically, state authority to tax federal activity had been limited where the economic incidence of the tax fell on the federal government. See e.g., McCulloch v. Maryland, 17 U.S. (4 Wheat.) 316 (1819). The U.S. Supreme Court liberalized this concept when it ruled on March 24, 1982 that state taxing authority was prohibited only when the legal incidence of the tax fell on the federal government. United States v. New Mexico, 455 U.S. 720 (1982). Five days after the Supreme Court's opinion in United States v. New Mexico, a case involving some of the same DOE contractors who would be involved in the nuclear waste program contemplated by the Congress, the House Interior Committee reported HR 3809 and included the first formal reference to grants equal to state taxes.

United States v. New Mexico is a case in a continuing trend directed toward the relaxation of the federal tax immunity doctrine. It extended the exposure of federal

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Contractors and instrumentalities to state taxing authority. The trend was further developed in <u>Washington v. United States</u>, 460 U.S. 536 (1983), although the <u>Washington</u> Court stopped short of opening the federal government to full state taxation. The Congress enacted the equivalent of the final step in Section 116(c)(3) by creating federal grants where taxing authority otherwise would have existed but for the involvement of the federal government in the limited field of high-level nuclear waste activity.

The conclusion from the interlocking sequence of events at the Congress and Supreme Court is that the Congress wanted to ensure that states would not be penalized in any way by the fact that the federal government was formally taking the high-level nuclear waste disposal activity out of the hands of the nuclear industry, which would have had no immunity from taxation by state and local governments. This conclusion is supported by an integrated reading of the entire Nuclear Waste Policy Act.

The statute establishes that "the Secretary shall also grant" an amount to states where sites will be characterized and how the amount of the grant will be determined. The amount to be determined each fiscal year is the "amount such State and unit of general local government, respectively would receive were they authorized to tax site characterization activities...as [they] tax the other real property and industrial activities occurring [therein]."

Recognizing that the State and local governments do have authority to tax federal contractor site characterization activity as they tax other activity, it is significant that Congress did not use the words "were they authorized to tax the federal government." The necessary implication of this authority is that Congress intended a grant in an amount equal to the tax liability that the nuclear industry (either individually or collectively) would have had if it had executed the waste program (a hypothetical tax liability), less the actual tax which the state or local governments would have collected from federal contractors (the actual tax liability). Though Congress did not abrogate the United States' tax immunity or alter the state's taxing authority, it provided a mechanism by which states could avoid a penalty from the shift to federal operation of nuclear waste disposal and, at the same time, avoid the vagaries of the doctrine of federal tax immunity.

CONCLUSION TO QUESTION ONE

Based on the above analysis, it is apparent that the grants which the United States DOE must make pursuant to Section 116(c)(3) must be fully equivalent to the amount of

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tax revenue which the state and local governments would have received if the civilian nuclear industry would have executed the waste program itself, less the actual tax which is collected from federal contractors participating in the DOE's high-level nuclear waste program.

ANALYSIS OF QUESTION TWO

One of the characteristics of Section 116(c)(3) is its complexity of administration. Implicit in the section is a requirement that the State and local governments must first fully assert and execute their taxing power against those who are taxable. Grants from the Secretary may be received only for those federal activities which may not be reached because of the federal tax immunity doctrine. Each aspect of the federal nuclear waste program must be analyzed to determine whether it is an immune or non-immune activity. If it is not immune from taxation, individual questions of valuation, grant allocation among units of government, revenue allotment, and impacts on the tax base arise.

Consistent with the previous discussion, the federal government's hypothetical tax liability (i.e., the liability an entirely private waste disposal program would incur) must be calculated, actual tax receipts subtracted, grant requests for the balance for each governmental entity's entitlement forwarded to the Secretary, and separate annual grants for individual balances tendered to states and units of general local governments.

A first reading of Section 116(c)(3) might suggest to the reader that the State or units of general local government to which the statutory section refers have sole authority to tax site characterization activities "at such site." In other words the phrase "at such site" could be seen as a constraint which limits the amount of the grants to the State or unit of local government to on-site activity or property only. The question becomes whether the phrase "at such site" limits full tax equivalency. Our analysis suggests that it should not. The legislative history of Section 116(c)(3) does not support the premise that Congress intended to limit the State and local taxing authorities, but, rather, intended that the State and local governments were to be provided revenues to the full extent they would have received them had the Act not been passed. In such a case the nuclear utilities would have had to conduct the site characterization activities and assume responsibility for the development and operation of a nuclear waste repository at the Yucca Mountain site. Without federal intervention, their off-site property and activities would have been subjected to taxation under Nevada law. Aobert R. Loux, Dire or Page -7-January 2, 1987

It is necessary to analyze each of the specific, state imposed taxes to determine whether they involve off-site taxation. Though not exhaustive, analysis of some specific Nevada taxes relating to present site characterization activities of the Department of Energy at the Yucca Mountain site follows:

- Real Property Transfer Tax: This tax, imposed by N.R.S. 375.020, is obviously site specific, as the obligation to pay the tax arises out of the transfer of control of a specific parcel of land. Any non-federal entity would have to pay this tax were the ownership and control of Yucca Mountain transferred to it and, thus, this tax is within the DOE's hypothetical, or constructive, tax obligation. Assuming that transfer of control is essential to site characterization, the real property transfer tax applies to the Yucca Mountain site. The same reasoning applies to any property DOE may use during site to any property DOE during site characterization, development or operation, such as off-site marshalling yards, warehouses, transportation depots or yards, office space, and radioactive materials handling facilities, to name a few. Any non-federal repository developer would have had to acquire these facilities to support repository development. Unless they could be leased, the necessary purchase transaction would produce a taxable event under the real property transfer tax. Taxation of these events does not seem in any way limited by the words "at such site" contained within the conditional phrase explaining the amount of the grant. Any non-federal repository developer engaging in site characterization activity "at such site" would be subject to the real property transfer tax with respect to all real property transfers whether at the site or not.
- 2. The Property Tax: Real and personal property taxes are imposed by NRS 361.045. United States' property is statutorily exempted. NRS 361.050. Were the state and local governments authorized to tax site characterization activities at Yucca Mountain, the state and local government would be authorized to tax the real property on which the activity was occurring and the personal property at the site. Logically, the state and local government would also be authorized to tax other real or personal property owned by the site developer, but not physically present at the site. The only fact which requires the use of the subjunctive phrase "were they authorized to tax" is federal immunity from taxation, and the grant equivalent to taxes is a substitute for the otherwise applicable state and local taxation authority.
- 3. The Sales and Use Taxes: The general sales tax is imposed upon all retailers for the privilege of selling

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tangible personal property at retail. See NRS 372.105. The use tax is an excise tax imposed on the storage, use or consumption of tangible personal property notwithstanding from whom purchased. See NRS 372.185. It is collected by the retailer, if he is a Nevada merchant. If he is not, then the user must pay the tax. See NRS 372.190, 372.195. There is no limitation in state statutes on sales tax liability because of the proposed place of use of the personal property purchased. Use tax liability is limited only to property used or consumed within the state. Clearly there are no intrastate limitations with respect to either the sales or use taxes. Once again, the only impediment to governmental power state or local to tax characterization activity at the Yucca Mountain site is federal tax immunity. Were that impediment removed, the sales and use taxes could be imposed on all personal property purchased or used by DOE, notwithstanding whether it were physically present at the site. The same logic would seem to apply to the special fuel tax, imposed upon the sale or use of special fuels by NRS 366,190, and the local school support tax, imposed upon the retail sale of all tangible personal property by NRS 374.110.

4. The vehicle privilege tax: This tax is imposed by NRS 371.030 upon the privilege of operating any vehicle upon the public highways of Nevada. It is subject to the same hypothetical tax analysis and presents perhaps the best example of its application. The vehicle privilege tax is essentially a use tax. All of the public highways of Nevada are, obviously, not contained within the Yucca Mountain site. When federal immunity to state taxation of federal activities at the site is hypothetically removed, the parties engaged in site characterization become exposed to the same tax implications as would any other operator. Since any operation would have to use the public highways of the State of Nevada to reach, perform or support site characterization activity at the site, the operator must be taxed for the privilege, either directly or hypothetically through grants equal to taxes.

Certain other taxes may be imposed on activities relating to the development of a repository at Yucca Mountain. Bither a hazardous materials transaction tax or hazardous material storage tax, for example, may be imposed during the period of repository operation when waste is emplaced in the repository (and conceivably for some time thereafter); as to these, the phrase "at such site," which modifies "site characterization activity" in Section 116(c)(3), would not be implicated.

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CONCLUSION TO QUESTION TWO

The analysis of various State taxes, in the light of the legislative history of the GETT provision and the apparent understanding of the DOE that GETT generally requires full tax equivalence through a constructive tax liability concept, rather convincingly suggests that the term "at such site" is not in any way limiting upon the concept of full tax equivalency. Nor does it seem to limit the physical location of the tax situs within the state of property, transactions or uses which would otherwise be subject to taxation and therefore eligible for inclusion in the GETT computations.

ANALYSIS OF QUESTION THREE

The NWPA defines "State" in Section 2(24) as follows:

The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

The definition of "State," while suggesting a territorial region, might be construed to have any one of the meanings or a combination of the meanings discussed by Chief Justice Chase in Texas v. White, 74 U.S. (7 Wall.) 700, 720, (1869). According to the Chief Justice, "State:"

of individuals united more or less closely in political relations, inhabiting temporarily or permanently the same country; often it denotes only the country or territorial region, inhabited by such a community; not infrequently it is applied to the government under which the people live; at other times it represents the combined idea of people, territory, and government.

Chief Justice Chase continued at 721:

In the Constitution the term state most frequently expresses the combined idea...of people, territory, and government. A state, in the ordinary sense of the Constitution, is a political community of free citizens, occupying a territory of defined boundaries, and organized under a government sanctioned and limited by a written constitution, and established by the consent of the governed. It is the union of such

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states, under a common constitution, which forms the distinct and greater political unit, which that Constitution designates as the United States, and makes of the people and states which compose it one people and one country.

The definition of "State" in Section 2(24) of the NWPA is not helpful in establishing a meaning within those postulated by Justice Chase. The true meaning of the word "State" must be analyzed in relation to the various contexts in which it is used in the NWPA.

By way of comparison, the word "State" sometimes refers to a geographical area as in the clauses of the Constitution which require that a representative in Congress shall be an inhabitant of the State in which he shall be chosen. <u>See</u> e.g., <u>Texas v. White</u>, <u>supra</u>. On the other hand, "State" may refer to a people or political community as when the Constitution guarantees to every state in the Union a republican form of government, and protects each state against invasion. Id. "State" sometimes describes the government under which people live, or, as noted above, a combination of the three attributes, as where the Constitution prohibits a state from making treaties, emitting bills of credit, and laying tonnage; or quarantees to each state representation in Congress. Id. The term "State" as actually used in the NWPA occasionally denotes separate attributes similar to the usage Constitution, but it usually represents a combination of meanings.

When the meanings of "State," particularly as it appears in Section 101 through 117 of the NWPA, are analyzed, certain trends emerge which suggest the general legislative scheme. Rights of participation and consultation are entitlements of the State established by the Act; therefore, we believe Congress logically intended, consistent with a high degree of "State and public participation in the planning and development of repositories," that the meaning of "State" in this context refers not only to the instruments of government created by the people, but also to the political community itself within the geographical area of the State. Compare Sections 101 and 111 of the NWPA.

Monetary grants were contemplated by Sections 116 and 117 of the Act to fund "the independent oversight role that Congress envisioned for the states." See Nevada v. Herrington, 777 F.2d 529, (9th Cir. 1985). The meaning of "State" when used to refer to recipients of grants funds, therefore, is necessarily limited to the responsible units

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of State and local government which have some connection and relationship to the repository siting program.

Further limitations on the scope of the meaning of "State" are suggested in Section 117 with respect to the negotiation of a consultation and cooperation agreement. Here, when referring to "State," Congress must have intended that the negotiations be limited to the agency officials within the State which are authorized to negotiate on behalf of the State.

We have concluded in relation to Question One that Congress intended to compensate the host State through the mechanism of a grant which would be fully equivalent to State tax revenues if the State were permitted to tax all of the real property and industrial activities associated with the nuclear waste repository. We have also concluded that Congress intended that the definition of "State" which is used in the monetary grant provisions of Sections 116 and 117 of the Act contemplated not only State government but all of the units of local government which come within the aegis of the State.

Unless otherwise restricted by the state constitution, it is generally accepted that a state may provide for the administration of local affairs of subdivisions of the State by officers of governmental units selected by the people of the subdivisions. The legislature may form the people of subdivisions into municipal corporations and grant to the members of the corporations such power as it deems in the public advantage. See e.g., Williams v. Eggleston, 170 U.S. 304 (1898). Such bodies are not only units of local self-government, but are also governmental agencies or political subdivisions of the State, subject to the control of the Legislature. Such entities exercise "a slice of state power." See Lake Country Estates v. Tahoe Planning Agency, 440 U.S. 391, 401 (1979).

Article 4, Section 25 of the Nevada Constitution states that "the Legislature shall establish a system of County or Township Government which shall be uniform throughout the State." Section 32 of Article 4 gives the Legislature the power to change or abolish certain county offices and to fix by law the duties of certain county officers and their compensation. Once created, however, Section 36 of Article 4 prohibits the Legislature from abolishing a county without approval of the voters of the county. Article 9, Section 8, provides that "the legislature shall provide for the organization of cities and towns by general laws and shall restrict their power of taxation, assessment, borrowing money, contracting debts and loaning their credit, except for procuring supplies of water; provided, however, that the

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legislature may by general laws, in the manner and to the extent therein provided, permit and authorize the electors of any city or town to frame, adopt and amend a charter for its own government, or to amend any existing charter of such city of town. It is evident from these sections that counties, townships, cities and towns are creatures of the State and invested by the Legislature with subordinate legislative powers to administer local and internal affairs of the respective political units.

Based upon the previously opined principles of full tax equivalency, we are of the opinion that Congress' usage of the words "State" and "unit of general local government" was inclusive of all units of local government within the aegis of the State, and that any State or local taxing authority is entitled to request a grant under Section 116(c)(3) of the NWPA either directly or indirectly through the State.

Section 116(c)(3) of the NWPA distinguishes the qualifying recipient of grants when it states in part that "the Secretary shall grant to each State and unit of general local government..." "Unit of general local government" is defined in Section 2(28) of the NWPA as:

...any borough, city, county, parish, town, township, village or other general purpose political subdivision of a State.

Cities, towns, counties and general purpose political subdivisions qualify directly for grants in amounts equal to their taxing authority. School districts, which are not general purpose political subdivisions, must receive grant funds by proxy through the State's grant. Other taxing and assessing entities not receiving a grant directly should be represented in a similar manner.

CONCLUSION TO DUESTION THREE

The meaning of "State" as used in Section 116(c)(3) of the NWPA contemplates the inclusion of political subdivisions and other State created units of government which benefit from the collection of general taxes and special assessments. They may receive grant funds either directly or through the representation of the State. The units of general local government referred to in Section 116(c)(3), as defined in Section 2(28), may receive grants directly from the Secretary of Energy based upon their taxing and assessment authority. School districts and other legislatively created special units of local government that have taxation and assessment authority must be represented in the State's grant.

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ANALYSIS OF QUESTION FOUR

It appears, <u>ipso</u> <u>facto</u>, from the Act, as well as the Department of Energy's Mission Plan, that the repository siting program is definitely of an interstate nature and, as described in the Environmental Assessment, of an intercounty nature as well. NRS 361.320 provides in part:

At the regular session of the Nevada tax commission commencing on the 1st Monday in October of each year, the Nevada tax commission shall establish the valuation for assessment purposes of any property of an interstate and intercounty nature, which must in any event include the property of all interstate or intercounty railroad, sleeping car, private car, street railway, traction, telegraph, water, telephone, air transport, electric light and power companies, together with their franchises, and the property and franchises of all railway express companies operating on any common or contract carrier in this state.

Properties such as railroads, offices, equipment storage and maintenance buildings, radioactive materials handling facilities, as well as many other kinds of property, if held by a private business concern in the locations of present DOE facilities would be considered interstate and intercounty in nature. NRS 361.320, therefore, appears to be fully applicable to the nuclear waste repository siting program. Although the statute does not specify a method of valuation, it does establish that the Commission must establish and fix the valuation of a business utilizing property of an interstate and intercounty nature "as a collective unit." See NRS 361.320(2). The question of valuation will be considered more fully in response to Juestion Five, infra.

Within constitutional limitations, the State and units of general local governments may impose taxes or qualify for grants relative to interstate and intrastate properties and activities, including transportation activities and transportation related property, under Section 116(c)(3). An analysis of local taxation of interstate transportation elucidates the principles.

The general principle that state taxes based upon the gross receipts from transactions in interstate commerce are invalid under the commerce clause of the Federal Constitution would apply to either federal or private transporters of nuclear waste under the NWPA as to the interstate portion of their activities. See e.g., Railway

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Express Agency, Inc. v. Virginia, 347 U.S. 359 (1959). Such taxes are not invalid as to the portion representing intrastate shipments and if such amounts can be separated from total receipts, the tax may be validly collected. See e.g., Pacific Tel. & Tel. Co. v. Tax Commission, 297 U.S. 403 (1936).

State taxes on property connected with the percentage of the interstate transportation system located in Nevada are not invalid as an attempted extraterritorial exertion of the state's taxing power. See e.g., Illinois C.R. Co. v. Minnesota, 309 U.S. 157 (1940). There are no constitutional impediments from either the United States or the Nevada Constitutions which would prevent taxing authorities from valuing the property of the nuclear waste transportation network as a homogeneous or collective unit. Such a valuation is a reasonable alternative to valuing separately the property within the state or taxing unit, assuming the portion referable to the taxing unit is set out by a proper and reasonable method of apportionment. See e.g., Adams Exp. Co. v. Ohio State Auditor, 165 U.S. 194 (1897).

CONCLUSION TO QUESTION FOUR

The real and personal property and activities of the United States as managed and controlled by the Department of Energy in relation to the Nuclear Waste Policy Act's program for the siting of a high-level nuclear waste repository are of "an interstate and intercounty nature" and, therefore, require valuation "as a collective unit" pursuant to NRS 361.320 for the grant purposes of Section 116(c)(3) of the Act. No constitutional impediments prevent the valuation of interstate or intercounty activities and property as a collective unit provided the portion referable to the State and local taxing units is set out by proper and reasonable methods of apportionment.

ANALYSIS OF QUESTION FIVE

As noted above, NRS 361.320 requires the Nevada Tax Commission to value the properties associated with the repository program "as a collective unit." Beyond this directive the statute does not specifically address methods of valuation.

The valuation methods and directives contained in NRS 361.227 are applicable insofar as they may be applied to the valuation of the collective repository related property. See NRS 361.043; see also List v. Whisler, 99 Nev. 133 (1983).

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The Nevada Supreme Court has recognized several methods of valuation which may be used by the Tax Commission under NRS 361.320. They include, inter alia, the book cost less depreciation method, the capitalization of income method and the stock and debt method. See State v. Nevada Power Company, 88 Nev. 131, 390 P.2d 50 (1964). In Nevada Power, the court stated that whichever method is used to determine total assessed valuation, it must have had a valid application to each and every class of property assessed.

The book cost less depreciation method is essentially the same as the method prescribed by NRS 361.227 1(b) except that in the statute the concept of replacement cost has been substituted for the concept of book cost. The capitalization of income method, recognized and explained in State v. Virginia & Truckee R.R. Co., 23 Nev. 283, 46 P. 723 (1896), is used to evaluate an ongoing venture where market transactions are infrequent or not representative of value. It estimates the capital value of a concern by dividing its annual amount of income by the then current market rate of interest. A similar approach is the utility of assets approach used in <u>State v. Nevada Cen. R.R. Co.</u>, 28 Nev. 186, 81 P. 99 (1905). The stock and debt method evaluates the total value of all the stock of an enterprise less all of its liabilities by determining what a potential purchaser would pay for the entire enterprise. It would seem that any one of these approaches might be used to evaluate the federal government's high-level nuclear waste program, as each has been developed to be used in cases where valuation is difficult because of the fact that there is not an ordinary market for the property being valued and they are ordinarily used for the valuation of large concerns. As an example, the income capitalization approach is typically used in acquisitions or mergers of large corporations.

The principles governing the valuation of property for taxation purposes (in this case, hypothetical taxation) are the same as those that control in condemnation cases. See e.g., Great Northern R. Co. v. Weeks, 297 U.S. 135, 139 (1936). The Nevada Supreme Court in a recent case, Stagecoach Utilities, Inc. v. Stagecoach General Improvement District, 102 Nev. ____, Ad. Op. 83 (decided September 4, 1986), set forth the following valuation methodology in the condemnation context:

Accordingly, it is our opinion that an accurate measure of the just compensation to be paid to the Utility for the condemnation of its property lies between an amount equal to the salvage value of the water system and an amount equivalent to the reproduction cost of the water system minus depreciation. Salvage value is that

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> amount representing the value of the plant and equipment remaining after the useful life of that plant and equipment has expired. Black's Law Dictionary 1203 (5th ed. 1968). Reproduction cost is that amount representing the cost that would be incurred should the District undertake to build a plant identical to that condemned. See 2 Orgel, Valuation Under the Law of Eminent Domain, above Section 210. Depreciation is the combination of two separate quantities: The first, physical depreciation, is that amount representing the decline in value of the water system due to the expiration of the useful life of plant and and, the second, equipment, functional depreciation, is that amount representing the decline in value of the water system due to inadequacy and obsolescence of the system at the time of condemnation. 2 Orgel, Valuation Under the Law of Eminent Domain, above Sections 212-213. We also note that any award in this action must include an amount representing the fair market value of the real property taken from the Utility by the District.

Given that the property is of an interstate or intercounty nature, its value is to be determined in the manner set forth in NRS 361.320. See NRS 361.043(2). NRS 361.320 does not limit the valuation methodology and, therefore, may include the valuation approach described in NRS 361.227, but is not limited to the approach in NRS 361.227. The cost of replacement less depreciation is the standard valuation method for improvements made on land if NRS 361.227(1b) is The Nevada Tax Commission is required to establish standards for valuing the costs of replacement of improvements of various kinds. See NRS 361.227(5a). Depreciation of an improvement on real property is calculated at 1.5 percent of the cost of replacement for each year of adjusted actual age of the improvement up to a maximum of 50 years. See NRS 361.227(5b).

As to the "fair market value of the real property," the valuation of vacant land is established as the "full cash value" which is defined as the "amount at which the property would be appraised if taken in payment of a just debt due from a solvent debtor." NRS 361.025. The "fair market value" test in Stagecoach, supra, for the real property, while not defined in NRS Chapter 361, is equivalent in to "full cash value." Compare 72 Am Jur 2d, State and Local Taxation, Section 159, p. 83.

Analyzing the policy of NRS 361.227, it is clear that the use to which Yucca Mountain would be dedicated, i.e., a

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repository, is relevant in determining the taxable value of the real property. The uniqueness of the use and the dedication of the land to that use should increase its value. The enhanced value of real estate represented by the right to conduct certain otherwise restricted activities on it, such as selling liquor, is a valid element which may be considered in the valuation. See e.g., Claringhold v. Newark, 5 Boyce 507, 94 A. 1102 (Del. 1915). Once Yucca Mountain is improved as a repository, assuming this will be the case, its value as improved land should reflect a unique and dedicated use.

As a final observation, we note that improvements to the land, based on their cost of replacement less depreciation, might be limited to the actual cost of the construction according to a narrow view, or, according to the better reasoning, be construed to include the program costs of reproducing a repository.

CONCLUSION TO QUESTION FIVE

Although it is not the only permissible approach, the cost of reproduction less depreciation, with an amount reflecting the fair market value of the real property, is a valuation method of the Yucca Mountain site which is authorized by NRS 361.227 and Nevada Supreme Court decisions.

ANALYSIS OF QUESTION SIX

We have concluded that NRS 361.320 requires the Nevada Tax Commission to value the repository program activities and properties "as a collective unit." Under this scenario discrete aspects of the program which involve taxable consequences, but for the federal tax immunity, may be widely dispersed without affecting the valuation. Property may comprise both tangible and intangible attributes, real property, and conceivably other If the cost of reproduction is used to conceivably personal classifications. value the units collectively, it is not critical that the repository site have well defined boundaries. The value of the site as a repository will be reflected by its capability receive and isolate up to 70,000 metric tons of radioactive heavy metal or a quantity of solidified high-level radioactive waste resulting from the reprocessing of such a quantity of spent fuel. See Section 114(d) of the Act. The cost of reproducing the site has little connection to the actual size of the site, provided it is of a functional size.

Well defined property descriptions become important in the discrete component "representing the fair market value of the real property." See Stagecoach Utilities v.

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Stagecoach General Improvement District, supra, at p. 4. of the slip opinion. Generally speaking, property descriptions will be available; however, the most important legal description of the Yucca Mountain site, the repository block and the buffer zones remain to be defined. The State of Nevada joined by the Governor and Congressional delegation, filed a petition for judicial review in the Ninth Circuit Court of Appeals on May 28, 1986 to compel the Department of Energy to seek a land withdrawal pursuant to Section 204 of the Federal Land Policy and Management Act, 43 U.S.C. 1714. Nevada v. Herrington, 86-7308. A withdrawal would define the site with a high degree of particularity. Until the Yucca Mountain site is delineated by suitable boundaries, however, a valuation of the real property will be speculative.

A general rule in taxation matters prohibits reliance on speculative data. In State v. Virginia and Truckee R.R. Co., supra, the Court observed that relevant factors regarding the market which the enterprise serves, whether it will increase or decrease, may be incorporated in the income capitalization approach. However, the Court pointed out that speculative developments in the market may not be considered as factors affecting value. In Nellis Housing v. State of Nevada, 75 Nev. 267, 339 P.2d 758 (1959), a case involving valuation of a possessory leasehold interest, the Court observed that speculation, even with regard to the useful life of a building, is not permissible. In Stagecoach Utilities, Inc. v. Stagecoach General Improvement District, supra, the trial court had sidestepped its duty to determine value because of its opinion that "any finding that the utility had suffered any real and substantial damage would be based on mere speculation."

Where the failure to set well defined boundaries by the Department of Energy has the effect of frustrating the valuation of the site for purposes of Section 116(c)(3), we are of the opinion that the State and units of general local government may rely on the best evidence available, even though somewhat speculative, in describing the boundaries of the site. The burden is then shifted to the Department of Energy to correct the description or, alternatively, to be bound by it.

We have consulted available sources of information and have concluded that it is not possible, based upon such information, to define the boundaries of the proposed repository site. The Bureau of Land Management has delineated an area of 54,387.50 acres which it has depicted on maps as the Yucca Mountain study area. This parcel generally comprises all of townships: Tl2SR48E and Tl3SR48E, twenty sections in Tl2SR49E and sections 15 and 36 of

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TllSR49E. The repository block as depicted in the Environmental Assessment includes, additionally, approximately thirteen sections of the Nellis Air Force Range and approximately sixteen sections of the Nevada Test Site for another estimated 18,560 acres.

The extent to which facilities, such as the E-MAD facility, which were constructed in the early 1960's in connection with the ROVER and NERVA programs at the Nuclear Research Development Center at Jackass Flats will be used and become a part of the repository is unknown, but it is anticipated that the fact that the E-MAD facility reportedly contains the largest hot bay for the handling of radioactive materials in the free world may make it a desirable adjunct to a proposed repository. The value of existing facilities will necessarily enhance the value of the real property in proximity to such facilities.

CONCLUSION TO DUESTION SIX

The valuation of a proposed repository at Yucca Mountain pursuant to a cost of reproduction methodology does not depend upon defined boundaries of the site. The valuation of the real property component may proceed on a best estimate of site boundaries, with the understanding that the Department of Energy will offer facts upon which suitable adjustments may be made. The value of existing facilities in proximity to the site should be considered in valuing the real property component.

ANALYSIS OF DUESTION SEVEN

Question Seven poses the question of whether GETT grants may be funded retroactively to cover the period prior to May 28, 1986, when the Yucca Mountain site was selected for detailed site characterization.

It must be recalled from our analysis of Question One that the GETT covers only the portion of activities and property that escape direct taxation because of the federal tax immunity. As noted, the Supremacy Clause of the United States Constitution absolutely immunizes the property, functions and instrumentalities of the federal government until and unless Congress carves out an exception. A grant equivalent to taxes which would otherwise be collectible if the federal government were operating as a private business must also be referable to a definite point in time. A time reference is contained in Section 116(c)(3) as the time when "a repository is approved [for characterization] under Section 112(c)," an event which occurred on May 28, 1986, but when read in relation to Section 112(f) suggests that

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Congress intended a degree of retroactivity. Section 112(f) provides in part:

Nothing in this section may be construed as prohibiting the Secretary from continuing ongoing or presently planned site characterization at any site on Department of Energy land for which the location of the principal borehole has been approved by the Secretary by August 1, 1982,...

A retroactive application of the GETT provision to site characterization activities which preceded the Section Il2(c) approval for site characterization is necessary to establish an equality of treatment. Unless retroactivity is recognized, Washington and Nevada, with sites which had ongoing site characterization activities predating the approval, would be prejudiced in relation to Texas, with a site which has had no site characterization activities to the present date. We are of the opinion that Congress intended an equality of treatment and, therefore, a retroactive application of the Act at least insofar as site characterization activities are concerned.

Our opinion is bolstered by the concept of full tax equivalency which we have previously discussed. The object of full tax equivalency could not be effected if substantial site characterization activities at the Yucca Mountain site were exempted from the reach of Section 116(c)(3).

CONCLUSION TO QUESTION SEVEN

Congress intended that Section 116(c)(3) would operate retroactively to apply to site characterization activities which preceded the approval for site characterization on May 28, 1986.

ANALYSIS OF QUESTION EIGHT

Nevada's Constitution, in Article 10, Section 1, like many state constitutions, contains express requirements of equality and uniformity. When exemptions from the equality and uniformity provision have been granted, the exemptions invariably have been reserved in Article 1, Section 10, as a necessary precondition. The priniciple has become well established by both interpretation and treatment. A different construction at this point in time would be unwarranted.

A tax based upon the toxicity of a substance, such as curies in the case of radioactive substances, stored in the State, if applied equally and uniformly would not raise a question under Article 10, Section 1.

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CONCLUSION TO DUESTION EIGHT

A grant request based upon a hypothetical tax imposed at the rate of 100 percent of valuation of a nuclear waste repository would violate the equality and uniformity requirements of Article 10, Section 1 of the Nevada Constitution. A tax on the toxicity of nuclear substances based upon the number of curies stored or upon a similar measure of toxicity, which could be applied equally and uniformly, would not offend Article 10, Section 1.

If we may be of further assistance in this matter, please feel free to contact us.

Very truly yours,

BRIAN McKAY, ATTORNEY GENERAL

Y: ______

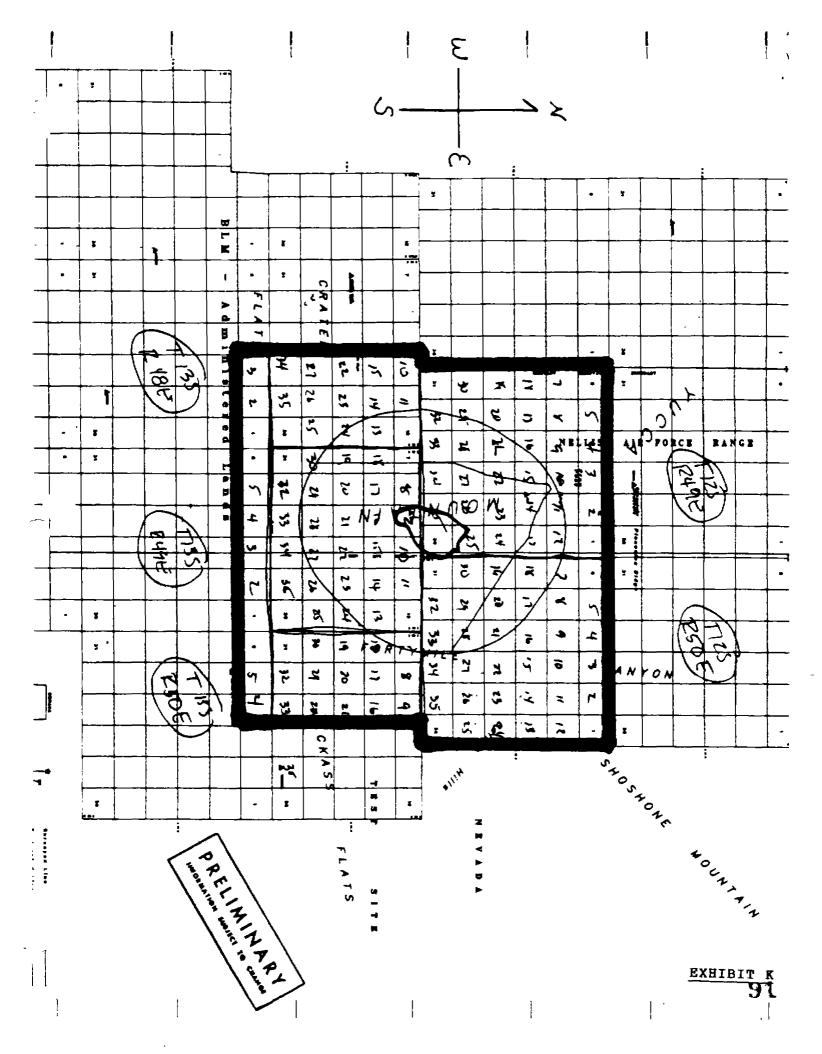
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SPENT NUCLEAR FUEL AND HIGH LEVEL RADIOACTIVE WASTE TRANSPORTATION

White Paper

June 1985

Western Interstate Energy Board 6500 Stapleton Plaza 3333 Quebec Street Denver, Colorado 80207 303/377-9459

Prepared for the U.S. Department of Energy Under Contract No. DE-AC04-84AL25747

This White Paper draws on an extensive data base contained in the 550 + page report Spent Nuclear Fuel and High-Level Radioactive Waste Transportation Primer, prepared by the Western Interstate Energy Board. Further information on the Primer is provided on pages A 1 to A 3 of this White Paper.

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The information in this White Paper draws on an extensive set of recommendations of the High Level Radioactive Waste Committee and a 550% page primer on high-level waste and spent fuel transportation. Following is the table of contents of the transportation primer.

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This Report was prepared as an account of work sponsored by the United States Government. Neither the United States nor the Department of Energy, nor any of their employees, nor any of their contractors, subcontractors, or their employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness or usefulness of any information, apparatus, product or process disclosed, or represents that its use would not infringe privately owned rights.

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The 550+ page report is available for purchase from the Western Interstate Energy Board.

This White Paper capsulizes the more detailed recommendations of the High-Level Radioactive Waste Committee of the Western Interstate Energy Board. The detailed recommendations may also be obtained from the Board. acciden. Involving radioactive materials as elements of public liability, and thus reimbursable using Price Anderson monies.

Agreements Among States on Inspection and Enforcement

The Committee recommends that states consider multi-state agreements on inspection and enforcement, similar to the Commercial Vehicle Safety Alliance but tailored to the needs of spent fuel and HLW transportation. Such agreements could improve the efficiency of inspection and enforcement efforts and reduce the burden on interstate commerce.

Multi State Permit and Fee Systems

State permit and fee systems covering shipments of hazardous materials, including HLW, are viewed by some as an attractive source of funding for state and local inspection, enforcement, and emergency preparedness/response activities. The U.S. Department of Transportation, however, has consistently opposed permit and fee systems. Coordinated multi-state permit and fee systems present an opportunity to lessen the perceived degree of interference such schemes present to interstate commerce, and to eliminate duplicative state inspection activities.

The Committee recommends that the states investigate the use of multistate compacts or agreements governing multi-state permit and fee systems, cooperative inspection of hazardous materials shipments, and cooperative enforcement of applicable safety regulations.

INTRODUCTION

The High-Level Radioactive Waste Committee of the Western Interstate Energy Board has been involved in a year-long cooperative project with the U.S. Department of Energy (DOE) to develop an information base on the transportation of spent nuclear fuel and high-level radioactive waste (111 W) so that western states can be constructive and informed participants in the repository program under the Nuclear Waste Policy Act (NWPA). The project, which has been conducted under contract with the Department of Finergy, also involves making recommendations regarding transportation of spent fuel and HLW. The Board is an association of sixteen western states dedicated to lostering cooperative efforts among member states and the federal government in the energy field to enhance the economy of the West and to contribute to the well-being of the region's people.

The historical safety record of transportation of HLW and spent fuel is excellent; no release of these radioactive materials has ever occurred during transportation. Projected shipments under the NWPA will, however, greatly exceed current shipments in the United States. For example, over the past five years, 119 metric tons of civilian spent fuel have been shipped in this country, while shipments to the first and second repository are each expected to peak at 3,000 metric tons per year.

The Committee believes that the successful development and operation of a national HLW/spent fuel transportation system can best be accomplished through an open process based on the common sense approach of taking all reasonable measures to minimize public risk and performing whatever actions are reasonably required to promote public acceptance.

Therefore, the Committee recommends that the Department of Finergy further the goals of the NWPA by developing a Comprehensive Transportation Plan which adopts a systematic, comprehensive, and integrated approach to resolving all spent fuel and HLW transportation issues in a timely manner. The suggested scope of such a plan is discussed in this White Paper. Many of the suggested elements of such a plan are similar to those being developed by the Department of Energy for inclusion in the Department's Transportation Institutional Plan.

1

Emergency preparedness and response. The Committee believes a major consideration under the Nuclear Waste Policy Act's repository program is the adequacy of federal, state, and local emergency response capabilities to respond to possible nuclear waste transportation accidents. The Committee urges the federal government to continue to define federal agency duties and capabilities for assisting state and local governments in responding to serious transportation accidents involving nuclear waste. The Committee further encourages the federal government to examine, in cooperation with state emergency response agencies, the potential need to expand federal emergency response training programs. DOE should also continue to work with the states to investigate and define state emergency response and training funding requirements, and to develop acceptable funding mechanisms.

Operational issues. The operational aspects of handling and transporting nuclear waste to a repository represent another area of significant interest to the Committee. Particular areas which the Committee believes ment continued examination include; the quality of driver training; the possibility of DOE working with DOT to further identify nuclear waste shipments by developing a more detailed placarding system; application of the ALARA concept (which would limit radiation exposure to levels "as low as reasonably achievable") to nuclear waste transportation to a repository; the evaluation of new real time tracking technologies and their potential application to waste transport, and the retention of current transportation safeguards to protect shipments of spent fuel from acts of sabotage (It should be noted, however, that several western states do not approve of the use of armed guards as required by present safeguard requirements)

Recommendations for State Action

While the concerns discussed above may best be dealt with at the federal level (with the cooperation of the states), there are also issues that deserve close attention at the state level. Such issues include: intrastate coordination and participation of cities, counties, interest groups, industry and Indian tribes; examination of state law to ensure sufficient compensation will be made available to the public in the event of a serious transportation accident involving nuclear material; the possible development of inspection and enforcement agreements among the states (similar to the Commercial Vehicle Safety Alliance, and tailored to special needs related to transporting nuclear waste); and the consideration of coordinated state permit systems, in order to ensure consistency among state laws and reduce burdens on interstate commerce

WHAT ARE SPENT FUEL AND HIGH-LEVEL WASTE?

Spent fuel and high-level radioactive waste (HLW) are two types of radioactive wastes that will be shipped to the repository under the NWPA (Frequently, the term "high level waste" is used to refer collectively to spent fuel and high-level waste) Spent fuel is produced by commercial nuclear power plants. HLW is produced primarily by national defense activities

Types of Radioactive Waste

Waste To Be Deposited In NWPA Repositories

Spent Fuel

- Irradiated fuel discharged from a nuclear power reactor
- Highly radioactive and very hot
- Small pellets sealed into metal fuel rods
- Produced by commercial utility power reactors

High Level Waste

- Residues from reprocessing spent fuel
- Highly radioactive
- Calcined solids and liquid or studge which would be solidified prior to transportation
- Produced primarily by defense activities

Other Types of Radioactive Waste

Transuranic Wastes

- Materials contaminated with elements heavier than uranium.
- Moderately radioactive, slow decay
- Used nuclear equipment, lillers, clean up waste
- Produced primarily by defense activities

Low Level Wastes

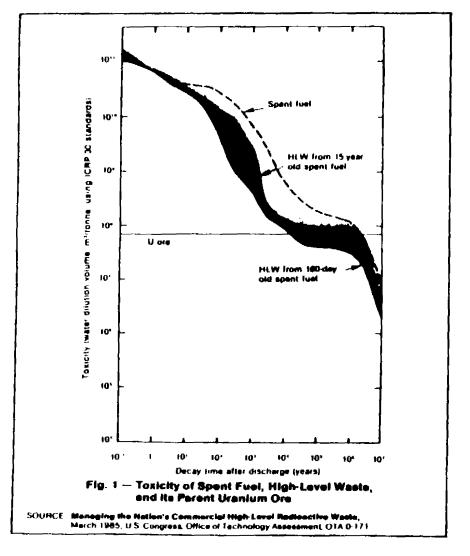
- Radioactive wastes not included in the above categories
- Typically, small amounts of radiation in a large volume of waste
- Includes contaminated rags,
 laboratory equipment, resins etc.
- Produced by commercial, industrial and medical uses and by defense activities

Tailings

- By products of uranium mining and milling
- Low concentrations of natural radioactivity
- I arge volumes of rock and soil
- Produced by commercial numing operations

Nuclear reactors are fueled by highly enriched uranium oxide formed into small ceramic pellets and typically sealed in 12 foot long metal fuel rods. After several years, the fissile uranium and transurance elements have been mostly depleted and radioactive fission products have built up within the rods, limiting their usefulness as fuel sources. When the spent fuel rods are removed from the

react by are much more radioactive than the fresh fuel rods or the uranium ore from which they were made. Figure 1, which shows the toxicity of uranium ore, spent fuel, and high-level waste, is on a logarithmic scale - each interval represents a 10 fold increase. Thus, spent fuel recently removed from a reactor is seen to be more than 1,000 times as toxic as uranium ore. Notice that the toxicity of the spent fuel declines over time after it has been removed from the reactor. This is because radioactive fission products decay by emitting radiation and eventually lose most of their radioactive properties as they become more stable.



during normal transportation stops and to evaluate any infrastructure deficiencies which should be corrected before transportation to the repository begins. The Committee also urges DOE to support reevaluation by the Department of Transportation of the need for rail routing regulations.

Casks. The Committee encourages DOE to conduct full-scale tests of shipping casks in order to test the cask and increase public confidence in the integrity of a new generation of transport casks likely to be developed under the NWPA. The western states are interested in participating with DOE in designing full scale cask tests in order to simulate accident scenarios that might be encountered along a shipping route. The Board also recommends that the Plan identify how the significant work being done for DOE by TVA and others on cask design will be integrated into transportation decisions under the NWPA.

Liability. The Price-Anderson Act currently provides extensive liability coverage for damages suffered by the public as the result of certain nuclear incidents, including those involving the transportation of nuclear materials to or from facilities covered under the Act. Congressional review of the federal regulatory scheme is to be completed by 1987, at which time the Act will expire unless reauthorized. Accordingly, DOE has an excellent opportunity to review the Act in terms of options for liability coverage for incidents involving the operation of a repository, or the transportation of nuclear waste to a repository. The Committee encourages DOE to continue to investigate appropriate liability limits, clarify the application of the Act to activities related to a monitored retrievable storage facility, define the source of coverage for federal government liability, examine whether all potential sabotage events are covered and clarify its position as to the recovery under the Act of emergency response costs incurred by state and local governments.

Inspection, enforcement, and incident reporting. The examination of an issue cannot end with the adoption of regulations. No matter how well-designed regulations may be, it is also necessary to ensure adequate implementation. In the area of nuclear waste transportation, inadequate implementation could jeopardize public safety and health. Accordingly, the Committee suggests that DOE and the states work together to examine possible shortcomings in the quality of enforcement of federal and state inspection and safety regulations, and develop methods for improving the current system of inspection, enforcement, and transportation incident reporting.

Highlights of Suggested Plan Elements

Selection and analysis of transportation modes and routes. The Committee believes that the foundation of a Comprehensive Transportation Plan must be the analysis of the mode(s) of transport (rail, barge, truck) and the routes that will be used. The Committee recognizes the difficult analytical problem in attempting to deal simultaneously with variables related to casks, modes, facility configuration and routes. The Committee supports DOE's plan to conduct route-specific analyses of nuclear waste transport by highway and rail during the site-characterization stage of the repository program. The Committee suggests that the transportation analysis at the environmental assessment stage be based on a number of route-specific factors (e.g., accident rates, stop times and emergency preparedness). At the characterization stage, the transportation analysis of route specific factors should be expanded. Such data, however, should not be so detailed that data collection becomes an end in itself, rather than a means to insure that NWPA transportation is conducted safely.

Defense high-level waste shipments. Nuclear waste related to defense and weapons production will be disposed of along with commercial nuclear waste in one repository. DOE has begun to evaluate potential impacts of transporting such waste to a repository. The Committee suggests that several issues be addressed by DOE in its evaluation, including whether classified shipments will be made to a repository, and whether defense waste shipments will be held to the same regulatory requirements as are applied to commercial waste shipments (for example, prenotification and highway routing requirements).

Routing for waste shipments and infrastructure. Regulations issued by the Department of Transportation established a "preferred" routing system for certain highway route-controlled quantities of radioactive materials, where carriers must travel using an interstate highway system or a state-designated route selected by a state routing authority. The Committee encourages the Department of Energy to participate in regional efforts of state and local governments to develop acceptable routes for transporting waste to a repository. In addition, the committee recommends that DOE formally endorse a policy under which the Department will develop a cooperative process with the Department of Transportation and the states to specify which routes are to be used by carriers of spent fuel and high-level waste destined for disposal in a repository.

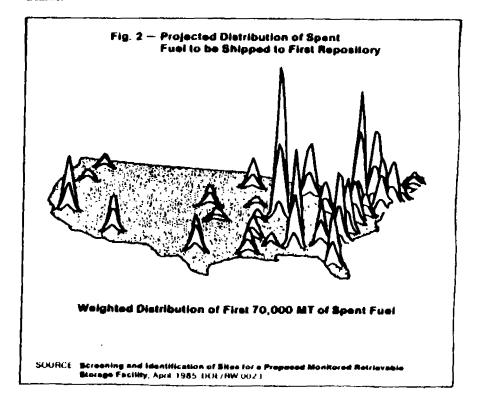
In related issues, the Committee suggests that DOE work with states to evaluate the need for "safe havens" to minimize radiological exposure

Spent fuel can be reprocessed to separate the reusable uranium and plutonium from the radioactive residues. These separated residues, which are almost as radioactive as the spent fuel, are known as high level waste. Cur rently, for economic reasons, fuel from commercial power reactors is not being reprocessed.

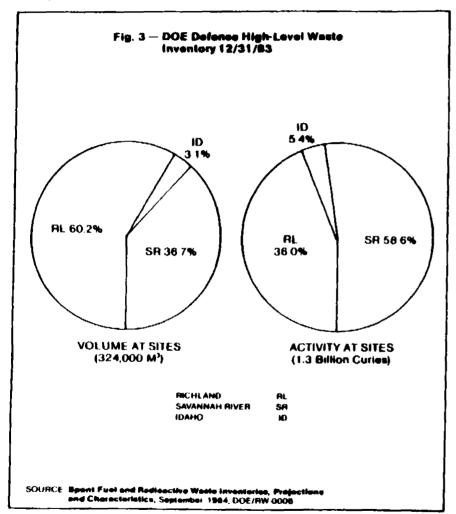
DOE provides the Department of Defense with nuclear products from its own production reactors for national defense activities. The spent fuel from reactors used to produce plutonium for weapons and to power nuclear submarines for the Navy has been routinely reprocessed for many years. Thus, these defense activities have generated and continue to generate significant amounts of HLW.

WHERE IS THE WASTE LOCATED?

Most of the existing inventory of commercial spent fuel is being stored on site at the nuclear power reactors. As shown in figure 2, most of the commercial spent fuel is located in the midwest and eastern parts of the United States.



I spent fuel and HLW have accumulated at the Idaho National Engineering Laboratory, the Hanford Site in Washington and the Savannah River Plant in South Carolina. As a result of the President's decision in April 1985 approving the commingling of defense and civilian waste, much of this material will be shipped to a repository under the NWPA. Figure 3 indicates the volume and radioactivity of defense wastes which have accumulated through 1983.



DOE's waste acceptance schedules for commercial and defense spent fuel and HLW to the first and second repositories are summarized in the following graph.

tricity who will bear most of the system's cost. Continuing careful cate review of the topics discussed below is important as the repository program develops

Following is a discussion of the elements to be included in the Comprehensive Transportation Plan.

SUGGESTED PLAN ELEMENTS

Selection and Analysis of Transportation Modes and Routes

- Selection of transportation modes
- Analysis of transportation modes and routes
- Potential models for risk analysis

Defense High-Level Waste Shipments

- · Regulation of defense waste slapments
- Volumes of defense waste to be shapped

Routing for Waste Shipments and Infrastructure

- · Route designation
- Rail routing regulation
- DOE control over routes used by carmers

Cooks

- Integration of cash-related activities into the repository program.
- Testing of a new generation of cashs

Linking

- Federal government liability
- Monitored retrievable storage
- Reimbursement for precautionary evacuation and emergency response costs
- Liability coverage for diversions and sabotage

Inspection and Enforcement and Incident Reporting

- Responsibility for the adequacy of inspection and enforcement
- Funding state and local inspection and enforcement activities.
- Transportation incident reporting

Emergency Proparedness and Response

- Federal emergency response obligations
- · Equipment needs for emergency response/cleanup
- Establishment of emergency planning parameters
- Training for emergency response personnel
- Funding for emergency response and training

Operational Invest

- Driver training
- Placarding and vehicle identification
- Transportation safeguards
- Notafication of shipments
- Application of the ALARA concept
- Special precautions for rail shipments

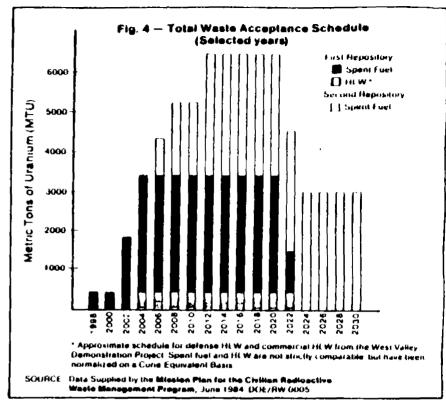
have a i.e. ther of elements and certain of these plan elements should be integral parts of the site selection process.

Other plan elements would not need to be implemented until the late 1990s, assuming repository operation begins in 1998. The identification and definition of a process for implementing such plan elements, however, is needed much sooner. The Committee believes that the identification and definition of such plan elements, including a commitment and schedule for implementation of such elements, need to be accomplished as soon as practical. It is important that the identification and definition of such plan elements be completed at the latest by the time of application for a license for a repository/MRS facility since licensing is the last significant milestone in the siting process prior to construction and operation.

Many elements of the plan, such as routing and emergency response, directly affect state responsibilities as well as federal agency responsibilities. Adequate treatment of such elements requires coordinated action by many federal, state and local government entities. Accordingly, the development and implementation of the plan must be done in close cooperation with and among all levels of government.

To achieve the needed cooperation and to maximize public acceptance, the process for developing and implementing the plan should include the active participation of all affected states, with particular emphasis on corridor states.

While the Committee recommends the development of a Comprehensive Transportation Plan by the Department of Energy to provide a framework for and to guide all transportation-related decisions and activities under the Nuclear Waste Policy Act, it recognizes that many of the elements of such a plan are currently being addressed by the Department of Energy. To assist in this process, the Committee has, therefore, developed a "Plan Outline" to structure in a comprehensive and constructive way the range of transportation issues of particular concern to the western states at this time. This approach reflects the importance the Committee attaches to coordinating the review of all transportation issues within the context of a single and comprehensive planning process. Many of the preliminary suggestions of the states contained in the "Plan Outline" are initial benchmarks based on the state of information about the NWPA program as of early 1985. Many of the suggestions are based on the insights of the members of the Committee and are not necessarily a product of definitive analysis at this early stage in the NWPA process. Nevertheless, the recommendations have been developed to assist in an on-going and cooperative process between federal and state agencies to assure that when the transportation system begins to function toward the turn of the century, it will be extremely safe and broadly acceptable to both the general and directly affected publics and not unreasonably burden the nation's consumers of nuclear generated elec-



WHERE IS THE WASTE GOING?

The Nuclear Waste Policy Act (NWPA), which became law on January 7, 1983, sets forth for the first time a comprehensive statutory framework for the siting, construction and operation of geologic repositories for the disposal of HLW and spent fuel. The law affirms the basic elements of a federal government waste program which had been taking shape for more than a decade, but which suffered numerous false starts because of a lack of specific statutory direction. The NWPA supplies such direction.

The NWPA requires DOE to nominate sites for a first and second repository and prepare environmental assessments for these sites. For each repository, three sites will be chosen by the President, based on DOE's recommendations, for more in-depth site characterization. Following characterization, DOE is to recommend, and the President is to select, a site for the repository and submit a license application to the NRC for construction of the repository. The following chart outlines the siting schedule established by the Act and the status of each required action.

Nuclear Waste Policy Act

| Action | Statutory Deadlines | Status |
|---|--|---|
| Siting Guidelines DOL proposed guidelines Approved by NRC | 7/7/83 | Completed Completed |
| NRC Technical Guidelines | 1/1/84 | Completed |
| 1 PA Standards for Offsite Releases | 1/8/84 | Expected Summer 85 |
| Mission Plan | | |
| Draft Plan | 4/6/84 | Completed |
| Linal Plan to Congress | 6/6/84 | Completed |
| Nomination of Sites | | |
| Preparation of environmental assessments (1st reposi- tory) | Prior to nomination | Drafts is- sued 12/84 Final EAs Expected 11/85 |
| DOF Secretary nominates 5 sites (1st repository) | Prior to DOE recommendation of 3 sites for characterization | |
| Site Characterization | | |
| DOI: Secretary recommends 3 sites for characterization | 1/1/85 (1st repository) 7/1/89 (2nd repository | delayed |
| President selects 1 sites | 3/1/85 (1st repository) | |
| for characterization | 9/1/89 (2nd repository) | |
| Secretary recommends site | 3/31/87 (1st repository) 3/31/90 (2nd repository) | |
| NRC decision on construction authorization | 1/1/89 or 3 years after receipt of application (1st repository) 1/1/92 or 3 years after receipt of application (2nd repository) | |
| Acceptance of waste | 1/31/98 (per contracts with utilities) | |

FINDINGS AND RECOMMENDATIONS

The High-Level Radioactive Waste Committee of the Western Interstate Energy Board (the Committee) believes that the successful development and operation of a national spent fuel and HLW transportation system can best be accomplished through an open process based on the common sense approach of taking all reasonable measures to minimize public risk and performing whatever actions are reasonably required to promote public acceptance.

Public acceptance is not an easily quantifiable factor to be used in weighing alternative solutions to a problem. Clearly, minimizing risk alone will go far toward enhancing public acceptance. However, in transportation routing, there arise questions of frequency of shipments, interference with other traffic, etc., which may be indifferent as to an increase in radiological risk but quite significant to public acceptance. Moreover, public perceptions of risk can be at odds with actual risks. In these circumstances, the Committee believes that public acceptance can best be maximized through a combination of taking all reasonable actions to minimize risk, while ensuring that the public is well-informed and participates in the decision-making process.

The Committee notes that the national high-level radioactive waste transportation system to be established under the Nuclear Waste Policy Act of 1982 will be developed over the ensuing ten to fifteen years. The Committee finds that at present many uncertainties surround the nature and integration of features of the transportation system under the NWPA, such as the impact of a Monitored Retrievable Storage (MRS) facility, cask configuration and capacities, route analysis, etc. Similarly, the timing of decisions on the various features of the transportation system has not yet been specified, although the Department of Energy is developing information to address many of these issues. The Committee believes that with appropriate planning, transportation under the NWPA can be conducted safely, with a high degree of public confidence.

The Committee recommends that the Department of Energy develop a Comprehensive Transportation Plan to provide a framework for all transportation decisions under the Nuclear Waste Policy Act. Development of a comprehensive plan is essential given the number of federal, state and local government entities involved and the extended period over which the transportation system will be developed and used. The Plan should include a schedule for the identification, definition and implementation of the various plan elements and the development of a process for corridor state participation, including coordinated state-federal route-specific analysis and planning.

The Comprehensive Transportation Plan, in the Committee's view, should

III.W was rits research and development program. Under the current system, DOE shipments are subject to some of the same requirements as the commercial shipments discussed above, but will be exempt from others. It is the objective of the DOE Office of Civilian Radioactive Waste Management to have all waste shipments to a repository subject to the same regulatory requirements.

Currently, DOE shipments are exempt from NRC's regulations for packaging and safeguards, but DOE has developed similar requirements for its shipments. In a procedural agreement with NRC, DOE has also stated its intention to use NRC-approved packaging for NWPA shipments. DOT's transportation requirements (labeling, placarding, routing, etc.) must be complied with for all DOE shipments except for those defense waste shipments which are designated as requiring protection for national security reasons. Where national security interests are involved, DOE is exempt from all of the DOT requirements. DOE has, however, adopted internal standards for national security shipments which closely parallel the DOT regulations.

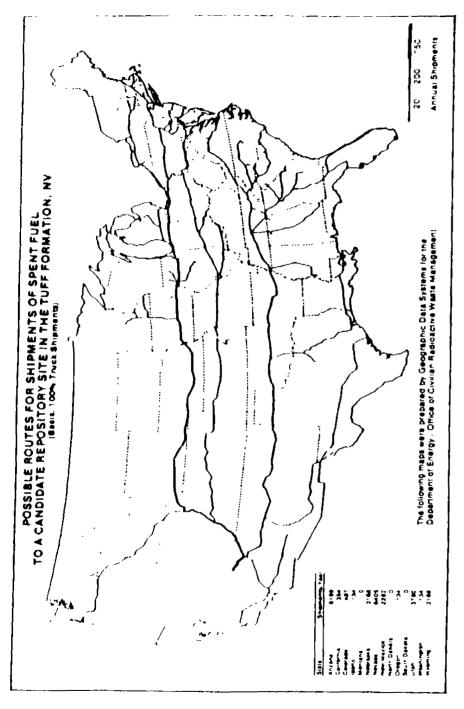
These federal regulations are designed to ensure that spent fuel and HLW are transported safely to the repository. The possibility of an accident or other emergency always exists, however. In the event of an accident, the carrier has the initial responsibility for minimizing radiological hazards to the public and for notifying state and local authorities, the shipper, the driver's own management and appropriate federal agencies. Shippers, if contacted following the incident, are required to provide any useful information they have about the shipment. State and local governments have the primary responsibility for implementing measures at the scene of the accident to protect life, property, and the environment. Federal agencies will provide technical assistance to the state and local governments upon request.

If an accident occurs en route to the repository, funds to compensate the injured public will generally be available under the federal Price-Anderson Act. The Act establishes an insurance and indemnification system which covers the liability of all persons who cause or contribute to a HLW transportation accident. The amount of money available would be \$500 million to \$640 million, depending on the nature of the facility which shipped the materials. Generally, the extent of financial liability and types of costs to be reimbursed would be determined by applicable state law.

The NWPA establishes a 1.0 mill per kilowatt hour fee, to be deposited in the Nuclear Waste Fund, on electricity generated by civilian nuclear power reactors. The Fund is to be used for the costs associated with any repository, monitored retrievable storage facility, or test and evaluation facility constructed under the Act, including the costs of transportation to such facility. The federal government is to pay a proportionate share of disposal costs associated with defense waste placed in a repository.

As part of the process for selecting the first repository, DOE is evaluating nine candidate sites in the states of Washington, Nevada, Utah, Texas, Mississippi, and Louisiana. The first repository is planned to begin operations in 1998. DOE has tentatively identified the three sites for recommendation to the President (in Washington, Nevada, and Texas) from which the final site is to be chosen following site characterization. DOE is currently conducting area screening in the north-central, northeastern, and southeastern regions of the country to identify suitable candidates for the second repository.

If one of the tentatively identified western sites (Washington or Nevada) is chosen for the first repository, a significant amount of waste will be transported through the western states. The following maps illustrate possible highway and rail routes for shipments to a repository in Washington or Nevada. The inserts show the predicted number of shipments through each of the western states for the transportation mode and repository location depicted in the map. Numbers are based on current cask capacities; fewer shipments would be required if future casks have larger capacities. The shipment numbers are not cumulative because each shipment is counted in each state through which it will travel. Rail shipments refer to numbers of cars shipped, fewer shipments would be required if several carloads were shipped on a single train.



The above tests are not required to be performed on an accordingly lost for NRC licensing. Instead, the ability of a cask to withstand the tests can be evaluated by subjecting a scale model of the cask to actual testing or by substituting an engineering analysis and computer simulation for actual testing.

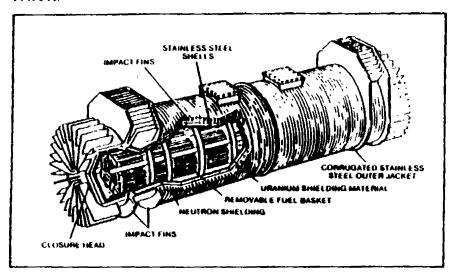
While commercial spent fuel and III.W are being transported, shippers and carriers must comply with the regulations established by the NRC and DOT. The NRC's safeguard regulations for spent fuel shipments, designed to protect shipments from sabotage, currently require the use of a physical protection system. The basic elements of the system are prenotification to NRC and the states of upcoming shipments, procedures for handling acts of sabotage, a communications center to monitor the shipment's progress and report emergencies, advance approval by NRC of the routes to be used, arrangements with local law enforcement agencies along the route, use of escorts (armed escorts in heavily populated areas), and avoiding intermediate stops where practicable. The NRC also establishes lifting and tie-down standards for casks.

Shippers and carriers of spent fuel and HLW must also comply with DOT's shipping requirements. Some of the DOT regulations are designed to ensure that people coming in contact with the shipments are aware of the radioactive nature of the vehicle's contents. Thus, packages must be labeled and vehicles placarded with the standardized labels and placards which identify radioactive materials, and the shipping papers carried by the carrier must describe the contents in more detail. DOT also regulates the handling (loading, unloading and arrangement of packages) of HLW during transportation. The handling regulations also establish the maximum amount of radiation which may be emitted from the packages during transportation. Drivers of motor vehicles used to transport spent fuel and HLW must meet the DOT requirements for qualifications and training.

DOT has also developed routing requirements which ahippers and carriers must comply with in selecting the routes for individual shipments by highway. (No rail routing requirements exist at the federal level.) Shipments of highway route controlled quantities of radioactive materials must be along the "preferred routes," which are the interstate highways (by-passes and beltways around cities are to be used when available) or a state-designated route selected by a state routing agency using a routing analysis which adequately considers overall risk to the public.

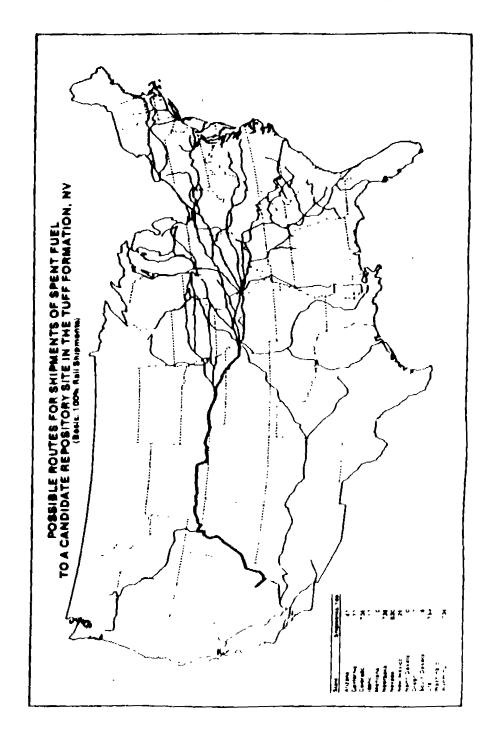
The above discussion applies to commercial shipments of spent fuel and HLW. Significant amounts of spent fuel and HLW, however, have been generated by atomic energy defense activities. As discussed previously, DOE is responsible for the nuclear defense wastes, which will be commingled with commercial wastes in a repository. DOE also ships civilian spent fuel and

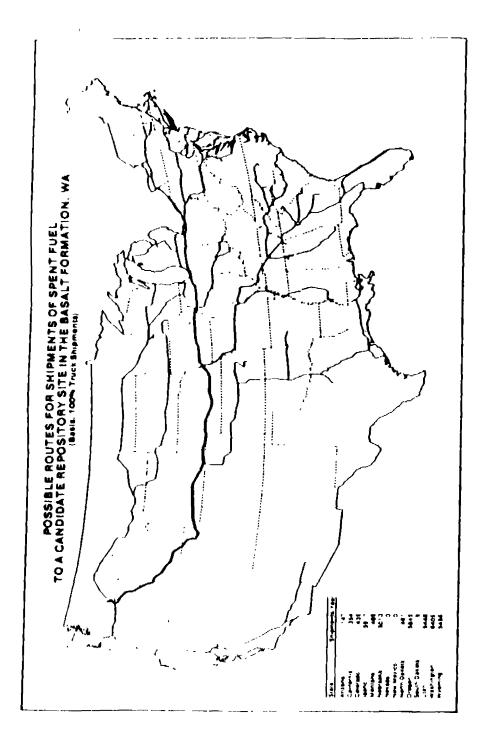
NRC-approved casks for shipments from NRC licensed facilities to the repository, MRS or federal interim storage facility, unless such packaging is unavailable or would not allow DOE to accomplish its mandate under the NWPA.



The NRC cask standards require shipping casks to be designed so as to prevent the loss or dispersal of the radioactive contents, provide for adequate shielding and heat dissipation and prevent "nuclear criticality" (the critical point at which a spontaneous nuclear reaction occurs) under both normal and accident conditions of transportation. The normal transportation conditions which a cask must withstand are related to heat, pressure differential, vibration, water spray, impact, compression and penetration.

Hypothetical accident conditions which the casks must withstand, without losing their contents or emitting unacceptable levels of radiation, are simulated by subjecting the casks to a series of four tests. The free drop test drops the cask 9 meters (30 feet) on to an essentially unyielding surface. This test is more stringent than it appears because the obstacles faced by a shipping cask during transportation are not unyielding. The transport vehicle, other vehicles, bridge abutments, water, and even the earth, will yield upon impact, thus absorbing much of the energy of the accident. The second accident test is a puncture test in which the cask is dropped 1 meter (40 inches) onto a 15 cm (6 inch) diameter vertical steel bar. The thermal test exposes the cask to heat of 800 degree Celsius (1475 degrees Fahrenheit) for at least 30 minutes. Finally, the cask must survive immersion in 0.9 m (3 feet) of water for eight hours. The cask must also pass a fifth test (which is not part of the above series) in which the cask is immersed in 15 m (50 feet) of water for eight hours.





HOW ARE WASTE SHIPMENTS REGULA ... D7

Numerous federal agencies will be involved in the transportation of spent-fuel and high-level waste to the repository. However, the major roles, as shown in the following box, will be played by DOE as the shipper, and by the Nuclear Regulatory Commission (NRC), the Department of Transportation (DOT) and the Interstate Commerce Commission (ICC), as regulatory agencies, and by the Federal Emergency Management Agency (FEMA).

Federal Responsibilities for Commercial Spent Fuel/HLW Transportation

DOE

- Take title to the spent fuel at the reactor
- Provide casks for waste transport
- Make all shipping arrangements
- Collect disposal fees from the waste owners and generators
- Regulate DOE's transportation contractors
- Assist state and local governments in responding to transportation emergencies.
 Spinish emergency response training.

NRC

- Establish shipping cask requirements
- l icense casks
- I stablish lifting and tie down standards for packages
- Establish saleguard requirements to prevent sabotage of shipments
- Approve shipment routes for spent fuel
- Require advance notification to states of shipments

DOT

- Regulate carriers of radioactive materials
- Regulate the conditions of transportation—e.g., routing, handling and storage, vehicle requirements, driving and parking, driver qualifications
- Establish requirements for labeling packages and placarding vehicles

FEMA

- · Assist federal and state agencies in developing emergency response plans
- Coordinate federal agencies' emergency response in the event of an accident

ICC

Regulate economic aspects of transportation

The spent fuel is presently transported in shipping casks similar to the cask pictured below. A new generation of transportation casks will likely be developed to transport spent fuel and HLW under the NWPA. DOE has primary responsibility for the design, development, and testing of the casks to be used in shipments to the repository or an MRS facility. In a Procedural Agreement between the NRC and DOE, however, DOE expressed its intention to use

Since enactment of the NWPA, the Department of Energy has generated a series of documents affecting transportation decisions under the Act. Following is a description of the most significant documents.

DOE Transportation Documents

Required by NWPA

Siting Guidelines (10 CFR 960)

The Guidelines are required by the NWPA to guide DOE efforts to select aites for the first and second round repositories. The Guidelines, which include transportation considerations, were approved by the NRC in June 1984 and are currently the subject of litigation by several states and environmental groups

Mission Plan

The Act requires DOE to prepare a Mission Plan" which shall provide an informational basis sufficient to permit informed decisions" under the NWPA. A draft Mission Plan was issued in April 1984, a plan was issued in June 1985. The plan is expected to be subject to regular review and revision as the repusitory program progresses.

Environmental Assessments

Finvironmental Assessments of sites being considered for characterization are required to be prepared under the NWPA DOE issued draft EAs on the nine potential first round sites in Documber 1984. Final EAs are expected in November 1985 after which the President will select the three sites to be characterized. The draft EAs delineate how the transportation factors were evaluated in selecting the three sites to be characterized.

Other Transportation Documents

Transportation Discussion Papers

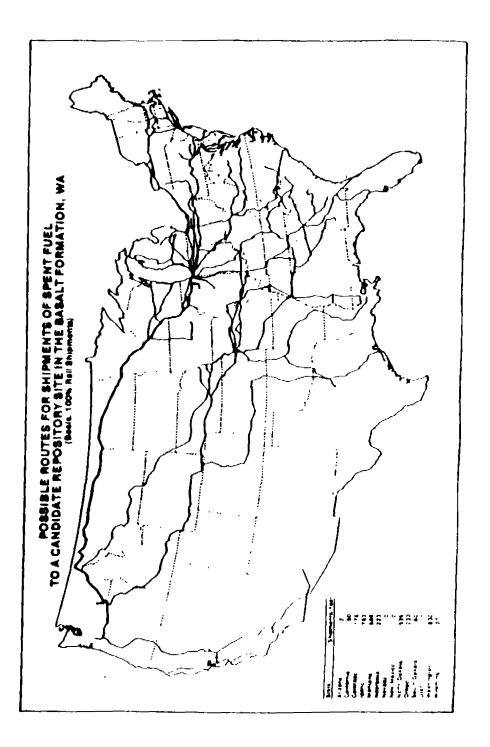
Beginning in September 1984, DOE decided to develop a series of Transportation Discussion Papers to outline the Department's views on a number of issues First drafts of papers on routing, pre-notification, liability, amergency response, overweight trucks, taspaction and enforcement/highway, inspection and enforcement/rail, andiguards, and antety assurances in cash development and testing have been prepared. The Board's HLW Committee has recommended expansion of three papers and development of several additional papers DOE is currently working to expand the papers.

Transportation Business Plan

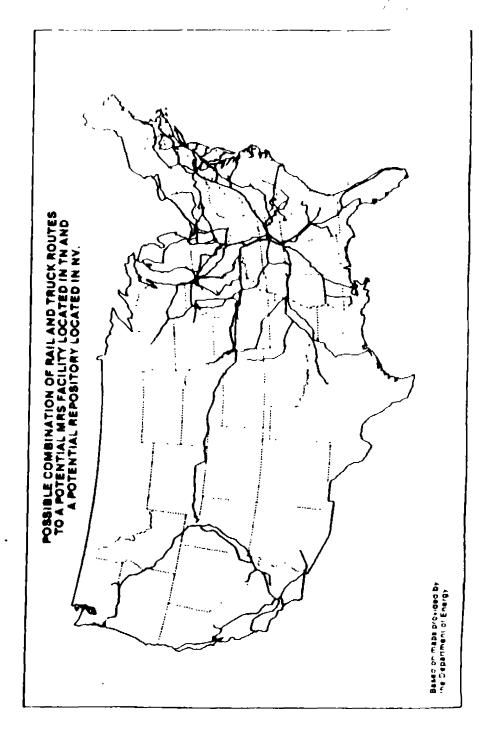
In December 1984, DOE released an interim Transportation Business Plan: Strategies Options Document. The document outlines the plans and business strategies for developing and operating the transportation system (e.g. cash engineering, procurement, maintenance, etc.) needed to move spant finel and HLW under the Act

Transportation Sectionist Plan

This plan for DOE interaction with various groups on transportation issues is being prepared by the Department, a draft plan is expected in the Fall of 1985. The plan will include expanded discussion papers on individual transportation issues.



is required under the NWPA to investigate the concept of a monitored retrievable storage (MRS) facility. Such a facility, as currently envisioned by DOF, would be located in Lennessee where it would serve as a receiving, packaging and handling facility for spent fuel shipments from utilities in the eastern half of the United States. The MRS could repackage the spent fuel and consolidate many smaller shipments for ultimate shipment to the repository, possibly by truck convoy or unit train, thus decreasing the total number of shipments to the repository. The following map shows one possible set of highway and rail routes from eastern reactors to an MRS facility in Lennessee, rail transport from the MRS to the candidate repository site in Nevada and highway and rail routes from western reactors directly to the repository.



Intrastate Coordination

All states must recognize their responsibility to provide for full participation in NWPA planning among affected interests in the state. These include cities, counties, interest groups, industry, and interested Indian tribes. The Oregon experience, for instance, involves an internal task force with a geographically representative membership from those interests mentioned above. This task force serves to coordinate the concerns and interests of its members into a comprehensive state-wide review of plan elements and will serve as a forum for the state's participation in route-specific analyses with the Department of Energy and the Department of Transportation. Most of this work will be performed at the site characterization stage.

Price Anderson Act

State law plays a vital role in determining how people injured in nuclear material transportation accidents will be compensated for personal injury and property damages. The Price-Anderson Act establishes the method for paying for damages suffered by the public as the result of a nuclear incident. In the absence of an "Extraordinary Nuclear Occurence," state law governs with respect to standards of liability, calculations of damages, methods of proof, and statutes of limitations. The Committee therefore urges the western states to examine their own laws to ensure that their citizens receive sufficient compensation in the event they are damaged by a nuclear materials accident.

Many states have restricted statutes of limitations; injured parties must file suit within a certain number of years after the date of an accident. Since the effects of exposure to radioactive material are often not evident for many years after a nuclear incident, restricted statutes of limitations may prevent recovery for such damages. States may not have taken action to apply a standard of strict liability in the event of a nuclear incident and instead require proof of negligence, which may be difficult to prove for nuclear material transportation accidents. Injured persons also may have difficulty in proving that their illnesses were caused by exposure to radiation under traditional rules of causation. Finally, in the absence of a state's waiver of its immunity, the state is not liable. Thus, the Price-Anderson Act will not provide coverage for the portion of damages attributed to the state's role in causing or contributing to a nuclear incident.

The Committee recommends that states review these aspects of their laws and consider changing them as they apply to nuclear materials transportation accidents.

The Committee also recommends that states consider amending state law to define certain unique costs associated with responding to transportation

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STEPHEN T. BRADHURST 2140 Riviera Street Reno, NV 89509 (702) 323-4141 (office) (702) 323-6706 (home)

SUMMARY OF SKILLS: Provide program management and coordination services; current and advance planning services; impact assessment, mitigation and monitoring services; and intergovernmental coordination services to both the public and private sector.

PROFESSIONAL EXPERIENCE: Since 1982

<u>President</u>, Allen-Bradhurst Corporation, Reno, NV. Responsible for overall day-to-day operation of corporation and provision of professional services to clients. Representative assignments:

- --Provide Nye County, NV, program management, coordination, and impact assessment services relative to the proposed U.S. Department of Energy Yucca Mountain High-Level Radioactive Waste Repository;
- --Provide local governments current and advance planning services;
- --Develop land development plans for commercial, industrial, and residential projects;
- --Prepare discussion papers on proposed legislation (federal and state) and numerous issues (economy, defense, use of public land, etc.) for federal, state, and local elected officials;
- --Provide expert testimony before Congress and Nevada Legislature on issues relative to the nuclear waste repository program, economic development, allocation of federal oil and gas rental and royalty revenue, etc.
- --Prepare environmental impact assessment reports for mining companies and U.S. Forest Service.

1981-1982

Director and Member of Governor's Cabinet, State of Nevada Department of MX Assessment and Planning, Carson City, NV. Had overall responsibility for the State of Nevada assessment of positive and negative impacts of proposed MX missile project, and preparation of specific plans to minimize adverse impacts and maximize positive impacts. Administered Department of MX Assessment and Planning. Representative assignments:

- --Prepared MX assessment plan for all 32 state agencies and directed its implementation;
- -- Developed federal and state legislation in response to impacts;
- --Served as Governor's principal spokesman on MX matters;
- --Was State of Nevada representative on Congressional and federal MX-related committees;
- --Assisted state agencies in developing specific plans to address MX impacts;
- --Administered \$1.5 million MX-related federal grants to Nevada;
- --Directed state's assessment of MX Environmental Impact Statement;
- --Developed plans to help Nevada firms secure MX-related business and encourage new firms to locate in Nevada;
- --Developed job-training programs to help Nevadans secure MX--related jobs.

Director, Special MX Assessment and Planning Consultant Team,
Governor's Office, State of Nevada, Carson City, NV. Was special
consultant to Governor; selected and directed seven members of consultant team. Had same duties listed above.

1979-1980

Assistant Director, Regional Planning Commission (RPC) of Reno,
Sparks, and Washoe County, NV. Developed and implemented current
planning work program; supervised staff of ten. Representative
assignments:

- --Developed, recommended, and implemented local government development review and permit ordinances;
- -- Served as RPC spokesman before local government bodies;
- --Represented RPC on state, bi-state, and federal boards and commissions.
- 1978-1979 <u>President</u>, Bradhurst Corporation, Fayetteville, AR. Oversaw dayto-day operation of corporation; provided technical services. Representative assignments:
 - --Prepared four-state market analysis for firms desiring to locate in the Ozarks;
 - -- Conducted special census for the U.S. Bureau of Census.
- 1973-1978

 Associate Planner, Regional Planning Commission (RPC) of Reno,
 Sparks, and Washoe County, NV. Representative assignments:
 - --Prepared comprehensive land development plans for local governments;
 - --Prepared technical reports (land use and demographic characteristics, population estimates and forecasts, regional information system applications and feasibility, etc.);
 - --Presented RPC plans and reports to governing bodies and public;
 - -- Served on state, bi-state, and federal boards and committees.
- 1970-1973 <u>Teaching Fellow and Research Assistant</u>, University of Nevada, Reno. Taught undergraduate courses in geography and geology, worked in seismology lab, set up seismology field stations.
- 1967-1970 <u>High School Teacher and Coach</u>, Fairfax County School District, VA. Taught math and geography, coached men's basketball.

OTHER Peace Corps Volunteer, Western Samoa

EXPERIENCE: Mailroom clerk, U.S. News & World Report Magazine

1961-1967 Propellant handler and air conditioning mechanic, U.S. Navy

Mail carrier, U.S. Post Office.

EDUCATION: M.S., Geology, Mackay School of Mines, University of Nevada, Reno, 1973. Extensive course work in geophysics, geology, and geography.

B.A., Geography/Planning, George Washington University, Washington, DC. Extensive course work in physical geography, economic geography, city and regional planning; minored in mathematics.

HONORS AND AWARDS:

Member of the U.S. Department of Energy Nuclear Waste Repository Institutional Socioeconomic Coordinating Group, 1985 to present

Member of the State of Nevada/Local Governments Nuclear Waste Repository Planning Group, 1984 to present

Distinguished Alumnus, University of Nevada, Reno, 1982

Member of U.S. Congress Office of Technology Assessment MX Missile Basing Advisory Panel, Washington, DC, 1981

Member of President Reagan's Advisory Committee on Community Impact Assistance, Washington, DC

Member of Nevada MX Project Intergovernmental Working Group, Carson City, NV, 1980-1981

Member of Tahoe Regional Planning Agency Advisory Planning Commission, South Lake Tahoe, CA.

Letter for Varsity Crew, George Washington University, Washington, DC, 1965.

PUBLICATIONS: Nevada Hydrographic Regions and Population Distribution, 1973, a map published by the State of Nevada illustrating population distribution by hydrographic region.

> Nevada Population Distribution: 1970, 1972, master's thesis focusing on a new mapping technique that dramatically illustrates Nevada's population in great detail.

PERSONAL

Born July 12, 1943

INFORMATION:

Married (wife, Margaret, a registered nurse; two daughters, Megan and Mandy)

6'4"; 200 lbs; health good

Sports: Sailing, camping, hiking, swimming

Hobbies: Photography, travel, Pacific Basin history.

REFERENCES AVAILABLE UPON REQUEST

Community Impact Assistance Study



Report Prepared By:

Intergovernmental/Interagency Task Force on Community Impact Assistance President's Economic Adjustment Committee

JULY 1981

EXHIBIT N

FOREWORD

The Final Report on Community Impact Assistance for Defense Growth Areas is being submitted in accordance with Section 803 of the FY 1981 Military Construction Authorization Act (P.L. 96-418). This Report was prepared by the Intergovernmental/Interagency Task Force on Community Impact Assistance of the President's Economic Adjustment Committee. The Final Report reflects the additional indepth analyses on the ability of individual communities to absorb growth and to provide adequate municipal facilities and services which could not be completed in time for the Preliminary Report forwarded by the President to Congress on March 23, 1981. The Final Report also includes one additional alternative budgeting and organizational approach for impact assistance that assures direct community support for the expansion of new, major military bases while providing optimum flexibility to local-state officials. The Report also reflects the new Administration's initiatives and domestic agency program changes as submitted by the President on March 10, 1981.

In forwarding the Preliminary Report to the Congress on March 23, 1981, President Reagan deferred offering any recommendations on organizational budgeting approaches to community impact assistance until the submission of the Final Report. The President's memorandum (Appendix A), however, offered several specific comments and judgements which are incorporated in this Final Report:

- * "The study's initial findings suggest that the near-term local economic benefits of a major new military base may not be sufficient to offset the cost of required additional community facilities and services, and that special Federal assistance to affected States may sometimes be justified.
- * "At the same time, States and localities should be expected to meet their share of community facility and service costs in Defense growth areas.
- * "As a general proposition, therefore, any special Federal community assistance should be limited to the minimum level required to mitigate the adverse effects of extraordinary growth directly resulting from major new bases.
- * "In addition, I would oppose any such assistance taking the form of Federal guarantees of State or municipal indebtedness where the interest is not subject to Federal income tax."

FINDINGS

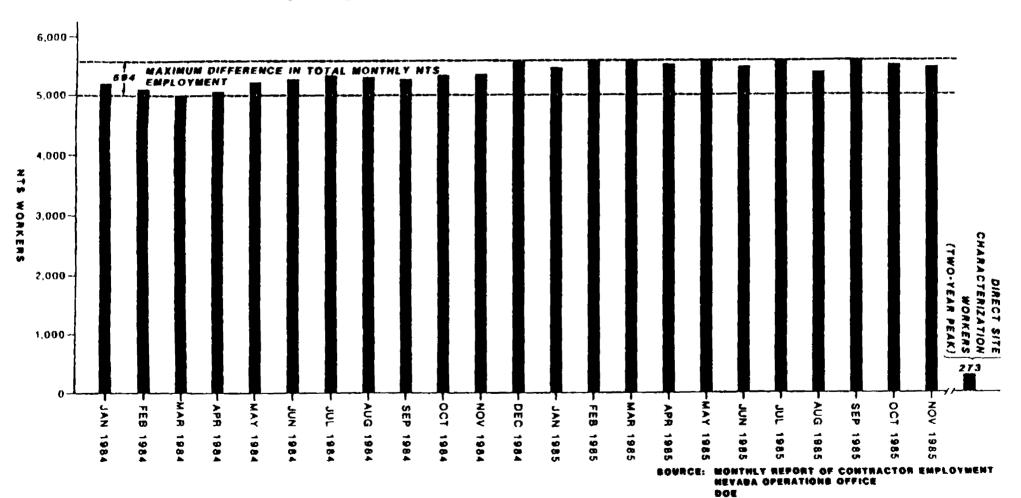
This Final Report on Community Impact Assistance for Defense Growth Areas is submitted in accordance with Section 803 of the FY 1981 Military Construction Authorization Act (P.L. 96-418). The following findings are for the purpose of determining the most effective and practicable means of promptly mitigating the adverse impact on communities from major, new military facilities:

- 1. The history of impact assistance since World War II indicates that communities and states seriously affected by extraordinary Defense growth have not been required to bear the full burden of municipal facility and service costs associated with the establishment of major, new Defense bases. Supplemental federal assistance has been available as the prevailing norm to assist Defense growth-impacted areas.
- 2. The local economic stimulus from military bases (in contrast with DoD industrial activities) is lower in general than from other private sector activities as a result of: (a) lack of normal inter-industry relationships between the base and regional industry; (b) the base itself providing a large portion of the secondary employees in the local economy; and (c) the generally lower wage scale for military personnel in comparison with prevailing local wages. Given the lack of local-state taxing authority on military base facilities and on commissary-post exchange sales, the economic incentives and tax revenues derived from a major, new military base often are not sufficient to meet the early up-front requirements for public infrastructure and may not be sufficient even to meet the full annual incremental operating costs required to support the new military base activities.
- 3. Local and state resources and normal Federal domestic agency assistance should be used to provide public facilities and services supporting nearby military bases and Defense activities in all but those rare and exceptional circumstances where the sudden population influx and the resulting demand for public services and facilities from a major new military base could overwhelm local-state fiscal capacities and impede the Defense expansion and critical national security objectives. In these rare and exceptional circumstances, the Department of Defense should be prepared to provide initial supplemental or special assistance until local and state budgets and normal Federal domestic agency assistance can adequately address the problems associated with the growth.

 most server and the growth impact problems are most server and the growth impact problems are most server and the growth on comindexe experience suggests that the growth impact problems are the percent or more. The effects of rapid population growth on communities with populations ranging from 5,000 to 200,000 persons can also be serious. Larger communities generally are able to attract the regional economic stimulus from new Defense base activities and are far better prepared to accommodate the demands for additional public services. Special Federal assistance should only be warranted in those unusual circumstances where the lack of adequate public facilities would otherwise impede critical national security objectives and the net fiscal impact of a major, new military base would cause serious growth-related problems. The need for special inpact assistance must be evaluated on a case by case basis.

TOTAL MONTHLY EMPLOYMENT AT NTS (1984 - 1985)

COMPARED WITH PEAK DIRECT SITE CHARACTERIZATION WORKERS



Public Law 97-425 97th Congress

An Act

To provide for the development of repositories for the disposal of high-level radioso-tive waste and spent nuclear fuel, to establish a program of research, development, and demonstration regarding the disposal of high-level radioactive waste and spent nuclear fuel, and for other purposes.

Jan. 7, 1963 (H.R 1800)

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

Nuclear Waste Policy Act of 1982 42 USC 10101

note

SHOET TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Nuclear Waste Policy Act of 1982".

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- Sec. 113. Site characterisation
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ment of reasons explaining why such Governor or legislature disapproved the recommended repository site involved.

(3) The authority of the Governor or legislature of each State under this subsection shall not be applicable with respect to any site located on a reservation.

(c) PRIANCIAL ASSESSMENT.—(1)(A) The Secretary shall make grants in sich State nothing under subsection (a) for the purpose of participating in activities required by sections 116 and 117 or authorized by written agreement entered into pursuant to subsection 117(c). Any salary or travel expense that would ordinarily be incurred by such State, or by any political subdivision of such State, may not be considered eligible for funding under this paragraph.

(B) The Secretary shall make grants to each State in which a candidate site for a repository is approved under section 112(c). Such grants may be made to each such State only for purposes of enabling

such State

(i) to review activities taken under this subtitle with respect to such site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of such repository on the State and its residents;

(ii) to develop a request for impact assistance under para-

graph (2);

(iii) to engage in any monitoring, testing, or evaluation activities with respect to site characterization programs with regard to such site;

(iv) to provide information to its residents regarding any activities of such State, the Secretary, or the Commission with respect to such site; and

(v) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken under this subtitle with respect to such site.

(C) Any salary or travel expense that would ordinarily be incurred

by such State, or by any political subdivision of such State, may not be considered eligible for funding under this paragraph.

(2)(A) The Secretary shell provide financial and technical ansistance to the first requirement out to which there is a site with respect to which the Commission has authorized construction of a repasitory. Such assistance shall be designed to mitigate the impact on such State of the development of such repository. Such assistance to such State shall commence within 6 months following the granting by the Commission of a construction authorization for such repository and following the initiation of construction activities at such site.

(B) Any State desiring assistance under this paragraph shall prepare and submit to the Secretary a report on any economic, social, public health and safety, and environmental impacts that are likely as a result of the development of a repository at a site in such State. Such report shall be submitted to the Secretary following the completion of site characterization activities at such site and before the recommendation of such site to the President by the Secretary for application for a construction authorization for a repository. As soon as practicable following the granting of a construction authorization for such repository, the Secretary shall seek to enter into a binding agreement with the State involved setting forth the amount of assistance to be provided to such State under this paragraph and the procedures to be followed in providing such assistance.

96 STAT, 2222

unions shall also great to each State and walk of greaters work in which a site for a repository is approved under (A) The Res section 112(c) an amount each fiscal year equal to the amount such State and unit of general local government, respectively, would receive were they authorized to tax site characterization activities at such site, and the development and operation of such repository, as such State and unit of general local government tax the other real property and industrial activities occurring within such State and unit of general local government. Such grants shall continue until such time as all such activities, development, and operation are terminated at such site.

(4)(A) A State may not receive any grant under paragraph (1) after the expiration of the 1-year period following—

(i) the date on which the Secretary notifies the Governor and legislature of the State involved of the termination of site characterization activities at the candidate site involved in such State:

(ii) the date on which the site in such State is disapproved

under section 115, or

(iii) the date on which the Commission disapproves an application for a construction authorization for a repository at such site:

whichever occurs first, unless there is another candidate site in the State approved under section 112(c) with respect to which the actions described in clauses (i), (ii), and (iii) have not been taken.

(B) A State may not receive any further assistance under paragraph (2) with respect to a site if repository construction activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

(C) At the end of the 2-year period beginning on the effective date of any license to receive and possess for a repository in a State, no Federal funds shall be made available to such State under paragraph (1) or (2), except for-

(i) such funds as may be necessary to support State activities related to any other repository located in, or proposed to be located in, such State, and for which a license to receive and possess has not been in effect for more than 1 year; and

(ii) such funds as may be necessary to support State activities pursuant to agreements or contracts for impact assistance en-tered into, under paragraph (2), by such State with the Secre-tary during such 2-year period.

(5) Financial assistance authorised in this subsection shall be made out of amounts held in the Nuclear Waste Fund established in

section 302

(d) Applitional Notification and Consultation.—Whenever the Secretary is required under any provision of this Act to notify or consult with the governing body of an affected Indian tribe where a site is located, the Secretary shall also notify or consult with, as the case may be, the Governor of the State in which such reservation is located.

CONSULTATION WITH STATES AND AFFECTED INDIAN TRIBES

42 USC 10137. SEC. 117. (a) Provision of Information.—(1) The Secretary, the Commission, and other agencies involved in the construction, operation, or regulation of any aspect of a repository in a State shall provide to the Governor and legislature of such State, and to the

Granta. imitations

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Post, p. 2257

Funding Implations

NYE COUNTY HIGH-LEVEL RADIOACTIVE WASTE/
SPENT NUCLEAR FUEL REPOSITORY ASSESSMENT AND
PLANNING TECHNICAL ASSISTANCE GRANT
MARCH 1, 1985, TO JUNE 30, 1986

FIFTH QUARTER PROGRESS REPORT:

March 1, 1986, to June 30, 1986

Prepared for:

STATE OF NEVADA NUCLEAR WASTE PROJECT OFFICE Capitol Complex Carson City, NV 89710

By the:

P. O. Box 153
Tonopah, NV 89049

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I. INTRODUCTION

The safe disposal of spent nuclear fuel and high-level radioactive waste has been a matter of national concern since the first nuclear power plant generated its first kilowatt-hour in 1957. Since then, electric utilities have accumulated over 9,000 metric tons of spent nuclear fuel. It is estimated by the year 2000 that civilian nuclear power plants will have a total spent-fuel inventory of 50,000 metric tons. Spent nuclear fuel and high-level radioactive waste must be isolated from the biosphere for an extended period of time (in excess of 10,000 years) to protect man and his environment.

The federal government assumed control over all fissionable materials and related facilities under the Atomic Energy Act of 1946. The Atomic Energy Act of 1954 opened nuclear energy to public development, but retained, via license requirements, federal control on the possession and transfer of nuclear materials. In 1959, the 1954 Atomic Energy Act was amended to prohibit the federal government from delegating regulatory authority over the disposal of spent nuclear fuel and high-level radioactive waste to the states.

During the last two decades, the federal government conducted an active research, development, and demonstration program designed to resolve the many technical and institutional problems inherent in the safe disposal of nuclear waste. A product of this effort was the April 1981 Department of Energy report formally selecting mined geologic repositories as the preferred means for the disposal of nuclear waste. Another product of this effort was the enactment of the Nuclear Waste Policy Act of 1982. President Reagan signed Public Law 97-425, the "Nuclear Waste Policy Act of 1982," on January 7, 1983. This Act establishes a comprehensive framework for the financing, siting, licensing, operation, and closure of a permanent repository for the nation's civilian spent nuclear fuel and high-level radioactive waste. The Act sets forth a precise and complex schedule of tasks that must be followed in order that the federal government will be able to accept civilian radioactive waste and spent nuclear fuel for disposal in the ground beginning January 31, 1998. The Act also contains the following provisions:

- --It assigns responsibility for the full payment of disposal costs to those who are responsible for the generation of high-level radioactive waste and spent nuclear fuel.
- --It establishes a federal responsibility for the disposal of high-level radioactive waste and spent nuclear fuel.

--It commits the federal government to provide affected states, Indian tribes, and the public assistance in areas such as access to information, impact assessment, impact planning, financial assistance (including impact mitigation), and technical assistance.

Since 1977 the federal government has conducted extensive site characterization studies in Nye County to determine if the Department of Energy Nevada Test Site and the U.S. Air Force Nellis Gunnery Range have favorable conditions for a geologic repository. The results of this effort indicate an area in the southwest quadrant of the Nevada Test Site may have the requisite geotechnical conditions for storing nuclear waste in the ground. This area is referred to as Yucca Mountain, and it is located in south-central Nye County (approximately 100 miles north of Las Vegas).

On February 2, 1983, the State of Nevada was officially informed by the Secretary of the U.S. Department of Energy that Yucca Mountain is a potentially acceptable site for further evaluation as a nuclear waste repository. On December 20, 1984, the U.S. Department of Energy released environmental assessment reports on the nine potentially acceptable sites, and the reports nominated five sites as suitable for site These reports stated the Yucca Mountain characterization. site, the Deaf Smith County site (West Texas), and the Hanford site (southeast Washington State) are the preferred sites for characterization (a formal information-gathering process that will include drilling and underground experiments and studies over a five-to-seven-year period). And, on May 27, 1986, the Secretary of Energy, as required by the Nuclear Waste Policy Act, nominated five sites in Mississippi, Nevada, Texas, Utah, and Washington as suitable for characterization and recommended to the President that three of these sites -- the Yucca Mountain site in Nevada, the Deaf Smith County site in Texas, and the Hanford site in Washington--be characterized as candidate sites for the first repository. The Secretary's recommendation was approved by the President on May 28, 1986. Also, at that time the Secretary made the preliminary determination that the recommended sites are suitable for development as repositories.

Since first being informed of the possibility of a high-level radioactive waste repository in Nye County, the Nye County Board of County Commissioners has been an active participant in the federal High-Level Radioactive Waste/Spent Nuclear Fuel Repository Program. The County Commissioners have as their primary responsibility the protection and enhancement of the health, safety, and well-being of County residents, and the protection and enhancement of the County's natural resources. That responsibility mandates Nye County be an active and full partner with the State and the federal government in (1) assessing the repository-related impacts (positive and negative), (2) planning for the adverse and positive impacts, and

(3) mitigating the adverse impacts and maximizing the positive impacts.

Unfortunately, Nye County, like other rural Nevada local governments, did not have the requisite expertise and financial resources to adequately address the federal nuclear waste repository program. Nye County's limited resources were, and are, focused on implementing programs (many mandated by state or federal law) that help the County address its aforementioned primary responsibilities. Nye County decided during the summer of 1983 to secure professional assistance to (1) interface with the federal and state nuclear waste repository planners, program managers and technical staffers; (2) assess repository-related impacts; and (3) prepare the requisite contingency plans. In early 1984 the County prepared a grant request (Nye County High-Level Radioactive Waste Repository Assessment and Planning Technical Assistance Grant: October 1983 to February 1985) for federal financial assistance pursuant to Section 116(c) of Public Law 97-425 (Nuclear Waste Policy Act of 1982) and submitted the grant request to the State of Nevada. This request was not submitted to DOE since DOE decided to provide Section 116(c) funds to the State, and the State was given the responsibility of allocating federal nuclear waste repository funds to deserving local governments. On March 1, 1984, the State of Nevada approved Nye County's grant request, and on June 11, 1984, Nye County received the grant funds (\$131,000).

II. SUMMARY OF THE NYE COUNTY OCTOBER 1983-FEBRUARY 1985
HIGH-LEVEL RADIOACTIVE WASTE REPOSITORY ASSESSMENT AND
PLANNING TECHNICAL ASSISTANCE GRANT ACTIVITIES.

1. Program Management

The County's October 1983-February 1985 technical assistance grant contained three goals: program management, coordination, and impact assessment/planning. The program management goal focused on the County's need to have a nuclear waste repository program that would be effective and efficient in addressing all aspects of the repository program. To help accomplish this goal the County secured professional assistance during the summer of 1983. The consultant hired to address the repository program was also asked to direct the County's planning department. Therefore, the Nye County Department of Planning implemented the County's nuclear waste repository program, and the Nye County Board of County Commissioners provided policy guidance. During the grant period, program management practices (personnel, budget, travel, reports, etc.) were instituted. Also, during the grant period the grant work program was refined and the follow-on grant work program was developed. The State of Nevada approved the follow-on grant request in early 1985.

Coordination

During the grant period Nye County gave the coordination goal top priority. Coordination and cooperation among the involved public entities (State of Nevada, Nevada's local governments, Nevada Legislature, other states and their local governments, U.S. Congress and the federal government) was, and is, a necessity in order to properly address the complex and dynamic (changing) repository program. A manifestation of this goal was the creation of the State/Local Government Nuclear Waste Repository Technical Advisory Committee. This Committee met a number of times during the grant period and focused on repository planning issues that required State/local involvement. Other Nye County coordination efforts during the grant period included collection and dissemination of relevant repository data; (2) coordination of the County review of the DOE Yucca Mountain EA with County boards and citizens; (3) participation in federal and state repository-related meetings; (4) coordination of County repository activity with local governments in Nevada and in other states; and (5) coordination of County repository activity with the State Nuclear Waste Policy Office, DOE, other federal agencies, and relevant committees of the Nevada Legislature.

3. Impact Assessment and Planning

During the grant period Nye County spent a considerable amount of time trying to assess the impact of repository activities (site characterization and repository construction, operation, and closure) on Nye County's residents (current and projected), fiscal well-being, and natural resources. Nye County reviewed numerous DOE technical reports during the grant period, including the long-awaited "Yucca Mountain Site Nomination Environmental Assessment." Also, during the grant period Nye County assessed the existence and quality of baseline data, maps, etc. that will be needed in the future to conduct impact planning.

III. NYE COUNTY MARCH 1985-JUNE 1986 HIGH-LEVEL RADIOACTIVE WASTE/SPENT NUCLEAR FUEL REPOSITORY ASSESSMENT AND PLANNING TECHNICAL ASSISTANCE GRANT WORK PROGRAM

As previously mentioned, Public Law 97-425 commits the federal government to provide assistance (technical, financial, etc.) to affected states, Indian tribes, and the public in areas such as access to information, impact assessment, impact planning, impact mitigation, program consultation and coordination, etc. The Nye County March 1985-June 1986 High-Level Radioactive Waste/Spent Fuel Repository Assessment and Planning Technical Assistance Grant work program contains goals (program management, coordination and impact assessment, planning and mitigation) that are eligible for federal financial assistance. The following is an overview of the County's technical assistance grant work program.

1. Program Management

The program management goal focuses on the County's need to have a nuclear waste repository program that is effective and efficient. To accomplish this goal the County must have professional and experienced staff (in-house and/or contract assistance) able to competently address all aspects of the nuclear waste repository project. The Nye County Department of Planning, utilizing consultants with relevant experience and specialized expertise, will implement the County nuclear waste repository program with the Nye County Board of County Commissioners providing policy guidance.

Coordination

Coordination and cooperation among the involved public entities (State of Nevada, its local governments, Nevada Legislature, other states and their local governments, U.S. Congress and the federal government) is a necessity. Most certainly, many activities and complex issues will have to be addressed in the weeks and months ahead by these entities in order to implement the Nuclear Waste Policy Act and protect the public. The ability of these entities to successfully address these activities and issues will be, for the most part, a function of how well they coordinate and cooperate with each other.

3. Impact Assessment, Planning, and Mitigation

The work program goal of impact assessment, planning, and mitigation will deal primarily with impact assessment during the next year. Reports on site characterization and repository activities will be available during this period. Nye County will review these reports in order to assess the impacts (positive and negative) of site characterization activities and repository activities (construction, operation, decommissioning, and closure) on Nye County's residents and on the County's financial and natural resources. Also, the County will collect baseline data and develop base maps that will be needed in the near future to conduct impact-planning activities.

IV. PIFTH QUARTER PROGRESS REPORT

The format of this Progress Report conforms with the Nye County High-Level Radioactive Waste/Spent Nuclear Fuel Repository Assessment and Planning Technical Assistance Grant Work Program. This Grant identifies three goals: (1) program management; (2) coordination; and (3) impact assessment, planning, and mitigation. For each goal there are a number of

objectives. And, for each objective this Progress Report provides the following information:

- --Work performed during the quarter
- -- Problems identified
- --Work anticipated for the next quarter
- --Funds expended.

If this Progress Report does not provide the specific detail a reviewer may desire, the Nye County Department of Planning will be more than happy to produce additional information.

A. Goal 1: Program Management

1. Objective: Employ professional staff to address those elements of the nuclear waste repository program that are relevant to Nye County.

a. Work Performed During the Quarter

The Nye County Board of County Commissioners hired a consultant during the summer of 1983 to help the County address the nuclear waste repository program, and this consultant continues to provide the County technical assistance in addressing the program.

b. Problems Identified

During this quarter Nye County required the consultant hired to address the nuclear waste program to also address Nye County current and advance planning responsibilities and issues. Given these responsibilities, the consultant was forced to prioritize his efforts. At the minimum, the consultant made sure Nye County was represented at federal, State, and legislative (federal and State) meetings and hearings where repository issues important to Nye County were addressed. Also, the consultant made sure the County Commissioners and interested County organizations and citizens were informed of current nuclear waste repository program activities and plans.

c. Work Anticipated for the Next Quarter

The consultant hired to address the nuclear waste repository program will continue to address the program subject to other demands placed on his services by Nye County. Nye County hired a planner in late 1984 to address County current planning responsibilities. The new planner works for the consultant and has relieved the consultant of many current planning responsibilities. Therefore, it is expected the consultant will spend more time on the repository program in the months ahead.



TESTIMONY OF JOE S. GARCIA, JR., CHAIRMAN, BOARD OF COUNTY COMMISSIONERS NYE COUNTY, NEVADA

before the

SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

on the

SOCIOECONOMIC ASPECTS OF A NUCLEAR WASTE REPOSITORY AND AMENDMENT OF THE NUCLEAR WASTE POLICY ACT OF 1982

April 29, 1987

INTRODUCTION

Mr. Chairman and Members of the Committee, I am Joe Garcia, Chairman of the Board of County Commissioners in Nye County, Nevada. I greatly appreciate your invitation to testify today on two issues of significant importance to Nye County residents—the socioeconomic aspects of a nuclear waste repository and amendment of the Nuclear Waste Policy Act of 1982.

I represent one of the three counties in the United States that have been designated by the Department of Energy (DOE) as having a potential site for a high-level radioactive waste repository. Nye County is located in central and southern Nevada, and it is the third largest county, area-wise, in the contiguous United States (please see Exhibit A for location in Nevada).

The proposed Yucca Mountain High-Level Radioactive Waste Repository site is located in southern Nye County. The nearest communities to Yucca Mountain are the Nye County towns of Amargosa Valley and Beatty (see Exhibit A). The Town of Beatty is 15 miles from Yucca Mountain, and it has approximately 1,000 residents. The Town of Amargosa Valley is 6 miles from Yucca Mountain, and it also has approximately 1,000 residents. The only source of water for the 1,000 people in the Town of Amargosa Valley is ground water, and Yucca Mountain is located in the Town's ground water basin.

SOCIOECONOMIC ASPECTS OF A NUCLEAR WASTE REPOSITORY

1. Nye County's Position on a Yucca Mountain Repository

Nye County did not ask the Department of Energy to site a repository in the County. The County has taken the position that the verdict is out on whether or not a repository in the bowels of Yucca Mountain will be safe. Department of Energy site characterization studies should go a long way toward answering the safety question. The County strongly supports the oversight role the State has taken relative to assessing DOE's site characterization efforts as well as federal funding of the State program to conduct independent geotechnical studies. The ultimate safeguard appears to be the permitting responsibility of the Nuclear Regulatory Commission. Safety must be a non-negotiable condition to any siting decision.

2. Socioeconomic Impacts

The siting, construction, and operation of a radioactive waste repository could profoundly affect the health, safety, and economic well-being of the residents in the situs local government. These people, and future generations, will have the burden and the risks of living with a repository in their backyard. The bottom line is that of all of the parties involved in the repository program, none will be as affected as the host local government and its residents.

Nye County is not blind to the realities of the situation; that is, the President and the Congress will make the siting decision, not a state and the situs local government. The

County feels it is critical that it not expend its limited resources on emotional rhetoric and actions, but instead be pragmatic and professional in its repository assessment and planning efforts. Therefore, since first informed of the possibility of a high-level radioactive waste repository in Mye County, the County Board of Commissioners has tried to be involved in the federal and state repository programs. The County Commissioners have as a primary responsibility the protection and enhancement of the health, safety, and wellbeing of the County's residents, and the protection and enhancement of the County's valued natural resources. That responsibility mandates Nye County be a full partner with the Department of Energy, the State of Nevada, and the Nevada Legislature in (1) determining if a Yucca Mountain repository will be safe, (2) assessing repository-related impacts (positive and negative), (3) planning for the adverse and positive impacts, and (4) mitigating the adverse impacts and maximizing the positive impacts.

AMENDMENT OF THE NUCLEAR WASTE POLICY ACT OF 1982

1. Role of Local Government in the Repository Program

A major finding in a report entitled Social and Economic

Aspects of Radioactive Waste Disposal: Considerations for

Institutional Management by the National Research Council
states that:

A major institutional gap exists in the framework defined in the Nuclear Waste Policy Act of 1982. There is no institutional process for relating the

concerns of locally affected populations to the actions of state governors or legislatures.

The Nuclear Waste Policy Act is silent, for the most part, on the involvement of local governments. Therefore, the government entity that will have to deal with the siting, construction, and operation of a repository on a daily basis is on the outside looking in, hoping to be invited to participate in a meaningful way. There is no assurance that a state will adequately assess the concerns and needs of the host local government or allocate the necessary funds and proper benefits to a host jurisdiction. History tells us that state governments and legislatures are responsive to population centers whose interests are typically different from those of rural areas where the repository will be located.

It is Nye County's request that Congress do whatever is necessary to ensure affected local governments are a full partner with the states and affected Indian tribes in addressing DOE's amorphous and complex nuclear waste repository program. The County recommends the words "and affected local government" be added to the Nuclear Waste Policy Act after all references to states.

Consultation and Cooperation

The affected local governments in Nevada are not a party, per the Nuclear Waste Policy Act and recent State of Nevada law, to the Consultation and Cooperation Negotiation and Agreement process. This omission in federal and state law

must be corrected. It is understandable that DOE and states have not been able to sign a Consultation and Cooperation Agreement. They have to address numerous issues that are national, regional, and statewide in nature.

Nye County requests that Congress do whatever is necessary to require a negotiated written agreement between the affected local governments and DOE on repository-related issues that directly impact the situs governments. Therefore, the states will be relieved of the burden to adequately and fairly address affected local government issues and concerns. I must emphasize my earlier statement that there is no assurance that a state will properly assess the concerns and needs of a rural host local government, particularly in light of a state's natural inclination to be responsive to its population centers.

3. Financial Assistance

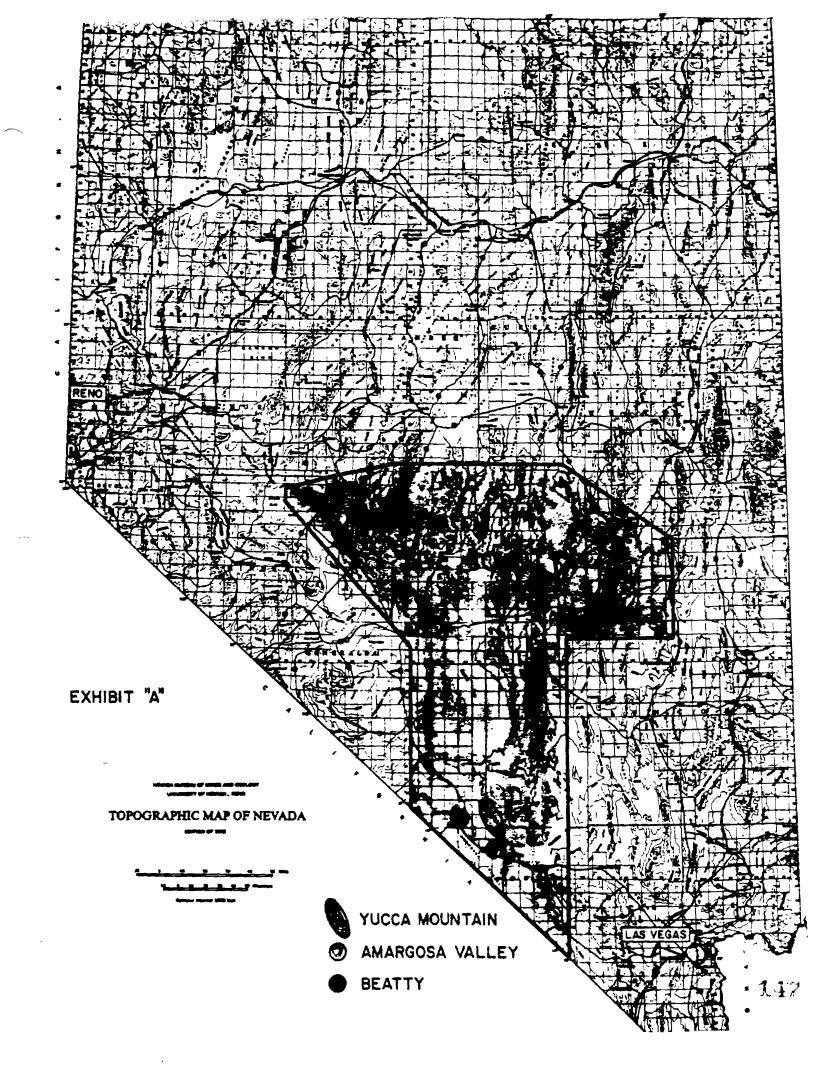
The Nuclear Waste Policy Act provides financial assistance so (1) states and Indian tribes can participate in DOE's repository program, (2) states and Indian tribes can mitigate repository-related adverse impacts, and (3) states and situs local governments can receive payments equal to the taxes a state and situs local government would collect if the repository-related facilities were owned by the private sector. The Nuclear Waste Policy Act should also provide compensation or financial incentives to the host state and the situs local government or the affected Indian tribe.

Chairman Johnston and Senator McClure, Senate Bill 839 is most definitely a step in the right direction. The nation as a whole benefits from the use of high-level radioactive materials for nuclear power, national defense, and the provision of numerous services and products, while a few of the country's citizens will have to bear the burden and risks of long-term isolation of the wastes created by these uses.

Nye County supports Congress developing a package of benefits to compensate the host state and host local government. This compensation should be in addition to mitigating the repository-related adverse impacts, and it should not interfere, or be in place of, the safeguards built into the Act that mandate a safe site be selected. Nye County feels the package of benefits should include financial incentives and the DOE Superconducting Super Collider Project. This Project will help the host state offset the negative image of a nuclear waste repository and make that state a world center of scientific research and technology.

CONCLUSION

Mr. Chairman, Members of the Committee, this concludes my testimony, and I want to thank you once again for the opportunity to speak before you today.



OUNTY

COMMISSIONERS

JOE S. GARCIA, JR., Chairman PATRICIA S. MANKINS ROBERT N. REVERT

> 8 x3 Buissim

May 11, 1987

William J. Raggio Washoe, No. 1, Seat 7 P O Box 3137 Reno, NV 89505

The Honorable William J. Raggio:

This letter is from the Nye County Board of County Commissioners, and it is about the proposal (AB 756) to legislatively strip Nye County of its authority over a portion of the County by creating a new county - - - Bullfrog County. If this Bill is passed by the Legislature and signed by the Governor, it will cause Nye County significant damage and hardship, upon passage and for many years to come. Therefore, the Board asks that you set aside a few minutes of your valuable time and read this letter and the enclosures.

Some question the need for a letter from the Nye County Board of County Commissioners to you because they view AB 756 to be a joke and newspapers have referred to it as a "destructive toy" and "power grab" (see Exhibits 1 and 2). I can tell you the Board takes AB 756 dead serious. We learned from our experience with the infamous Pahrump Land Development Bill (Senate Bill 463) in the 1985 Session that issues like a bill's motives, legality and workability are not always given serious consideration by Nevada lawmakers, particularly if the bill does not pertain to their district, and if it surfaces in the closing weeks of a session.

Nye County was not privy to the development of AB 756 (or Senate Bill 463 in 1985) and, therefore learned of its existence when the Bill's sponsor or sponsors (?) went before television cameras to explain its content and basis. After the news release the County was able to secure a copy of the press packet. The press packet appears to contain at least two pages that enumerate the reasons for AB 756 (see Exhibit 3). Unfortunately, we have just the first page, but it is better than nothing. The rest of this letter will address the reasons enumerated on the first page.

The first reason states:

Obtain the maximum rate allowable for the purpose of taxing the repository, ancillary facilities thereto, and those businesses associated with the venture to the highest degree possible.

May 11, 1987 Page two

This reason is based on the provision (Section 116(c)(3)) of the Federal Nuclear Waste Policy Act of 1982 (Act) that states:

The Secretary (Secretary of Energy) shall also grant to each State and unit of general local government in which a site for a repository is approved under section 112(c) an amount each fiscal year equal to the amount such State and unit of general local government, respectively, would receive were they authorized to tax such site characterization activities at such site, and the development and operation of such repository, as such State and unit of general local government tax the other real property and industrial activities occurring within such State and unit of general local government. Such grants shall continue until such time as all such activities, development, and operation are terminated at such site. (Underlining added for emphasis, see Exhibit 4, Page 2222.)

The above section of the Nuclear Waste Policy Act is referred to as the Grants-Equal-To-Taxes (GETT) provision. The GETT provision has one function: to recompense state and the situs local government for any property tax due them under normal state and local taxing law which they would receive if the repository were owned and operated by the private sector. To tax the repository facility different than other industrial facilities in Nevada, particularly Nevada's hazardous waste facilities, appears to be a violation of federal law.

The second reason for AB 756 is really the basis for the first reason and it reads:

Provide that the State of Nevada is the beneficiary of those revenues, not one single county.

Most definitely this reason violates Section 116(c)(3) of the Act since its purpose is to send the GETT payments to the State instead of the State and the unit of general local government in which a site for a repository is approved. The GETT provision of the ACT is not intended, as proposed by AB 756, to create economic benefits from the repository and distribute them generally throughout a state. The GETT payments are tax payments for the purpose of supporting local government services, facilities and infrastructure impacted by the siting, construction and operation of a repository. The GETT provision was not intended as a mechanism to compensate the general population of a state for having a repository in the state. Compensation for a state is proper and Nye County has recommended Congress address it. At one time compensation was in the draft Act, but it was deleted for reasons not altogether understood.

May 11, 1987 Page three

For a better understanding regarding the inappropriateness of the first two reasons for AB 756, We strongly urge you read Exhibit 5 entitled "Intent of the Grants Equal to Taxes Provision of the Nuclear Waste Policy Act, and Federal Compensation for Repository Siting" by Ms. Andrea N. Dravo. The Act was developed by Congressman Morris Udall's Interior and Insular Affairs Committee over a seven year period, and Ms. Dravo was the Committee's principal staffer involved in the development of the Act (see Exhibit 6).

The third reason for AB 756 reads:

Establish a single geographic entity to deal with the feds, as opposed to a county and a State, each along separate paths.

This reason is most disturbing to Nye County. It says that if a local government does not follow the same path as the Governor, and/or certain members of the Nevada Legislature on repository issues, then it will be punished. Some legislators are saying they know what is best for Nye County and they will take care of Nye County. Hogwash! Are these same legislators ready to extrapolate that line of reasoning to the federal government; that is, the federal government knows what is best for Nevada and we should let the feds take care of us?

Nye County must be a principal player in the federal effort to site, construct and operate a nuclear waste repository at Yucca Mountain. Long after the dust has settled on the Governor's and Legislature's veto on repository, and politicians have gone on to other emotional issues, Nye County and its residents in the towns near Yucca Mountain (Beatty and Amargosa Valley) will have to deal with the project on a daily basis. The County and the nearby towns will have to address the multitude of adverse impacts (on services, facilities, infrastructure, etc.) and live with the risks and stigma associated with the nation's first, and maybe only, high-level radioactive waste repository.

Recently, Senator Bennett Johnston invited representatives of those local governments designated by the U.S. Department of Energy as having a potential site for a nuclear waste storage facility to testify before his Senate Energy and Natural Resources Committee (see Exhibit 7). This testimony was to focus on the the socioeconomic aspects of a nuclear waste repository and amendment of the Act. Nye County accepted the invitation, and so did the other situs local governments (Deaf Smith County, Texas; Mid-Columbia Consortium of Governments, Washington; Roane County, Tennessee; and the City of Oak Ridge, Tennessee). We appeared before Senator Johnston's committee April 29, and a copy of my testimony is enclosed (Exhibit 8). We strongly urge you read this testimony in order to hear from Nye County, not a third party, the County's position on the repository program.

May 11, 1987 Page four

Also we suggest you ask Mr. Robert Loux, Director of the Governor's Nuclear Waste Project Office, if Nye County has been less than professional and constructive since it became active in the repository program July 1983. Nye County's repository activities are detailed in quarterly grant progress reports to Mr. Loux, and the County would gladly provide members of the Legislature said reports (12).

The fourth reason for AB 756 states:

By having Carson City designated as the county seat of Bullfrog County, there is made available in close proximity legislative, executive, staff and the legal expertise necessary if action or a reaction to federal activities needs to be addressed.

We once again ask that you inquire of Mr. Loux and of all the participants (federal, state, local and Congress) in the repository program if Nye County is lacking the requisite expertise and effectiveness to be involved in the repository program. Reason 4 says bureaucrats in Carson City can better address Nye County's needs. Can the bureaucrats in Washington, D.C. better address Nevada's needs? If you have a child in need of medical care you probably go to a known, trusted and proven physician for assistance. How would you like a bureaucrat in Carson City dictating who will see your child, what the problem is, and how to treat the problem? Remember, only the people in Nye County, particularly those near Yucca Mountain, will have to live with the repository and all of its warts on a daily basis. We welcome the State's help, but only as a partner in addressing our citizen's needs. All wisdom does not flow from Carson City. Erik Beyer

The fifth reason for AB 756 states:

1274 St. Alberts Drive

Places Nevada in a better position to work with our Nevada Congressional delegation.

The questions that begs an answer is have our Congressmen and Senators said they prefer to work with the Nevada Legislature on repository matters, particularly Nye County-specific matters, instead of hearing directly from the affected local jurisdictions? Of course they haven't, and never will. We believe Nye County has worked well with Nevada's Congressional delegation and Congress in general on repository matters. Please ask Senator Hecht, Senator Reid, Senator Laxalt, Congressman Vucanovich and Congressman Bilbray if AB 756 places Nevada in a better position (whatever that means) to work with them.

May 11, 1987 Page five

The sixth reason for AB 756 states:

The Bill would allow all county commissioners to regulate all industries, occupations, professions and business in its county which involve high-level nuclear waste, including without limitation, the act of transporting the waste, into or through the county by motor vehicle, railroad car or any other means...

If counties and <u>cities</u> do not have this authority today, then it is proper to give it to them. This is the only part of the Bill that does not appear to be ill-conceived and bizarre.

In closing, we have to say this Bill appears to be based on the promise of "big bucks". We believe you will find that this promise will lead others to devise schemes (e.g., create Pahrump County, legislate allocation of GETT funds to counties based on population, not impact, etc.) to hurt Nye County. Nye County will show in the near future that the "big bucks" are not there, and many people, including legislators and local elected officials, have been misled.

The Nye County Board of County Commissioners hope reason, common sense and fairness prevail, and therefore AB 756 and any bills like it are summarily dismissed as inappropriate.

Sincerely,

Joe S. Garcia Jr., Chairman

Nye County Board of Commissioners

Enclosures (8)

JSG/gl

WHERE I STAND

LAS VEGAS SUN: 5/7/8

Continued from Page 1A

What has happened to AB368, which allows service stations with both self-service and full-service pumps to pump gas for handicapped drivers at the self-service rate?

How about AB369, which "encourages and authorizes cities and counties to hire certain handicapped persons in temporary and limited basis?"

Oh yes, how are the special education bills doing? Just thought I should ask before it's too late.

The legislative idea of creating a new unpopulated county named Bullfrog in the middle of the Nevada Test Site makes Nevadans wonder what kind of game some legislators are playing. Aren't there more constructive and less destructive toys for the Legislature to screw around with during this expensive and lengthy session?

Builfrog County. Well, at least the first four letters are appropriate.

348/Las Vegas Review-Journal/Wednesday, May 6, 1987

Opinion

Bullfrog scheme is a power grab

of two state legislators get their way, there will be a new acounty in Nevada: Bullfrog County, population zero.

The new county would include Yucca Mountain and that nuclear waste site the feds want to build there.

There are no people in the proposed Bullfrog County. Neither are there bullfrogs.

The name was dreamed up early in this century by a couple of prospectors who took note of a greenish material — resembling the skin of a bullfrog — on the hills in the area. Thus the Bullfrog Hills, the Bullfrog Mining District and the onetime gold mining boom town of Bullfrog, just south of Rhyolite.

In 1909 there surfaced in the Nevada Legislature a bill to create Bullfrog County, which would have encompassed the mining district. The bill died.

24. Now, the ghost of Bullfrog County arises.

The new Bullfrog County is the brainchild of Assemblyman Paul May and Sen. Tom Hickey, both North Las Vegas Democrats.

As we understand it. Bullfrog County is a device contrived to capture federal money for the state.

See. Yucca Mountain lies within Nye County. Nye County is probably the only county in the state where many people are willing to accept the site with open arms because of the jobs it will bring. But the nuclear waste site will also strain such Nye County public resources as the school system, which would be burdened by the influx of children of nuclear waste site workers.

So. Nye County officialdom has been looking ahead, trying to figure out ways to soak the federal government for as -much money as possible in exchange for gracefully accepting the nuclear waste dump.

Anticipating the coming of the dump. Nye County officials dreamed up a plan of annexing Yucca Mountain to the town of Amargosa Valley, thus boosting the property tax rate in the area by 70 percent. No one would be affected by the tax hike, except the federal government, if it decides to dig the dump there.

Under federal law, the local government which eventually gets the site will be awarded Energy Department grants equal to the amount of property and business taxes it would have had to pay if the Energy Department were a private company. Nye County could receive millions of dollars annually from these grants.

But Nye County's creative tax plan may be pulled out from under it by the Bullfrog County scheme.

Because there are no residents in the proposed Bullfrog County, a 12-member Legislative Committee, made up of state senators and assemblymen, would appoint the Bullfrog County Commission, and the new county would be administered from its "county seat" in Carson City. In other words, the Legislature would control the new county and the bestate would scoop up the grant money.

New Nye County officials contend that the Bullfrog County scheme is unfair, motivated by greed.

It is true, however, that Nye County would not be the only county affected by the dump. Clark County would probably be even more heavily affected because many of the new workers can be expected to locate, not in one of the tiny towns of Nye County, but rather in urbanized Clark County.

So perhaps it is wise that the counties affected share the respected tax windfall.

But there are problems with this Bullfrog proposal. For one thing, the federal grants program was designed to benefit local governments impacted by the site — not state governments. For another, it leaves distribution of the money up to the whim of the Legislature, and there is no guarantee that Nye County will even get a piece of the funds.

Lastly, if this legislation is passed, a new county with no winhabitants will be created immediately. What if the federal government decides not to put the dump at Yucca Mountain? Nevada would have created, to no purpose, an empty new county administered from Carson City, 270 miles waway.

Lit is hard to view the Bullfrog County proposal as anything but a power grab and a scheme of questionable sincerity.

THE PRIMARY REASONS FOR THIS APPROACH ARE VARIED:

- 1. OBTAIN THE MAXIMUM TAX RATE ALLOWABLE FOR THE PURPOSE OF TAXING THE REPOSITORY, ANCILLARY FACILITIES THERETO, AND THOSE BUSINESSES ASSOCIATED WITH THE VENTURE TO THE HIGHEST DEGREE POSSIBLE.
- 2. PROVIDE THAT THE STATE OF NEVADA IS THE BENEFICIARY OF THOSE REVENUES, NOT ONE SINGLE COUNTY.
- 3. ESTABLISH A SINGLE GEOGRAPHIC ENTITY TO DEAL WITH THE FEDS, AS OPPOSED TO A COUNTY AND A STATE, EACH ALONG SEPARATE PATHS.
- 4. BY HAVING CARSON CITY DESIGNATED AS THE COUNTY SEAT OF BULLFROG COUNTY, THERE IS MADE AVAILABLE IN CLOSE PROXIMITY LEGISLATIVE, EXECUTIVE, STAFF, AND THE LEGAL EXPERTISE NECESSARY IF ACTION OR A REACTION TO FEDERAL ACTIVITIES NEEDS TO BE ADDRESSED.
- 5. PLACES NEVADA IN A BETTER POSITION TO WORK WITH OUR NEVADA CONGRESSIONAL DELEGATION.
- THE BILL WOULD ALLOW ALL COUNTY COMMISSIONERS
 TO REGULATE ALL INDUSTRIES, OCCUPATIONS,
 PROFESSIONS AND BUSINESS IN ITS COUNTY WHICH
 INVOLVE HIGH-LEVEL NUCLEAR WASTE, INCLUDING
 WITHOUT LIMITATION, THE ACT OF TRANSPORTING
 THE WASTE INTO OR THROUGH THE COUNTY BY MOTOR
 VEHICLE, RAILROAD CAR OR ANY OTHER MEANS, AND

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PUBLIC LAW 97-425-JAN. 7, 1983

96 STAT 2201

Public Law 97-425 97th Congress

An Act

To provide for the development of repositories for the disposal of high-level radiosc-tive waste and spent nuclear fuel, to establish a program of research, development, and demonstration regarding the disposal of high-level radiosctive waste and spent nuclear fuel, and for other purposes.

Jan. 7, 1983 [H R. 3809]

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

Nuclear Waste Policy Act of 1982. 42 USC 10101

note.

SHORT TITLE AND TABLE OF CONTENTS

Section 1. This Act may be cited as the "Nuclear Waste Policy Act of 1982".

TABLE OF CONTENTS

- Sec. 1. Short title and table of contents.

- Sec. 2. Definitions.
 Sec. 3. Separability.
 Sec. 4. Territories and possessions.

- Sec. 5. Grean disposal.
 Sec. 6. Limitation on spending authority.
 Sec. 7. Protection of classified national security information.
- Sec. 8. Applicability. Sec. 9 Applicability
- TITLE !- DISPOSAL AND STORAGE OF HIGH-LEVEL RADIOACTIVE WASTE. SPENT NUCLEAR FUEL, AND LOW-LEVEL RADIOACTIVE WASTE
- Sec. 101. State and affected Indian tribe participation in development of proposed repositories for defense wants.

SUBTITLE A-REPOSITIORIES FOR DISPOSAL OF HIGH-LEVEL RASIOACTIVE WASTE AND SPENT NUCLEAR FUEL

- Sec. 111. Findings and purposes.
 Sec. 112. Recommendation of candidate sites for site characterization.
- Sec. 113. Site characterization.

- Sec. 113. Site characterization.
 Sec. 114. Site approval and construction authorization.
 Sec. 115. Review of repository site selection.
 Sec. 116. Participation of States.
 Sec. 117. Consultation with States and Indian tribes.
 Sec. 118. Participation of Indian tribes.
 Sec. 119. Judicial review of agency actions.
 Sec. 120. Expedited suthorizations.
 Sec. 121. Certain standards and criteria.
 Sec. 122. Disposal of spent nuclear fuel.
 Sec. 123. Title to material.
 Sec. 124. Consideration of effect of acquisition of water rights.
 Sec. 125. Termination of certain provisions.

SUSTITUS B-INTERIN STORAGE PROGRAM

- Sec. 131. Findings and purposes.
 Sec. 132. Available capacity for interim storage of speat auchor fuel.
 Sec. 133. Interim at-reactor storage.
- Sec. 134. Licensing of facility expansions and transhipments. Sec. 135. Storage of spent nuclear field. Sec. 136. Interim Storage Fund.

- Sec. 137. Transportation

ment of reasons explaining why such Governor or legislature disapproved the recommended repository site involved.

(3) The authority of the Governor or legislature of each State under this subsection shall not be applicable with respect to any site located on a reservation.

(c) Financial Assistance.—(1)(A) The Secretary shall make grants to each State notified under subsection (a) for the purpose of participating in activities required by sections 116 and 117 or authorized by written agreement entered into pursuant to subsection 117(c). Any salary or travel expense that would ordinarily be incurred by such State, or by any political subdivision of such State, may not be considered eligible for funding under this paragraph.

(B) The Secretary shall make grants to each State in which a candidate site for a repository is approved under section 112(c). Such grants may be made to each such State only for purposes of enabling

such State

(i) to review activities taken under this subtitle with respect to such site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of such repository on the State and its residents;

(ii) to develop a request for impact assistance under para-

graph (2);

(iii) to engage in any monitoring, testing, or evaluation activities with respect to site characterization programs with regard to such site;

(iv) to provide information to its residents regarding any activities of such State, the Secretary, or the Commission with respect to such site; and

(v) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken under this subtitle with respect to such site.

(C) Any salary or travel expense that would ordinarily be incurred by such State, or by any political subdivision of such State, may not

be considered eligible for funding under this paragraph.

(2) A) The Secretary shall provide financial and technical assistance to any State requesting such assistance in which there is a site with respect to which the Commission has authorized construction of a repository. Such assistance shall be designed to mitigate the impact on such State of the development of such repository. Such assistance to such State shall commence within 6 months following the granting by the Commission of a construction authorization for such repository and following the initiation of construction activities at such site.

(B) Any State desiring assistance under this paragraph shall

prepare and submit to the Secretary a report on any economic, social, public health and safety, and environmental impacts that are likely as a result of the development of a repository at a site in such State. Such report shall be submitted to the Secretary following the completion of site characterization activities at such site and before the recommendation of such site to the President by the Secretary for application for a construction authorization for a repository. As soon as practicable following the granting of a construction authori-

zation for such repository, the Secretary shall seek to enter into a binding agreement with the State involved setting forth the amount of assistance to be provided to such State under this paragraph and the procedures to be followed in providing such assistance.

Construction

Report submittal

PUBLIC LAW 97-425-JAN, 7, 1983

(3) The Secretary shall also grant to each State and unit of general local government in which a site for a repository is approved under section 112(c) an amount each fiscal year equal to the amount such State and unit of general local government, respectively, would receive were they authorized to tax site characterization activities at such site, and the development and operation of such repository, as a such State and unit of general local government tax the other real a property and industrial activities occurring within such State and \$ unit of general local government. Such grants shall continue until such time as all such activities, development, and operation are terminated at such site.

Granta. limitations (4)(A) A State may not receive any grant under paragraph (1) after the expiration of the 1-year period following—

(i) the date on which the Secretary notifies the Governor and legislature of the State involved of the termination of site characterization activities at the candidate site involved in such State:

(ii) the date on which the site in such State is disapproved

under section 115; or

(iii) the date on which the Commission disapproves an application for a construction authorization for a repository at such site:

whichever occurs first, unless there is another candidate site in the State approved under section 112(c) with respect to which the 1

actions described in clauses (i), (ii), and (iii) have not been taken.

(B) A State may not receive any further assistance under paragraph (2) with respect to a site if repository construction activities at such site are terminated by the Secretary or if such activities are

Funding limitations permanently enjoined by any court.
(C) At the end of the 2-year period beginning on the effective date of any license to receive and possess for a repository in a State, no Federal funds shall be made available to such State under paragraph (1) or (2), except for-

(i) such funds as may be necessary to support State activities related to any other repository located in, or proposed to be located in, such State, and for which a license to receive and possess has not been in effect for more than I year; and

(ii) such funds as may be necessary to support State activities pursuant to agreements or contracts for impact assistance entered into, under paragraph (2), by such State with the Secretary during such 2-year period.
(5) Financial assistance authorized in this subsection shall be

made out of amounts held in the Nuclear Waste Fund established in

section 302.

(d) Additional Notification and Consultation.—Whenever the Secretary is required under any provision of this Act to notify or consult with the governing body of an affected Indian tribe where a site is located, the Secretary shall also notify or consult with, as the case may be, the Governor of the State in which such reservation is located.

CONSULTATION WITH STATES AND AFFECTED INDIAN TRIBES

42 USC 10137

Post, p. 2257.

SEC. 117. (a) Provision of Information.—(1) The Secretary, the Commission, and other agencies involved in the construction, operation, or regulation of any aspect of a repository in a State shall provide to the Governor and legislature of such State, and to the

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INTENT OF THE GRANTS EQUAL TO TAXES PROVISION OF THE NUCLEAR WASTE POLICY ACT, AND FEDERAL COMPENSATION FOR REPOSITORY SITING

March 9, 1987

Prepared For: The Nye County Board of County Commissioners

Prepared By: Andrea N. Dravo, Consultant



INTENT OF THE GRANTS EQUAL TO TAXES PROVISION OF THE NUCLEAR WASTE POLICY ACT, AND FEDERAL COMPENSATION FOR REPOSITORY SITING

March 9, 1987

Prepared For: The Nye County Board of County Commissioners

Prepared By: Andrea N. Dravo, Consultant



Intent of the Grants Equal to Taxes Provision of

The Nuclear Waste Policy Act,

And Federal Compensation for Repository Siting

The Grants Equal to Taxes (GETT) provision of the Nuclear Waste Policy Act (NWPA) was intended, and was clearly stated, to have one function: to recompense state and local governments for any property tax due to them under normal state and local taxing criteria which they would be denied because federal government activities can not be taxed. It is the purpose of this discussion to underscore the clarity of this provision of the NWPA and its history, and to point out several things the GETT provision is not:

- 1. The GETT provision was not intended to create economic benefits from a federal high-level radioactive waste repository and distribute them generally throughout a state in order to make the repository more attractive to the state population.
- 2. The GETT provision was not intended to provide funds to mitigate the socio-economic impacts of repository development, except insofar as regular state and local property taxes are normally intended and allocated to support customary state and local services, such as schools.



3. The GETT provision was not intended as a mechanism to compensate the general population of a state either for the service the state would provide to the nation by hosting a high-level waste repository, or for the burden a state and its population take on as a result of the risk and stigma attached to the location of a radioactive waste repository in its territory.

The necessity of examining the purposes of GETT arises because that provision of the NWPA is being construed and may be attempted to be interpreted in state law to achieve ends for which the provision was not intended. Efforts to do so should not be supported. Misconstruction of the GETT provision could have the following consequences:

- 1. Denial of revenues to the county and local governments intended to be recompensed for taxes under GETT.
- 2. Structuring of a state tax and revenue distribution system on shaky legal grounds subject to successful court challenge.
- 3. Confusion of tax revenue, impact mitigation and state compensation policies and opportunities in a manner likely to reduce the long-term equity and the long-term financial benefits of a federal repository.



These considerations lead to a conclusion that state and federal legislative policy should focus on more equitable, profitable and stable approaches to maximizing and distributing the benefits of, and receiving due compensation for, location of a federal high-level radioactive waste repository.

The Purpose of Grants Equal to Taxes

The language and history of the GETT provision of the NWPA, Sec. 116(c)(2)(3), are clear. The provision follows:

The Secretary shall also grant to each State and unit of general local government in which a site for a repository is approved under section 112(c) an amount each fiscal year equal to the amount such State and unit of general local government, respectively, would receive were they authorized to tax site characterization activities at such site, and the development and operation of such repository, as such State and unit of general local government tax the other real property and industrial activities occurring within such State and unit of general local government. Such grants



shall continue until such time as all such activities, development, and operation are terminated at such site. (Emphasis added)

Intent to Compensate Local Government

The provision clearly states that both the state and the unit of general local government in which the repository site is located should be granted taxes equal to the amount they would receive in property taxes if the repository activities were being conducted by a private agent. (For a discussion of legal issues related to federal pre-emption of state or local taxation of federal activities, and taxes presumably covered by this section, see the opinion of the Nevada Attorney General concerning the interpretation of Section 116(c)(3) of the Nuclear Waste Policy Act, hereafter referred to as "Nevada Attorney General's opinion on GETT.") The requirement that grants be determined in amounts due to state and local governments, respectively, emphasises a recognition of a seperate and specific entitlement for local jurisdictions.

The history of the section underscores Congress's intent that the units of local government hosting the site specifically receive these revenues. The GETT provision first arose in the House



Committee on Interior and Insular Affairs. The sponsor of the amendment, Rep. Hank Brown, made clear his intent that GETT funds compensate local governments for property taxes that would be paid as a result of repository activities by a non-federal developer. Upon introduction of the amendment, Brown stated: "If the (repository) facility were a privately-owned facility, it would pay property taxes. There would be, obviously, some compensation to the local authorities for the services they provide...." Due to federal exemption from taxation, he countinued, "the local entity and the state is going to be required to bear the burden of providing municipal and state services to this entity, but without provision or compensation which would normally come to that state from the property tax section. This addresses that problem." (Transcript of the House Interior Committee mark-up of H.R. 3809, March 17, 1982; hereafter, "Interior Committee transcript.")

The House Committee on Energy and Commerce, considering the legislation subsequent to the Interior Committee, made more explicit Congress' concern that local governments be directly reimbursed. The language underscored in the provision transcribed above was added to the bill by the House Energy Committee (House Report 97-785, Part 1). The clarification was then adopted by the full House and in the final bill in



preference to less explicit Interior Committee and Senate alternatives.

The House Energy Committee's change in language clarifying the intent to protect and compensate directly the property tax revenues of local governments is consistent with another important intent which the House Energy Committee report articulates. That is that the provision is intended to operate like a broad category of similar federal payments. The House Energy Committee report specifically refers to the GETT grants as "payments in lieu of tax" (PILT) (pg. 72). The statute and its history indicate that the GETT provision would fall within a category of PILT payments which provide "full tax equivalency." (See Nevada Attorney General's opinion on GETT.) These payments are made as if the federal government were a private taxpayer subject to state and local property taxation. Payment is made to the appropriate jurisdiction on the full amount of real property tax that would be due based on the taxing authority's normal valuation or assessment practices.

In the State of Nevada--and, presumably, in most states--it would be customary that the appropriate local government would apply for and receive specifically determinable revenues under GETT.

Under the above legal assumptions and under current Nevada and



local tax law, at a minimum, the state should receive two cents in GETT funds for each \$100 of assessed valuation of property at the repository. Since the repository will be located within Nye County, the county should receive payments at a rate equal to their current county mill levy times 35 per cent of the site's taxable value.

Current Proposals in Nevada

Representatives of some Nevada local governments, and some Nevada state legislators, are currently considering proposals that would violate the requirements and obstruct the intent of the GETT provision of NWPA that local government units in which a site for a repository is located receive the full amount of property tax that would be due were the property fully taxable in private ownership. The proposals would modify current state law to create a new category of property tax applying to major long-term hazardous waste storage facilities, centrally assess any federal waste repository under that category, and distribute the GETT revenues received as payments from the federal government among the state and Nevada counties according to a new distribution formula.



Under current Nevada property tax law, simply stated, the local jurisdiction would assess the project, set the local tax rate, and collect the local taxes, and the proportion of state revenue produced by the local tax would be returned to the state. Under the new proposals, the state would assess and collect the tax and distribute revenues to local governments based on new criteria, such as population, which would substantially reduce the proportion of return to the local taxing authority. Revenues would instead be distributed to other counties in the state regardless of whether repository property and activities subject to property tax were located in the area.

The proposals not only violate the NPWA intention that local governments be fully reimbursed. They also violate the provision's language that limits the grant to units of general local government in which the real property of the site or other industrial activities occur. The section requires the Secretary to make grants "to each State and unit of general local government in which a site for a repository is approved under section 112(c)" (emphasis added). The underscored language in the section would preclude the distribution of revenues to other units of government within the State.



Non-GETT Objectives of State Proposals

As explained above, current legislative proposals to manipulate GETT receipts are probably not legal under the NWPA both because they deny to local governments revenues clearly intended to be paid them, and because they violate the site-specific grants limitation of the GETT provision of the act. The legal durability of the proposals is further undermined by the fact that they seem intended to achieve objectives which the NWPA specifically provides for under other financial assistance provisions, or which the Congress has considered providing for and may actually be willing to provide for, but which are not clearly provided for under current law.

Impact Assistance

One rationale for distributing GETT revenues according to a new formula assumes that impacts of the repository do not necessarily occur within the units of general local government in which the repository site and development activities are located.

Socio-economic impact analyses being developed by the Nevada Nuclear Waste Project Office (NNWPO) indicate that many of the repository project's impacts will be felt in neighboring areas that will absorb increases in population from workers who will



live outside of Nye County, or along transportation routes where safety measures and infrastructure deterioration will create new costs to local jurisdictions. These are legitimate concerns, but they are issues beyond the scope of GETT funding, which the NWPA specifically limits to the government unit where the site is located, as explained above.

The NWPA specifically provides, separate from the GETT section, that funding to mitigate impacts such as these, and to provide for necessary services, be made available to the state or the affected area. The requirement is in Section 116(c)(2): "The Secretary shall provide financial and technical assistance...designed to mitigate the impact on such State of the development of such repository..."

That impact mitigation funding is distinct from GETT payments is made clear by the statement in the GETT provision, which immediately follows the impact provision, that "The Secretary shall also grant to each State and unit of general local government..." the payments in lieu of taxes. (Emphasis added) This is substantiated as a purposeful distinction by the report of the House Energy Committee, where the word "also" was added. The report states in its analysis of the section: "There are three kinds of financial assistance which will be available to



repository states and potential repository states, and include (sic) grants (to participate in investigations and monitor activities), impact assistance and payments in lieu of tax." (pg. 72)

The Congress intended that impact assistance be adequate to cover state needs. The House Interior Committee report states: "It is the intent of the Committee that the impact assistance provided to the host state or tribe be generous and adequate to cover all reasonable impacts." (Pg. 47) Currently, the NNWPO is developing a thorough analysis of all statewide impacts of the repository on services, infrastructure and social costs. This report will provide the basis for fulfillment of the statutory obligation to mitigate repository impacts.

Compensation

A second rationale for statewide distribution of GETT revenues is the notion that all the population of the state suffers from and should be compensated for the stigma of hosting a nuclear waste repository. This, too, is a legitimate claim which is not addressed by GETT, nor is it specifically addressed anywhere in the NWPA.



There is substantial evidence of sympathy for the proposition that a state should receive compensatory payments beyond those related to direct socio-economic impacts. The bill initially passed by the Senate provided for states and Indian tribes to seek to negotiate with the Congress and the Department of Energy, through a process of consultation and concurrence, for impact mitigation and, "Further,...a method for determining the appropriateness and amount of any royalty or assessment to the State or Indian tribe for the use of its property, location or other natural resource." (S. 1662, Section 701(c)) The Senate report, a joint report of the committees on Energy and Natural Resources and on Environment and Public Works, distinguishes these assessments from impact mitigation and states that they are "in addition" to impact payments. It states: "The Committee believes that royalties or assessments are generally appropriate for nuclear waste storage or disposal facility development." (Senate Report 97-282, pg. 27)

The House Interior Committee also supported "direct grants or lump-sum financial payment" to host states or tribes in addition to impact assistance, but did not include them in the bill "due to requests by the National Governors' Association that assistance be directly related to repository activities." (Pg. 47) It is possible that the governors' position led Congress not

to adopt the Senate's approach. For whatever reason, it is now a weakness of the NWPA that compensation beyond impact mitigation is not expressly provided.

Options for Increased State Compensation

The general population of a repository host state should be compensated for the stigma of a repository, and the nation should be willing to compensate the population for a recognized service. The Nevada GETT legislative proposals, however, are not equitable, and are at best tenuously legal. Local governments of repository site areas and the U.S. Department of Energy can be expected to challenge any law embodying these proposals in court. In addition to being likely to be nullified by litigation, the proposals do not optimize potential compensation. The limitation of GETT is that it relates only to property taxes, and assessments must be applied consistent with assessments made against other properties in the state. Therefore, under state property tax law and the state Constitution, the rate at which the activities can be assessed is limited.

Other options exist for state compensation that would be more appropriate and more productive. First, the state could levy a



special fee or tax distinct from property taxes on activities or operations related to the repository. The right of a state to tax gross receipts paid to federal government contractors was upheld in <u>U.S. v. New Mexico</u> in 1982. Most of the activities related to the repository will be carried out by federal contractors, and the state will have the right to tax them directly, regardless of pre-emption and without site-specific and other limitations of GETT. The portion of repository revenue that will come in through GETT is small relative to potential state revenues through other tax potential.

The state should also be working toward a clear statutory federal commitment to a compensation mechanism beyond impact mitigation. There is enough legislative history suggesting that NWPA impact mitigation funds and GETT do not cover such compensation to cast doubt on the ability of the state to receive such funds under current law. There is also evidence that Congress was sympathetic to that concept in 1982. And at recent hearings before congressional committees on the high-level waste program, new proposals for increasing the benefits to a repository state were made, eliciting a high degree of interest from many prominent congressmen and senators.

The current proposals to manipulate GETT work against a strong



state position on compensation, by:

- 1. Confusing taxes, impact aid and compensation,
- 2. Possibly creating an impression the state will receive such benefits through the limited GETT mechanism, and
- 3. Undermining the state's credibility as an advocate of fairness in repository risk/benefit distribution.



Eighteen Thirty-five Park Road Northwest Washington, D.C. 20010

Telephone: 202/387-0704

CURRICULUM VITEA

Summary

Independent advisor to technical corporations, utilities, state and local organizations and a national news publication.

Ten years experience in development and analysis of Federal law and policy related to waste management and disposal; energy transportation; energy facility siting and generation of electric power. Nine years experience representing a committee of the U.S. Congress in negotiations between Congress, state governments, environmental groups, industry and Federal agencies.

Fourteen years experience writing articles, reports and analyses.

Education: Occidental College, 1969-71-American Studies Arizona State University, 1971-73-History

Experience

Dravo Associates, Consulting

Provides accurate and current information on policy and legislative developments in the U.S. Congress; analysis of radioactive and hazardous waste management issues; assessment and development of options for waste disposal, and analysis of policy impacts on public and private sector activities. Clients have included: The Edison Electric Institute; Science Applications International Corporation; The American Nuclear Energy Council; the State of Illinois; Ebasco Services, Inc.; R.W. Beck and Associates; The Arizona Public Service Company, the State of Nevada and The National League of Cities.

Activities have included consultant review and comment for studies developed under contract to the Department of Energy on consideration of policy options; reporting on Congressional activities to corporate clients concerned with the impact of possible changes in law on their commercial activities; market research for corporate prosposal development in the hazardous waste and radioactive waste management field; and assisting state, local, corporate and other clients in interpreting and planning to implement recent waste management law.

U.S. Congress, staff, House Committee on Interior and Insular Affairs 1977-1985

Nine years experience as a senior legislative staff of the House Committee on Interior and Insular Affairs.

Senior legislative and policy advisor to the committee chairman, Morris K. Udall.

Staff responsibilities included development of policy initiatives, drafting of legislation, carrying legislation through the committee and conference processes, and representing the committee majority in



Waste Management

Central participant in development of all major legislation governing radioactive waste management enacted to date, including the Uranium Mill Tailings Control Act of 1978, the Low-Level Radioactive Waste Policy Act of 1980, the West Valley Demonstration Act of 1981, the Nuclear Waste Policy Act of 1982 and the Low-Level Radioactive Waste Policy Amendments Act of 1985.

Oil and Gas Transportation

Primary staff for the committee for legislation affecting permitting of the Alaskan Natural Gas Pipeline, and for a bill for permitting of proposed oil pipelines from Long Beach, CA to Midland, TX and across the Northern Tier region. These involved the Federal Energy Regulatory Commission permitting process and energy transportation systems ratemaking, financing and environmental issues.

Outer Continental Shelf Oil and Gas Leasing

Oversight responsibility for issues relating to leasing of environmentally sensitive offshore oil and gas resources.

Budget Authorization

Primary staff for authorization of Department of Energy programs for commercial nuclear power, and a senior staff on the Nuclear Regulatory Commission budget authorization. Oversight of NRC organizational and management issues.

Electric Utilities

As a senior staff on issues affecting commercial nuclear power and reactor safety, gained expertise in the general issues affecting the electric utility industry, including power distribution, financing of generating stations, the role of state utility regulation, trends and impacts of demand for electric power, and utility management.

Hazardous Waste Management

Participant in congressional efforts to clarify relationship between radioactive and hazardous waste management regulation. Familiar with state and federal hazardous waste clean-up and regulatory issues.

<u>Journalist</u> 1973-1977

Andrea Dravo established an independent news service in Washington, D.C. which during 1976 covered energy and natural resources issues in Congress for magazines and newspapers in New Mexico.

From 1974-1976 Dravo wrote for <u>The Santa Fe Reporter</u> news magazine in Santa Fe, New Mexico.

From 1973-1974 Dravo edited and wrote for the <u>Arizona Republic</u> newspaper in Phoenix, Arizona.

WITNESS LIST

HEARING BEFORE THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

TO CONSIDER S. 839

THE NUCLEAR WASTE POLICY ACT AMENDMENTS ACT OF 1987

APRIL 29, 1987

and

May 7, 1987

SD-366 SENATE DIRKSEN OFFICE BUILDING

Wednesday, April 29, 1987 9:00 a.m.

STATE PANEL

The Honorable Richard Bryan
Governor
State of Nevada

Mr. Terry Husseman Director, Nuclear Waste Office of the Governor State of Washington

Mr. Steven Frishman
Office of the Governor
State of Texas

LOCAL GOVERNMENT PANEL

Joseph C. King City Manager Lexington, Virginia Joe S. Garcia, Jr.
Chairman, Board of Commissioners
Nye County, Nevada

Ron Jones Commissioner Benton County, Wash. Troy Don Moore Commissioner Deaf Smith County, Texas Mr. Bernie Merlino Nye County Assessor P. O. Box 271 Tonopah, Nevada 89049

File #118-87

Dear Mr. Merlino:

In response to your request, I have estimated a market value for the Yucca Mt. proposed nuclear waste repository site, based upon the three possible acreage sizes estimated for the project. Due to the numerous costs and values which have been attributed to the subject site by the general public and media, it is necessary to point out some important considerations in my value estimate.

- 1. The value often attributed to the Yucca Mt. proposed nuclear waste repository is five hundred million dollars. It is my understanding this value includes the research, development, and preliminary site selection costs incurred by the federal government. The Federal GETT legislation requires the valuation of the site as if it were operated by a privately owned, taxable, entity. During our meeting with the DOE officials in Las Vegas, they reiterated this was to be a criteria by which the site was to be evaluated. The market value of an industrial site is not enhanced by the amount of expense a national company might incur in locating and studying that site. A five hundred million dollar valuation may be realistic, excluding site selection costs, for the Yucca Mt. area when the site has undergone final selection and construction has commenced.
- 2. The valuation included in this letter would reflect the estimated market value for the subject site for the 1985-86 and 1986-87 tax roll. There is apparently an on going discussion as to who should assess the nuclear waste repository; the Central Assessed Division of the Department of Taxation or the local assessor. If it is determined the nuclear waste repository is a utility or a centrally assessed property, it does not affect the valuation for the fiscal years 1985-86 and 1986-87 since during this time the site is solely vacant land and undeniably a function of the local assessor. Assumption of the valuation by the Department of Taxation would likely commence with adoption of the site as the location for the repository or at the time construction commences.

ARY H. KENT, INC. GARY H. KENT, PRESIDENTA MAIA SRPA Real Estate Appraisers and Consultants 4170 S. DECATUR BOULEVARD, SUITE C1, LAS VEGAS, NV 89103

Phone (702) 876-9151

Mr. Bernie Merlino Nye County Assessor May 12, 1987 Page Two

> During our meeting with the state's appraisers, James A. Graaskamp and Robert Foreman, they referred to valuation enhancements resulting from site suitability and enterprise, or franchise, value. The site suitability enhancement results from the uniqueness of the "tuff" rock located on the site and its potential compatability with the nuclear waste storage facility. This is a supportable approach to valuation for the Yucca Mt. site; however, it is based upon the assumption that the site and "tuff" rock is suitable for the installation of the repository. All of the valuation items discussed during the meeting were based upon the assumption that the site would be selected as the repository site. The selection of the final site will not be done until site characterization has been completed. Until such time as the characterization is completed, we do not know if the "tuff" rock and site location is suitable for the permanent facility and, therefore, does not have a site suitability enhancement at this time. My value estimate is based upon the estimated market value of the Yucca Mt. area for the 1985-86 and 1986-87 tax years, before completion of site characterization and the possible selection of the site as the waste repository site.

> The other valuation enhancement proposed by the state's appraisers was an enterprise, or franchise, value. This value results from Yucca Mt. having a monopoly on the nuclear waste storage market. As in the case of the site suitability enhancement value, this assumes the site to be the selected site and improved with the storage facility. If the site is selected, and is improved with the nuclear waste storage facility, the enterprise, or franchise, value enhancement appears to be an appropriate application in the The Central Assessed Division of the Department of Taxation has the flexibility of including this enterprise value enhancement in their utility valuation. Current Nevada Revised Statutes also allows the local assessor to include a franchise value in the valuation of intra-county utilities. Again, the discussion of a premium value due to the monopolistic rights associated with the site cannot be considered until such time as the site is chosen as the official location for the nuclear waste repository.

In summation of the above items, it is necessary to point out that the other sites being considered for nuclear waste repository cannot all have value enhancements associated with the future construction of a nuclear waste repository when only one is to be built on the West Coast. The initial features considered in the selection of the three semi-final sites become meaningless to the nonselected sites. Therefore, value enhancements can only be imputed to the final site upon its selection.



Mr. Bernie Merlino Nye County Assessor May 12, 1987 Page Three

Attached to this letter is a summary of large acreage land sales which have occurred in Nevada. Abstracts containing specific recordation and economic information are not included since you already have that information. The comparable sales range in size from approximately 1,900 to 36,500 acres and range in sales price from \$25 to \$164 per acre. As you are aware, these comparable sales are all of the large acreage sales available in Nevada, extending back to approximately 1977. Some of the sales involved rangeland and interest in federal grazing land combined. The value attributable to the federal grazing land has been extracted and not included in the price per acre for those particular transactions. Also, some of the sales had minor improvements, or livestock, associated with the transaction. As in the case of grazing rights, the value attributable to these items have been deducted from the transaction price. I have not viewed each of these sites and can only relate to descriptions provided me regarding topography and other conditions. transactions appear to range from alkaline flats to mountainous In analyzing the data, it should be noted that the sales have a modal value of \$55.00 per acre, a median value of \$56.00 per acre, and a mean value of \$58.95 per acre, with a 30.53 standard deviation.

Since there was a significan time span in the comparable sales utilized, 1977 to 1986, a multiple regression model was employed in order to statistically analyze the effect of the date of sale upon current market value. The model did not indicate there has been appreciation in land values for large acreage tracts during this time frame. The lack of appreciation may be explained by the relatively limited market for large acreage tracts of land as opposed to the annual appreciation experienced on smaller parcels, bought and sold more often, in more populated and desirable markets.

In arriving at a final value estimate, weight was given to those parcels having larger amount of acreage. The estimated sizes for the subject site range from 24,711 to 32,541 acres. I have estimated a market value for the subject site at \$55.00 per acre.

The literature regarding the size of the proposed nuclear waste repository indicates three different sizes; 21,982 acres, 24,711 acres, and 32,541 acres. Based upon the \$55.00 per acre market value estimate, the market and assessed values are as follows:

Mr. Bernie Merlino Nye County Assessor May 12, 1987 Page Four

| | MARKET VALUE | ASSESSED |
|--------------|----------------|--------------|
| SIZE | (ROUNDED) | VALUE |
| 21,982 Acres | \$1,209,000.00 | \$423,150.00 |
| 24,711 Acres | \$1,359,000.00 | \$475,650.00 |
| 32,541 Acres | \$1,790,000.00 | \$626,500.00 |

As mentioned, the preceding values reflect the market value of the site for the fiscal years 1985-86 and 1986-87. The estimated market values reflect the present condition of the site and does not include any future market value enhancements which may result from the selection of the site as the final location for the construction of the nuclear waste repository.

I hope this information suits your needs and please feel free to contact me if further explanations are needed.

Sincerely,

GARY H. KENT, INC.

K. Don Dunn, CAE, SRPA

KDD/bc

cc: Steve Bradhurst

Enc.

LAND SALES CHARL

| SALE | 4155 2145 | ACRE | SALES PRICE/ACRE |
|--|---|---|--|
| NO. | SALE DATE | 3145 | FRICE/ACKE |
| NO. 1 2 3 4 5 6 7 8 9 10 11 12 13 | February 1, 1982 January 17, 1978 March 1, 1987 June 29, 1979 February 12, 1981 June 15, 1978 August 15, 1979 November 1, 1979 November 4, 1980 April 1, 1981 October 1, 1984 October 26, 1984 December 8, 1986 | 36,450 20,408 19,429 14,902 12,330 10,235 9,267 8,762 8,560 8,320 8,243 7,833 6,602 | \$ 26.00 \$ 50.00 \$ 25.00 \$ 48.00 \$ 109.00 \$ 55.00 \$ 43.00 \$ 55.00 \$ 75.00 \$ 46.00 \$ 63.00 \$ 23.00 \$ 164.00 |
| 14 15 16 17 18 19 20 | November 5, 1980 May 1, 1982 November 25, 1981 November 18, 1983 March 30, 1979 November 2, 1984 September 29, 1977 | 5,720 4,465 3,526 2,700 2,562 2,898 2,864 | \$ 37.00 \$ 56.00 \$ 55.00 \$ 70.00 \$ 59.00 \$ 63.00 \$ 57.00 |

QUALIFICATIONS OF APPRAISER

K. DON DUNN, CAE, SRPASuite C-14170 South Decatur BoulevardLas Vegas, Nevada 89103

Professional Designation:

CAE - Certified Assessment Evaluator SRPA - Senior Real Property Appraiser

Professional Affiliations and Offices Held:

International Association of Assessing Officers, Certified Assessment Evaluator (CAE) Designation

Society of Real Estate Appraisers, Senior Real Property Appraiser (SRPA) Designation

Member National Association of Realtors

1978 --- Secretary, Chapter 187, S.R.E.A.

1980-1981 --- Program Chairman, Chapter 187, S.R.E.A.

1980 --- Educational Committee, I.A.A.O.

1977-1980 --- Chairman, Nevada State Certification Board for Property Tax Appraisers

1983-Present- Member of Nevada Tax Commission 1986 --- President, Chapter 187, S.R.E.A.

Education:

1968 --- B.S. in Science and Math, University of Nevada, Las Vegas

1971-1979 --- International Asociation of Assessing Officers

1979 --- Society of Real Estate Appraisers
Course 101

1980 --- Course 201

1980 --- Narrative Report Writing Seminar

1984 --- Course 202

1979-1983 --- Staff Instructor of appraisal courses for International Association of Assessing Officers; Universities of Illinois, Virginia, Louisiana, Oregon,

New York and Wyoming

1981-1984 --- Appraisal Instructor for Real Estate Careers Institute

Experience:

1971-1974 --- Residential Appraiser, Clark County Assessor's Office

1974-1976 --- Commercial and Income Appraiser, Clark

County Assessor's Office

1976-1981 --- Assistant County Assessor, Appraisal review of all Property Taxes

1980-Present- Licensed NV Real Estate Broker/Salesman

1981-Present- Independent Fee Appraiser:

Court Experience:

District of Nevada

Type of Properties Appraised:

Residential; SFR; Condo; PUD; Commercial/Income Property; Multi-unit Apartment Complexes; Office Buildings; Retail Stores; Car Washes; Service

Stations; and vacant land.

Partial List of Clients:

Home Mortgage Suburban Coastal Mortgage Kissell Mortgage Mortgages, Inc. First Western Savings Association Weyerhaeuser Mortgage American Bank of Commerce John Greenman, Attorney Clark County Credit Union Citicorp Homeowners, Inc. Stanwell Mortgage AVCO Financial Services EPIC Mortgage Norwest Mortgage Valley Bank Mortgage S. W. Mortgage Mason-McDuffie Investment Co. The Colwell Company Peoples Mortgage Margaretten & Company Farmers Insurance California Federal Savings & Loan Hill & Dale Day Care Center Christ Lutheran Church McCarran International Airport Barry Shinehouse, Attorney PMI Mortgage Insurance First National Bank City Pederal Savings & Loan Various Individuals

PROJECTED GETT (GRANTS EQUAL TO TAXES) REVENUE BASED ON APPRAISAL OF PROPOSED YUCCA MOUNTAIN REPOSITORY SITE

GETT REQUEST

| Repository Area Scenarios 1. 21,982 Acres 2. 24,711 Acres 3. 32,541 Acres | Market Value | Assessed Value | Nye County Tax Rate \$1.6869/\$100 | Nye County and Town of Amargoes Valley Tax Rate \$2.9295/\$100 | Maximum Tax Rate \$5.00/\$100 | |
|--|----------------|----------------|--|--|-------------------------------------|--|
| 1. 21,982 Acres | \$1,209,000.00 | \$423,150.00 | \$7,138.00 | \$12,396.00 | \$21,158.00 | |
| 2. 24,711 Acres | \$1,359,000.00 | \$475,650.00 | \$8,024.00 | \$13,934.00 | \$23,783.00 | |
| 3. 32,541 Acres | \$1,790,000.00 | \$626,500.00 | \$10,568.00 | \$18,353.00 | \$31,325.00 | |

Source: Testimony of Don Dunn and Bernie Merlino before Assembly Government Affairs Committee, May 15, 1987

Mr. Chauman-members of the Committee -My Mame is Roy Y leighton and I am here this marning representing The County as a special assist to the board of County Commuseenous, Jormer County alm. and at one time Chief Property appraiser for Nige Country at the Vorada Test Site. Thank you for allowing me to testify on this very emportant legislation. The Thrust of my testiming this marning will be to chouse with you the tex value of the Novala Test Site to Mye County and the State Ces the chief property appraiser for Nye Country, I was charged with the Job of estimating the rolue of our the property at the Newsda Test Site

Dend the Nuclear Rocket Strelopment
Site-also known as NEOS -- My
Apprecials ranged from expendable
office equipment to the very exotic'
Ruclear Powered Rocket engine to
the moon.

The reason that I have given you my back ground is because I want to tall you that those individual who say that the Novala Tast Site is valuable for wise (Big &) are wrong in my estimation.

I am sure that this committee in an aware that both the Country and Itale receive for revenues from the Novala Tool Site. At this time I would like to provide the following information regarding Sales / wee for and Property toxes:

1983 1986-87 (1.) Movoda Text Sito Sales Tax: County . 05 Basic Sales tax est 25,000. COUNTY TOTALS \$ 375,000-The following State Sales and use to stimule civers the That School Fund (15) the States SCRET (1.75) and the States General Trend (:02) Est-Total #3,276,000. Please mate that there extendes process - (State audit) The State receives over 10 times the amount of sale tox that the Country rocewich An Justel 1285-1286: (Audited) Depresent Cash Value \$ 103,782,994. adjusted assessed Value # 36,324,048. School Received # 401,054 (Smoot) Country operating \$ 221,831

Cost to operate Took
Site Shariffs off - 103,069 Net Property to see and = \$118,762.00

للثخير

In conclusion - Rye County residents One very concerned that this bill would alter the boundries of Thye County with out any approval from its residents. - For that matter will approval of this tupe legislation send a massage to other Countries that their Countries_ are subject to change if a major Super Conductor, super Collider - Claro jet facility or the while kind Pour Project go on line. Dworld briefly like to address statemente made in the Las Chopes Sun-The repository belongs to the State - We will take Cared Nyle County -

| Assembly Com | mittee on | | TAXATION | SUBCOMMITTE | E ON | NUCLEAR | WASTE | SITE | |
|--------------|-----------|----|----------|-------------|------|---------|-------|------|--|
| Date: | June 1 | 2, | 1987 | | | | | | |
| _ | _ | | | | | | | | |

SENATE BILL NO. 536 - Requires central assessment of repository for disposal of high-level radioactive waste.

ASSEMBLY BILL NO. 756 - Creates Bullfrog County and revises provisions governing counties.

SENATE JOINT RESOLUTION NO. 21 - Proposes constitutional amendment to allow separate assessment and taxation of facilities for storage or disposal of high-level radioactive waste and property on which they are located.

Subcommittee Chairman Gaston announced because one and one-half hours had been given to consideration of <u>SB-536</u> at the meeting of the full Taxation Committee on the previous day, discussion this date would begin with AB-756.

Mr. May, prime instigator of AB-756 explained the measure.

The subject measure was heard in the Government Affairs Committee, was given a Do Pass and rereferred to the Assembly Taxation Committee. The basic thrust of "Bullfrog" is in section 13, subsection 2. "The total ad valorem tax levy in a county in which one or more of the county commissioners is appointed pursuant to section 5 of this act must not exeed \$5 on each \$100 of assessed valuation."

Mr. May related background history on the origination of the measure. He met with the Legislative Committee on Nuclear Waste in March to discuss any method legally constitutionally defensible to provide the highest amount of money possible at such time as application is made under the so called "GETT" - Grants Equal to Taxes provision of the Nuclear Waste Policy Act of 1982. Bullfrog is an outgrowth of GETT and essentially calls for the creation of a new county, a portion of Nye County, and contiguous areas - Yucca Mountain.

Mr. May supplied an informational packet, Exhibit B_{ℓ} containing:

- 1) Las Vegas Review Journal editorial dated April 22, 1987 Nye County's foresight.
- 2) Explanation from LCB Research regarding tax rates in Nye County.
- 3) Explanation and intent of proposed legislation.
- 4) Copy of skeleton bill.

Page: ____3

- 5) Area map.
- 6) Memo from LCB regarding rents equal to taxes (GETT). Provision of Nuclear Waste Policy Act.
- 7) News article from Nevada Appeal dated March 25, 1987 regarding Senator Johnson's remarks.
- 8) Memo from LCB including Senator Johnson's press release dated March 25, 1987.
- 9) Memo from LCB Research and background information on 1909 legislation which would have provided for the creation of Bullfrog County at that time.

Chairman May read section 5 of AB-756. Bullfrog would lie entirely within, or a combination of, the nuclear test site and/or the Nellis gunnery range. There is no human habitation. The authority of the county clerk, county recorder, county auditor, sheriff, district attorney and public administrator may be vested in one person.

Section 12, subsection 3 contains a provision which he strongly recommends. That provision is not restricted to Bullfrog County. It is general language under NRS 244.335. The rationale:

If the Federal Government, over the stringent objections of Nevada and most Nevadans, selects this state for the repository. Nevada should be in the best legally defensible position possible to extract the most revenue possible to mitigate the damages and the harm of that repository.

Mr. May said he was having an opinion drafted by the Legislative Counsel Bureau in relation to $\underline{SB-536}$. My request:

"May I quote you as saying - Bullfrog is completely
defensible?"

The answer:

"It is defensible. There is absolutely nothing I can find, no case law of any type at this moment which might be used in a constitutional challenge."

Mrs. Spriggs said any law could be challenged. As an assessor the issue of the manner of taxation contained in SB-536 has been challenged and has been upheld in court. She believes that bill is just as constitutional as Bullfrog. One city has never been designated as the county seat for two counties.

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Mr. May said he had received information from LCB indicating there is no preclusion or opposition to one city being designated as the county seat for two counties.

Mr. May commented again on the three areas of possible unconstitutional aspects of SB-536. (See minutes of June 111

Mr. Gaston requested questions be directed toward AB-756.

Mr. Triggs was informed the creation of Bullfrog County would have no impact on SCCRT distribution. As to the ad valorem, Bullfrog County has the flexibility to give its money to the state. The distribution once the money is received by the state is not addressed in AB-756. The distribution formula contained in SB-536 is a just and fair distribution.

Spriggs asked if there would be objections to specifying in AB-756 that the money must go to the counties.

Mr. May said there would be no objections whatsoever. does support SJR-21 but the statutory legislation under consideration is for the time intervening before that resolution can become effective.

Mr. Triggs asked if distribution from revenue obtained from the repository would impact maximum allowed revenue to the counties.

Mr. May said the revenue from the waste site would be outside the capping mechanism and thus would have no affect on maximum allowed revenue of the counties.

Ted Zuend, Fiscal Analyst, explained any monies received from the Federal Government would be in the form of a grant and would not be covered by any capping mechanism.

Senator Hickey said he was concerned about the friction that may occur between the two houses if Bullfrog is processed. Legislation relating to the formation of a new county would be referred to the Senate Government Affairs Committee. If revenue distribution is included it would then be referred to the Senate Taxation Committee and there may be friction between those two committees. He suggested two bills be processed - one for the formation of the county and the other for the distribution of revenue.

Dennis Bechtel, Planning Coordinator for Clark County Department of Comprehensive Planning said he was also a member of the state and local planning group that has worked for two years on the repository problems. Clark County government provided guidance, based on the provisions of the Nuclear Waste Policy Act, in particular section 116C3, to

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attempt to maximize revenues to the state and to those local communities that would be impacted by the project. The results of the efforts of the study group is the formula found in SB-536. The Clark County Commission unanimously approved the formula.

Mr. Bechtel said the study group was concerned because $\frac{AB-756}{COMMISSIONERS}$ is not in conformance with the action of the county commissioners.

Mr. Gaston asked if AB-756 was discussed by the Clark County Commissioners.

Mr. Bechtel said that measure was not discussed.

Mr. Gaston:

"What you are testifying today is that Clark County has no position, either for against, AB-756.

Mr. Bechtel conceded Clark County had not taken a position on AB-756 but based on a legal opinion they had obtained from the Attorney General, they felt there should be some formula that recognized the unique circumstances of governments in southern Nevada being relatively close to this proposed repository.

Mr. Triggs noted it was the concensus the formula was very acceptable to all and asked if any objections were foreseen should that formula be included by amendment in AB-756.

Mr. Bechtel said he assumed if the formula were included in the legislation then that legislation would be acceptable to Clark County.

Nancy Delabarre. North Las Vegas, said although that city had taken a position supporting the GETT bill, they have indicated they would like legislation that preserves the ability to maximize the revenue and receive impact funds for Yucca Mountain. There is a possibility AB-756 would not be opposed if there was a sunset provision on the bill so that if SJR-21 became reality, the offensiveness of Bullfrog County would be removed.

Another alternative is to amend <u>SB-536</u> to remove the constitutionality issues and allow the bill to live with the formula in it, so Bullfrog could go to Senate Government Affairs and the Gett formula would have to go back to Senate Taxation. It is possible to process all three measures. The Bullfrog County concept will allow faster receipt of the revenue for formation of a new county but is not attractive to North Las Vegas.

In response to a question from Mr. Gaston, Ms. Delabarre

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said they did not like the formation of the new county because it would set a precedent and Nye County disliked the concept because it would take a part of their territory.

Mike Baughman, representing Lincoln County and the City of Caliente, referred to the ten recommendations contained in SB-536. AB-756 contains none of those ten recommendations. As a consequence Lincoln County and the City of Caliente cannot support that measure although they had not specifically considered AB-756.

Mr. Gaston:

"Then your testimony would have to be that Lincoln County had no position on AB-756.

Mr. Baughman:

"No, I believe my testimony could say that because they adopted 10 recommendations, and the elements of those recommendations are what they want to see come out of this session of the legislature — in fact, recommendation 9 says 'this 64th session of the legislature pass legislation incorporating the previous 8 recommendations.' AB-756 does not accomplish those 8 recommendations."

Mr. Gaston said over 800 bills were introduced and most of those bills do not incorporate the 10 items mentioned by Lincoln County. It could not be reasonably said Lincoln County was opposed to all those measures because their recommendations were not incorporated within the legislation.

Mr. Baughman replied he was requested to pursue the particular GETT issue recommendations for specific measures dealing with the repository.

The Lincoln County officials are very concerned about the ramifications of Bullfrog County on rural Nevada. Like legislation would never be applied to Clark County.

Mr. Gaston asked why Mr. Baughman personally objected to AB-756.

Mr. Baughman:

"Personally, I find AB-756 to be very offensive to local government. I find AB-756 to be an extreme offense to Nye County in an attempt to try to eliminate their role in the Nuclear Waste Program. . . We heard yesterday that it is not good to pass a bill that has the susceptibility to legal challenge. I would argue

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today that it is not good to pass a bill for vendettas or for personal opinions or concerns about what a county is doing within a jurisdiction.

"I have a hard time distinguishing between the rationality of right and wrong given those two cases. That is my personal opinion."

Mr. Gaston disagreed there was a vendetta or a power play involved. It was an attempt to capitalize on a project that may or may not occur.

Mr. Baughman commented on a newspaper account that quoted Mr. May at the beginning of the concept of Bullfrog County.

Mr. Triggs suggested the desired portions of $\underline{SB-536}$ be amended into AB-756.

Mr. Baughman said he could not represent Nye County. A situs county has significance and Nye County has been fighting for that significance recognition in Congress. The state would be negating that significance by processing the Bullfrog County bill. Those people in Nye County will be, by far, the greatest impacted by the repository. Creation of a new county for a special purpose could set a precedent and the rural counties would lose all rights and impact funds to future projects. The rural counties do not have the votes, the power, to fight that situation. He added, for the record:

"I believe, in my discussions with the Legislative Counsel Bureau, we have the potential for alleviating the constitutional problems with SB-536. I will grant you, SB-536 will not generate as much revenue in the short-run but I do believe SB-536 will keep us whole as far as local governments. I believe SB-536 is an excercise of better government and certainly relieves the threat we feel of the imposition of the state or the legislature upon our rights as a local government."

Mrs. Spriggs:

"Mr. May stated this morning that there was no problem with one town or city being the county seat for two counties - so if it is true that we are not taking a slap at Nye County, why can't we make Tonopah the county seat and allow the commissioners to retain their control as a situs county and have the \$5 tax rate. We can have the Bullfrog County but, if it is okay for us to make the commissioners, county seat and everything, Carson City, why can't we make it Tonopah so we maintain the control where it is now as far as that local government having jurisdiction over the situs?"

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Mr. Triggs:

"I think that is an interesting proposal and I don't think there would be any objection to that... I think we have an opportunity to significantly enhance the revenue that is available to the local counties and if there is any way that Nye and Lincoln counties and other rural counties could get through the preception issue. I think we could have some enormous benefits - utilizing the very good aspects of SB-536 and we would certainly at least limit the court challenge issue if we were to amend out those questionable sections."

Mr. Gaston said several people had testified they could accept the concept of AB-756 that provides for a more efficient method for receipt of the money if the formula in SB-536 is retained intact.

Mr. Baughman said the issue of revenue distribution would be accomplished and recognized the impacts to other counties than Nye. Their concept of accomplishing this distribution in a truly equitable manner would have been defeated. They had wished for control to remain with the situs county.

Mr. Gaston repeated there was no indication of opposition by county officials to $\underline{AB-756}$ because that measure specifically had not been addressed by the officials.

Mr. Baughman repeated remarks made earlier for the basis of opposition to the measure.

Mr. Gaston and Mr. Baughman discussed the position of the counties and the portion of revenue and control that should be with the counties.

Mr. Baughman said his fear was that Nye County would go forward with submitting their grant applications to the Federal Government and that may or may not set a precedent for the amount of revenue available to the state. The local governments would prefer to deal with the issue statutorily to accomplish their objectives.

Steve Bradhurst. Nye County Board of County Commissioners, said the committee had received letters dated May 11 and May 22, regarding opposition to AB-756. They support the remarks of Mr. Baughman concerning the importance of a situs jurisdiction of the Nuclear Waste Policy Act. Creation of Bullfrog County does not diminish the impact. The purpose of AB-756 is to maximize the money available. The legislature feels the independent appraisal contracted by Nye County is too low. Nye County will wait for, and accept the appraisal of the state. The Nye County appraisal totaled \$1.8 million and it may be possible to appraise the site at \$500 million.

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Nye County wishes to remain whole and therefore would like to be able to retain their tax rate of \$1.69 on that property. The state can do what they like with the difference between \$5 and \$1.69. He requested Nye County not be eliminated from involvement in the program. people of Nye County will have to contend with the waste site everyday, forever.

Nye County will not proceed with a request for GETT funds. They will wait for the state to take action.

Senator Hickey asked if Nye County had a resolution to the fact they would not make direct application for the funds but would await state action.

Mr. Broadhurst replied the commissioners had discussed the issue at their last meeting.

Senator Hickey said a resolution rather than statements would be proper because this was the first time the legislators had been advised of the intent of the county regarding application for GETT funds.

Broadhurst said that proposal was made at the last Taxation Committee Meeting and the proposal was put before the Nye County board of commissioners last week, which they The county wants to be held whole and all they approved. want is their tax rate. The statements made were that there would be \$5.2 million generated by way of revenue and 10 percent at that sum was to go to the situs government. The statement of the Nye County commissioners was:

"Give Nye County the first 10 percent which is \$500,000 and after that, keep us whole and you folks do whatever you want; that is, give us whatever our tax rate is divided by \$5. The board of county commissioners endorsed that last Wednesday at the commission meeting. (June 3, 1987). So that is a part of the public record."

Mr. Gaston requested the legislature be furnished copies of the meeting so the statement can become a part of the Taxation Committee record. He requested the secretary make that statement a part of the record of the minutes of this meeting when the document is received. (The document was not received by the secretary.)

Mr. Broadhurst added if the reason for creating Bullfrog County was to immediately apply the \$5 rate rather than wait the 2 years necessary for the resolution to become effective, if there is a challenge, implementation of this measure will be delayed for at least 2 years. If it is not 199

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worth \$500 million today - the appraisal contracted by Nye County comes in at a lot less - then was it worth it to go ahead and create this special jurisdiction based on what appears to be the promise of a great sum of money. In 2 years the resolution establishing the \$5 rate will be in place.

In response to a question from Mr. Gaston, Mr. Broadhurst said Nye County may challenge the Bullfrog County provisions. The have a preliminary legal memorandum from Russ MacDonald, previously chief legal counsel for LCB. Mr. MacDonald has indicated the legislation could be challenged in four areas and one of those pertains to equal treatment of all counties.

Harry Swainston, Deputy Attorney General assigned to the Nuclear Waste Project Office, said he was not expert in taxation matters. He has been with the AG office for 13 years and specializes in the area of water, public lands, wildlife, and Indian matters - more generally - natural resources and public lands.

Mr. Swainston's testimony was interrupted by the call to general session.

Mr. Gaston announced the subcommittee on the nuclear waste site would reconvene following the Taxation Committee meeting in room 200, this date.

The meeting of the Taxation Subcommittee on Nuclear Waste recessed at 10:05 A. M.

The meeting of the Taxation Subcommittee on Nuclear Waste Site reconvened at 4:20 P. M., June 12, 1987, in room 200 of the Legislative Building, Carson City, Nevada.

Mr. Marvel was excused as he was in a Ways and Means Committee meeting. All other members were present.

Harry Swainston continued his testimony.

Mr. Swainston said in addition to the background information related, he also worked as an engineer for a major Department of Energy contractor at the test site, in the shadow of Yucca Mountain. He is aware of the impacts of the entire test site scene on the surrounding counties. He worked as an engineer and as a physicist in the underground testing program.

Mr. Swainston referred to an Attorney General opinion rendered in January which had been alluded to in testimony on both SB-536 and AB-756. Their study of the GETT provision in the Nuclear Waste Policy Act of 1982 indicates it provides a real opportunity for the political

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subdivisions that could share in those GETT grants. He does not believe possible revenue is necessarily limited to the \$500 million dollars. That number is elusive but it will be a big number and may be higher.

The Attorney General's office was interested in rendering an opinion as early as possible to afford the legislature an adequate opportunity to address the question. One of the very important aspects relates to the cap particularly as it related to Nye County. They could foresee the Department contending:

"As a federal tax immune agency that has been given some kind of constructive tax obligation, we should be treated like a private entrepreneur and our taxes should be reduced on a yearly basis by this tax; that is the tax based on the mill rate to each of the individual taxpayers. . .the tax should continue to go down because of the enormous evaluation of this one particular site."

Mr. Swainston said that may not be a particular concern because there is a bill in process that would remove the revenue cap on all but Washoe and Clark Counties. If that measure is not successful then that could still be a concern.

The Attorney General's office, because of the cap problem, advocated the property and facilities of the waste site be centrally assessed. Another aspect is the major impacts occasioned by a repository, particularly on Clark County and to a lesser extent on Lincoln County and some of the other neighboring counties in addition to the situs county. They were also concerned with devising a method to maximize the revenue to the state and the political subdivisions.

Nye County will always have its taxing authority against the property owned by the contractors. That taxing authority is separate and apart from GETT. It is important to have a central assessment akin to NRS 361.320.

regard to the letter to Senator Hickey from the Legislative Counsel Bureau pertaining to the constitutional issues, Mr. Swainston said they could not criticize or endorse that particular opinion. He added:

"If it is true that what we are dealing with is a grant, then it truly is a grant. The constitutionality of that particular - or for any bill - should not be adjudged as if it were a tax. I think that letter to a certain extent does consider it a tax and looks at the constitutionality of SB-536 indeed as if it were a tax. We don't think it is a tax. At some point in time it 201 has to become a grant because the federal law calls it

a grant. If it walks like a duck and looks like a duck it probably is a duck.

"I don't think that we think the constitutional implications and the distribution formula that serious that they can't be overcome in a court case. The other aspect of it is, as a practical matter, the Department of Energy and Congress, as a whole, realizes that they are going to have to provide some incentive to any host state. It would be questionable whether they would go through the exercise of even challenging something as long as it was reasonable - in the constitutional sense.

"On the other hand, things have come up like in Bullfrog County that almost cry out for a constitutional challenge, in my estimation. Part of that happens to be the way the bill was written. There is a provision in the first copy of the bill that suggests that the county commission of this particular county will be appointed by the Legislative Commission and they will in effect be in the driver's seat as to high-level nuclear waste emplacement in the repository. In all respects that in effect would displace the present executive control through the Nuclear Waste Project Office and NRS 459. With an agency which is effectively a legislative appointed agency - I think that raises some very serious separation of powers problems and could probably in effect ensure it would be vetoed by the governor, although of course that is his prerogative. That is a problem with the Bullfroq County bill as I saw it in its original format."

Mr. Triggs said in his opinion the purposes of both bills, AB-756 and SB-536, is to access the potentially enormous amount of revenue that could be available to the state through the site characterization process and the nuclear repository if placed there. The issue of the central assessment method of taxation was raised because that has the greatest possibility of accurately assessing and maximizing any revenue that could be forthcoming. SJR-21 attempts to amend the constitution to be able to do that very thing. One of the inherent problems with SB-536 is that it creates a central assessment mechanism when that type evaluation is currently prohibited by the Nevada Constitution.

Mr. Swainston said he did not agree central assessment was prohibited by the constitution. NRS 361.320 is in place that applies to utilities, power plants and things of that nature, that will become effective July 1, 1987. He has seen nothing to lead him to believe that is not constitutional. It is unconsitutional unless there is some means of apportioning the tax, such as line miles. If there

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is a means of apportionment that allows other subdivisions to participate in the revenue, there is no problem.

Mr. Triggs said if SJR-21 was ultimately successful, the legislature would have complete ability to establish any valuation method and any subsequent distribution method it chose. The questionable period now is the interim between the present and the effective date of SJR-21. He would like to see a method devised that would be fair to all the counties who have worked on this project, and would allow access to the greatest extent possible of that potential revenue. He asked Mr. Swainston if there was any way the two bills under consideration could work together.

Mr. Swainston replied Bullfrog County could be established with county jurisdiction and county officers that didn't have the separation of powers problem and impose a distribution formula that was fair and equitable. "That would probably stand muster in all areas."

In response to another question from Mr. Triggs, Mr. Swainston said he did not believe the Department of Energy would object to the amount of taxation on the project as long as the method was reasonable and not discriminatory against them.

Mr. Adler referring to SJR-21, page 2, lines 27, 28 and 29, said the assessed valuation was capped not to exceed 5 cents on each dollar of assessed valuation on the basis that is what appears in the constitution on other property. "We don't have to do that..."Do you think if we said the legislature shall set a tax rate on each dollar of the full assessed valuation — we could have that and they would not sue us, necessarily for that language if it was above the 5 cents?"

Mr. Swainston replied if the \$5 rate was exceeded the Department of Energy may challenge.

Ted Zuend, Fiscal Analyst, said if the language regarding the tax rate was not specific, the issue would have to be severed from section 1 of Article 1 and make that a different section in Article 10 because section 2 limits the tax rate to \$5 per \$100 valuation. That different section of Article 10 would make it clear it was severed from all the other provisions of Article 10, not only the uniform and equal provisions. It could be done but not by simply deleting the line in the resolution.

Mr. Swainston said he believed it would be advisable to limit assessment to \$5 because there would be many other types of taxation that could be imposed such as a tax on toxic matter and others. The most important thing is to avoid discriminatory taxes. He added:

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"The sentiment in Congress is that they would welcome some type incentive payment to the state. There are bills before Congress now to give \$100 million per year to the host state. That could turn around if the state gets into a regimen where - 'Okay, we are really going to stick it to the Federal Government.' That sentiment in Congress could drastically change, in my opinion."

Roy Neighbors, former county manager for Nye County and currently Administrative Assistant, said Nye County opposes AB-756 and partially opposes SB-536. The Senate Taxation Committee met with officials from Nye County and considered amendments the situs county felt were fair, some of which were accepted. (Exhibit C)

Great sums of money have been talked of but this is Government-owned property that under NRS 361.157 and NRS 361.159 - "The law says whenever property which is otherwise exempt is made available to and used in a business conducted for profit, it shall be assessable in the same manner as other fee property." That was one of the amendments suggested by Nye County. Nye County feels that as the host county in the shadow of Yucca Mountain, it will suffer the impacts of the waste site. They do not believe Clark County will be adversely impacted.

Mr. Adler said if this developed in the manner of the nuclear test site, Clark County would be the impact county. Most everyone that works at the test site lives in Clark County, their children go to school there and all social services for those individuals are provided by Clark County. If most of the people involved with the waste site live in Clark County, that county will suffer the impacts.

Mr. Neighbors said the real impact was that all the people working at the site spent their pay checks in Clark County and that is a positive impact for Clark County.

Mr. Gaston asked if $\underline{AB-536}$ were adjusted - now it is specified 15 percent must be allocated to Nye County - if that were increased to 20 percent, would that be more acceptable.

Mr. Neighbors questioned the value assigned to the waste site and available funds. They do not feel the value is there at the present time but are willing to accept the estimated value assigned by the state. For the next seven years the only money Nye County will have to mitigate the impacts will be revenue from tax rates.

Mr. Neighbors detailed their requested amendments to $\underline{SB-536}$. The object of the amendments was to leave the county whole so they continue no matter what happens in regard to the

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repository, they can continue taxing the site. They requested the first \$500,000 of the grant funds.

He explained how the sum of \$500 million was arrived at. (See minutes of June 12.) Thirty-five percent of that is \$175 million. Nye would like 34 percent of the valuation. For every \$1 million over \$175 million the county would reduce their valuation by 1 percent to a minimum of 25 percent. The balance of the allocation, 60 to 65 percent, would go to the other 16 counties. The railroad is a factor and will probably run through Nye County general area.

Mr. Adler said because the waste would originate in the east, the railroad would be through Lincoln County.

Mr. Neighbors continued his explanation of their proposed amendments and the amount to be allocated to the other counties.

Nye County will have to challenge this legislation if a county within a county is created. He believes a county created to receive money will have many constitutional challenges. SB-536 is a measure they could work with.

Mr. Adler asked if Nye County would find acceptable possible language to the effect the provisions of the Bullfrog County Act would expire in June 30, 1991 and all assets and facilities of Bullfrog County would revert to Nye County.

Mr. Neighbors said he did not think the county officials would accept that.

Mr. Adler said the sole purpose of the proposed statutory legislation was to maintain in the interim the current status of the constitution and the method of assessment so a true central assessment approach could be devised.

Mr. Neighbors said Nye county wanted to remain whole ensured of receiving their county tax rate for the site.

Mr. Triggs said this was an excellent opportunity, although Nye County was opposed, to access revenue that will benefit all the state including Nye County. In regard to AB-756 he proposed that section 11, page 3, be changed to read - "The board shall grant all revenue collected to the Nevada Tax Commission. The Commission shall promulgate regulations for distribution of any grants to the counties;" and add a new section 16 to the bill - "The provisions of this Act will expire at midnight June 30, 1991 and all assets and facilities of Bullfrog County shall revert to Nye County."

MR. TRIGGS RECOMMENDED AMENDMENT TO $\underline{AB-756}$ AS STATED ABOVE.

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Mr. Triggs said he believed Nye County in the long run will receive everything owed to them and that they deserve. The adjustments needed in the interim can be accommodated.

Mr. Adler said he would like AB-756 to specify appointment of the board of Bullfrog County officials would be made by the governor, rather than the legislative commission and affect a separation of powers.

Mr. Triggs said he thought that an excellent suggestion.

MR. TRIGGS AMENDED HIS MOTION TO SPECIFY APPOINTMENT OF OFFICIALS WERE TO MADE BY THE GOVERNOR.

MR. ADLER SECONDED THE MOTION.

MOTION CARRIED. MRS. SPRIGGS VOTED "NO".

MRS. SPRIGGS MOVED AB-756 BE GIVEN A DO PASS RECOMMENDATION.

Mr. Adler made a motion to amend SB-536.

MR. ADLER RECOMMENDED AMENDING SB-536 BY DELETING SECTION 1 (that language deals with assessment and taxation) AND SUBSTITUTING "PURSUANT TO AB-756 THE TAX COMMISSION SHALL ALLOCATE AMONG ALL THE COUNTIES IN THE FOLLOWING MANNER - NYE COUNTY 20 PERCENT, 5 PERCENT TO LINCOLN COUNTY - RETAIN SECTION B - 75 PERCENT WOULD CHANGE TO 60 PERCENT SHALL BE ALLOCATED TO OTHER COUNTIES. DELETE THE PERCENTAGE ADJUSTMENTS. DELETE THE REMAINDER OF THE BILL.

MR. TRIGGS SECONDED THE MOTION.

THE MOTION BY MR. ADLER TO AMEND THE DO PASS RECOMMENDATION BY MRS. SPRIGGS, CARRIED. MRS. SPRIGGS VOTED "NO".

Mr. Price asked if it should be made clear a person appointed as an official of Bullfrog County would be guaranteed access to that county.

Mr. Price also asked if officials of Bullfrog County would fall under provisions that state an elected official cannot hold two offices.

Mr. Gaston asked the questions be reserved for the regular Taxation Committee meeting which was already underway.

Amendment No. 1608 to AB-756 is attached as Exhibit D.

Minutes of the Nevada State Legislature

Assembly Committee on TAXATION SUBCOMMITTEE ON NUCLEAR WASTE SITE

News June 12, 1987

NOT THE STATE OF T

The meeting of the Assembly Taxation Subcommittee on the Nuclear Waste Site adjourned at 5:00 P. M.

Respectfully submitted:

Marjorie Robertson Committee Secretary

INFORMATIONAL PACKET

(Bullfrog County)

In your packet find the following:

- Las Vegas Review Journal editorial dated April 22, 1987 -Nye County's foresight.
- 2) Memo from LCB Research regarding tax rates in Nye County,
- 3) Explanation and intent of proposed legislation.
- 4) Copy of skeleton bill.
- 5) Area map.
- 6) Memo from LCB regarding rents equal to taxes (GETT), Provision of Nuclear Waste Policy Act.
- 7) News article from Nevada Appeal dated March 25, 1987 regarding Senator Johnson's remarks.
- Memo from LCB including Senator Johnson's press release dated March 25, 1987.
- 9) Memo from LCB Research and background information on 1909 legislation which would have provided for the creation of Bullfrog County at that time.

EXHIBIT B

4/22/87

t must be spring because the folks in Nye County so to be waiting up and smalling the roses.

It all has to do with the such or waste repository are trem, commonly knows as the nuke damp.

The residents in central Nye County have come up with a novel way of taking advantage of the Department of Energy's program. Their reasoning seems to be that the momentum behind locating a sucteer dump at Yucca Mountain, about 100 miles northwest of Las Vegas, may be unstoppehis. And regardless of whether the dump eventually does end Up in their backyard, they ought to start proparing for that possibility.

Their novel little plan seeks to increase the tax base of the land around the proposed Yucca Mountain site. By annexing almost 50 square miles of land around Yucca Mountain, the town of American Valley will increase the tax rate for the area by 70 percent.

"This tax increase won't affect anyone living there because

not a soul inhabits the desolate desert now.

But it will have a dramatic benefit for the town and county if and when the nuclear waste program comes to Nevada: Nye County's officials will have ensured themselves of mulking as much revenue as possible from the federal govern

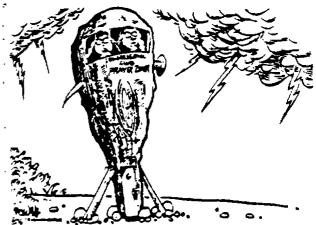
- Under the federal law that started the whole nuclear dump ruckus, the local government that eventually gets the repository will also get grants from the Energy Department equal to what the dump would have generated in property and business taxes if it were a private company.

The grants were written into the program as a way of helping the host communities pay for the economic and soci problems that will come with the repository: thousands of workers and untold stress on the area's infrastructure.

The Nye County planners who have come with this method of making sure they get their fair share should be commended for their foresight in the face of this emotionally charged issue.

They may be making their county's residents the taxrichest people on earth. Why the whole idea could end up adding a new word to government vocabulary: taxgetter instead of taxpayer.

The views expressed above are those of the Las Vegi Review-Journal, All other opinions expressed on these page are those of the artist or author indicated.



LAS VICAS Review-Journal

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LEGISLATIVE BUILDING CAPITOL COMPLEX CARSON CITY, NEVAGA 88710

> DONALD A. EHOOSE, Diversor (702 MS-1627



LEGISLATIVE COMMESSION (702) 855-5627
LOUIS W SENCEVIN Assertations: Comment of Restrict Property Sentency
Demand A Restrict Devices Sentency
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April 27, 1987

HEMORANDUM

TO:

Assemblyman Paul M. May, Jr.

FROM:

Donald M. Bayer: Senior Research Analyst High-Level Radioactive Waste Program

SUBJECT:

Tax Rate Change in Mye County Through Annexation of

Yucca Mountain to Town of Amargosa Valley

This memorandum is in response to your request for information concerning the tax rate change if Yucca Mountain is annexed to the town of Amargosa Valley in Nye County, Nevada.

Background:

A recent editorial in the Las Yegas <u>Review-Journal</u> stated that "By annexing almost 50 square miles of land around Yucca Mountain, the town of Amargosa Valley will increase the tax rate by 70 percent."

I spoke with Janice A. Wright who is deputy executive director for local government finance with Nevada's department of taxation. Ms. Wright explained that the current tax rate breakdown is as follows:

Mye County - \$1.62 per \$100 of assessed valuation; and

Amargosa Valley - \$2.92 per \$100 of assessed valuation.

She also explained that an increase in assessed valuation would allow for a reduction in the tax rate when computing the maximum combined allowable revenue from ad valorem and sales tax pursuant to chapter 354 of Nevada Revised Statutes.

She noted further that until the new property was assessed, it is not possible for the department of taxation to compute the new tax rate.

If you request further explanation, you may wish to call Ms. Wright (885-4892).

OMB/en HLRW-1:MEMO74-75

EXPLANATION AND INTENT OF PROPOSED LEGISLATION

EVEN THOUGH I AM ADAMANTLY OPPOSED, AND WISE TO GO ON RECORD AGAIN AT THIS TIME IN OPPOSITION TO THE LOCATION OF A NUCLEAR WASTE REPOSITORY IN NEVADA, I FEEL IT INCUMBENT UPON MYSELF, OTHERS, AND THIS LEGISLATURE TO PREPARE ITSELF AND THE CITIZENS OF THIS STATE IN THE EVENTUALITY THAT THE FEDERAL GOVERNMENT, OVER OUR COLLECTIVE OBJECTIONS, SELECTS NEVADA AS THE FIRST SITE FOR A NUCLEAR WASTE REPOSITORY. CONSEQUENTLY, LEGISLATION WILL SHORTLY BE INTRODUCED CALLING FOR THE CREATION OF A NEW COUNTY IN NEVADA.

BULLFROG COUNTY, THE NEW PROPOSED ENTITY, WILL CONSIST
PRIMARILY OF THE AREA AROUND YUCCA MOUNTAIN PRESENTLY
UNDER CONSIDERATION BY THE U.S. DEPARTMENT OF ENERGY FOR
A HIGH LEVEL NUCLEAR SITE REPOSITORY.

THE PROPOSED SITE IS CURRENTLY LOCATED IN NYE COUNTY, NEVADA, AND UNDER EXISTING LAW THE MAXIMUM TAXES ALLOWED BY THE NEVADA CONSTITUTION COULD NOT BE COLLECTED, AND THOSE THAT ARE WOULD REMAIN ONLY WITHIN NYE COUNTY ITSELF.

UNIQUE PEATURES OF THE PROPOSED LEGISLATION CALLING FOR A NEW COUNTY WOULD BE AS FOLLOWS:

- 1. THE COUNTY COMMISSIONERS AND NECESSARY COUNTY OFFICERS OF BULLFROG COUNTY MOULD BE APPOINTED BY THE LEGISLATIVE COMMISSION, AN INTERIM ARM OF THE LEGISLATURE.
- 2. THE COUNTY SEAT OF THE NEW COUNTY WOULD BE CARSON CITY.

THE PRIMARY REASONS FOR THIS APPROACE ARE VARIED:

- 1. OSTAIN THE MAXIMUM TAX RATE ALLOWABLE FOR THE PURPOSE OF TAXING THE REPOSITORY, ANCILLARY FACILITIES THERETO, AND THOSE BUSINESSES ASSOCIATED WITH THE VENTURE TO THE HIGHEST DEGREE POSSIBLE.
- 2. PROVIDE THAT THE STATE OF NEVADA IS THE BENEFICIARY OF THOSE REVENUES, NOT ONE SINGLE COUNTY.
- 3. ESTABLISH A SINGLE GEOGRAPHIC ENTITY TO DEAL WITH THE FEDS, AS OPPOSED TO A COUNTY AND A STATE, EACH ALONG SEPARATE PATHS.
- 4. BY HAVING CARSON CITY DESIGNATED AS THE COUNTY SEAT OF BULLFROG COUNTY, THERE IS MADE AVAILABLE IN CLOSE PROXIMITY LEGISLATIVE. EXECUTIVE, STAFF, AND THE LEGAL EXPERTISE NECESSARY IF ACTION OR A REACTION TO FEDERAL ACTIVITIES NEEDS TO BE ADDRESSED.
- 5. PLACES NEVADA IN A BETTER POSITION TO WORK WITH OUR NEVADA CONGRESSIONAL DELEGATION.
 - THE BILL WOULD ALLOW ALL COUNTY COMMISSIONERS
 TO REGULATE ALL INDUSTRIES, OCCUPATIONS,
 PROFESSIONS AND BUSINESS IN ITS COUNTY WHICH
 INVOLVE HIGH-LEVEL NUCLEAR WASTE, INCLUDING
 WITHOUT LIMITATION, THE ACT OF TRANSPORTING
 THE WASTE INTO OR THROUGH THE COUNTY BY MOTOR
 VEHICLE, RAILROAD CAR OR ANY OTHER MEANS, AND
 MAY PIX, IMPOSE AND COLLECT A LICENSE TAX FOR
 REVENUE OR FOR REGULATION, OR FOR BOTH REVENUE
 AND REGULATION, ON SUCH TRADES, CALLINGS,
 INDUSTRIES, OCCUPATIONS, PROPESSIONS AND
 BUSINESS.

OMCE AGAIN, THIS PROPOSAL SHOULD NOT AND MUST NOT BE CONSTRUED OR INTERPRETED TO INDICATE A WILLINGNESS OR A DESIRE ON BEHALF OF ANY OF US, OR ANY MEMBER OF THE LEGISLATURE, TO ACQUIESCE TO THE LOCATION OF A NUCLEAR REPOSITORY FOR HIGH LEVEL RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL ANYWHERE IN NEVADA.

HOWEVER, RECENT EVENTS HAVE HEIGHTENED OUR CONCERNS, AND BY THIS PROPOSED ACTION WE ARE ATTEMPTING TO CONSOLIDATE OUR FORCES, PLAN OUR STRATEGY IN OPPOSITION, AND TO SPEAK WITH A SINGLE VOICE, THE LOUDEST WE CAN MUSTER; A VOICE THAT WILL CARRY FROM CARSON CITY TO WASHINGTON D.C.; A VOICE THAT WILL SAY WE JUST SAID NO.

REQUESTED AFTER DEADLINE

SUMMARY-Creates Bullfrog County and revises provisions governing counties. (BDR 20-2145)

FISCAL NOTE:

Effect on Local Government: Yes.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to counties; providing in skeleton form for the creation and organization of Bullfrog County; authorizing a higher levy of advalorem taxes in certain counties; making various other changes relating to counties; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- Section 1. Chapter 243 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.
- Sec. 2. All of that portion of the present country of Nye lying within the boundaries of the high-level nuclear waste repository is hereby created as a new country, to be known as Bullfrog Country.
 - Sec. 3. Carson City is the county seat of Bullfrog County.

- Sec. 4. Chapter 244 of NRS is hereby amended by adding thereto the provisions set forth as sections 5, 6 and 7 of this act.
- Sec. 5. 1. In any county in which, upon creation or as of 6 months before any general election, less than 10 qualified electors reside, the legislative commission shall appoint the members of the board of county commissioners and the county clerk, county recorder, county auditor, sheriff, district attorney and public administrator who, but for the provisions of this section, would have been elected at that general election.
- 2. Each member of a board of county commissioners appointed pursuant to this section:
 - (a) Must be a qualified elector of the state;
 - (b) Must have such other qualifications as are provided in this chapter; and
 - (c) Must not hold any other elective office.
- 3. Each other officer appointed pursuant to this section must meet all qualifications for the office to which he is appointed.
- 4. All appointments made pursuant to this section must be for the same terms as if the officers were elected.
- Sec. 6. In any county for which a member of the board of county commissioners or any other officer is appointed pursuant to section 5 of this act, the legislative commission shall continue to appoint its officers until the

county has maintained a wait of 10 or more qualified electors as residents continuously for 2 years.

Sec. 7. In any county in which the offices of county clerk, county recorder, county auditor, sheriff, district attorney and public administrator are all filled or to be filled by appointment pursuant to section 5 of this act, the legislative commission may consolidate the offices into one or more county offices if it finds that such consolidation would be in the best interests of the county.

Sec. 8. NRS 244.020 is hereby amended to read as follows:

244.020 1. [County commissioners shall] Except as otherwise provided in section 5 of this act, county commissioners must be qualified electors of their respective counties and have such other qualifications as are provided in this chapter.

- 2. No county or township officer [shall be] is eligible to the office of county commissioner.
 - Sec. 9. NRS 244.025 is hereby amended to read as follows:
- 244.025 1. [County commissioners shall] Except as otherwise provided in section 5 of this act, county commissioners must be elected by the qualified electors of their respective counties.
- 2. At the general election held in 1968 and at the general election every 4 years thereafter, two persons [shall] must be elected to serve on the board of county commissioners for terms of 4 years.

- 3. At the general election held in 1970 and at the general election held every 4 years thereafter, one person [shall] must be elected to serve on the board of county commissioners for a term of 4 years.
- 4. This section does not apply to counties having a population of 100,000 or more.
 - Sec. 10. NRS 244.040 is hereby amended to read as follows:
- 244.040 1. Any vacancy occurring in any board of county commissioners must be filled by appointment of the governor. Except in Carson City, the governor shall appoint a suitable person who is a member of the same political party as the most recent holder of the vacant office.
- 2. The term of office of a person appointed to the office of county commissioner pursuant to this section does not, by virtue of the appointment, extend beyond 12 p.m. of the day preceding the 1st Monday of January next following the next general election.
 - Sec. 11. NRS 244.1505 is hereby amended to read as follows:
- 244.1505 1. A board of county commissioners may expend money for any purpose which will provide a substantial benefit to the inhabitants of the county [.] or the state. The board may grant all or part of the money to [a]:
 - (a) The state; or
- (b) A private organization, not for profit, to be expended for the selected purpose.

- 2. A grant to a private organization must be made by resolution which must specify:
 - (a) The purpose of the grant;
 - (b) The maximum amount to be expended from the grant; and
 - (c) Any conditions or other limitations upon its expenditure.
 - Sec. 12. NRS 244.335 is hereby amended to read as follows:
- 244.335 1. Except as otherwise provided in [subsection 2.] subsection 2 and 3, the board of county commissioners may:
- (a) Regulate all character of lawful trades, callings, industries, occupations, professions and business conducted in its county outside of the limits of incorporated cities and towns.
- (b) Fix, impose and collect a license tax for revenue or for regulation, or for both revenue and regulation, on such trades, callings, industries, occupations, professions and business.
- 2. The county license boards have the exclusive power in their respective counties to regulate the business of conducting a dancing hall, escort service, or gambling game or device permitted by law, outside of an incorporated city. The county license boards may fix, impose and collect license taxes for revenue or for regulation, or for both revenue and regulation, on such businesses.

- 3. The county commissioners may regulate all industries, occupations, professions and business in its county which involve high-level nuclear waste, including without limitation, the act of transporting the waste into or through the county by motor vehicle, railroad car or any other means, and may fix, impose and collect a license tax for revenue or for regulation, or for both revenue and regulation, on such trades, callings, industries, occupations, professions and business.
- 4. No license to engage in business as a seller of tangible personal property may be granted unless the applicant for the license presents written evidence that:
- (a) The department of taxation has issued or will issue a permit for this activity, and this evidence clearly identifies the business by name; or
- (b) Another regulatory agency of the state or an agency of the Federal Government has issued or will issue a license required for this activity.
- [4.] 5. Any license tax levied for the purposes of NRS 244.3358 or 244A.597 to 244A.655, inclusive, constitutes a lien upon the real and personal property of the business upon which the tax was levied until the tax is paid. The lien must be enforced in the following manner:
- (a) By recording in the office of the county recorder, within 90 days following the date on which the tax became delinquent, a notice of the tax lien containing the following:

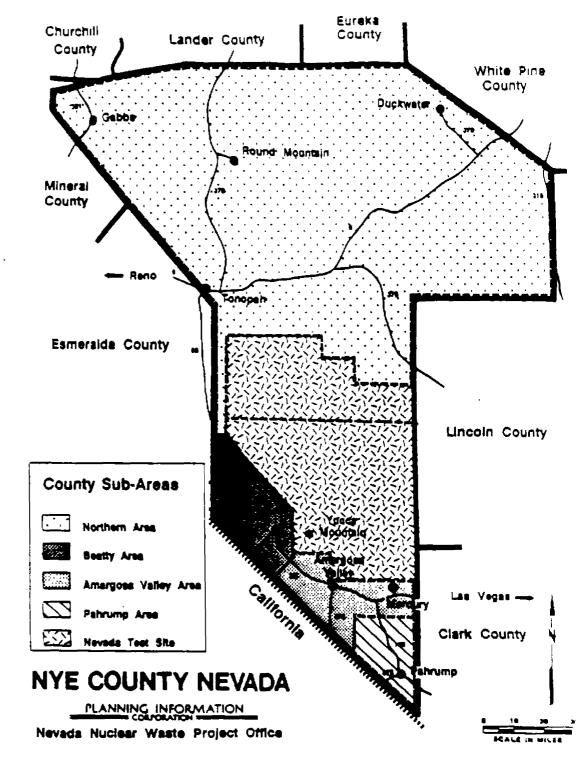
- (1) The contact of tax due and the appropriate year;
- (2) The name of the record owner of the property;
- (3) A description of the property sufficient for identification; and
- (4) A verification by the oath of any member of the board of county commissioners or the county fair and recreation board; and
- (b) By an action for foreclosure against the property in the same manner as an action for foreclosure of any other lien, commenced within 2 years after the date of recording of the notice of the tax lien, and accompanied by appropriate notice to other lienholders.
- [5.] 6. The board of county commissioners may delegate the authority to enforce liens from taxes levied for the purposes of NRS 244A.597 to 244A.655, inclusive, to the county fair and recreation board. All information concerning license taxes levied by an ordinance authorized by this section or other information concerning the business affairs or operation of any licensee obtained as a result of the payment of such license taxes or as the result of any audit or examination of the books by any authorized employee of a county fair and recreation board of the county for any license tax levied for the purpose of NRS 244A.597 to 244A.655, inclusive, is confidential and must not be disclosed by any member, officer or employee of the county fair and recreation board or the county imposing the license tax unless the disclosure is authorized by the

affirmative action of a majority of the members of the appropriate county fair and recreation board. Continuing disclosure may be so authorized under an agreement with the department of taxation for the exchange of information concerning taxpayers.

- Sec. 13. NRS 361.453 is hereby amended to read as follows:
- 361.453 [The] 1. Except as otherwise provided in subsection 2, total advalorem tax levy for all public purposes must not exceed \$3.64 on each \$100 of assessed valuation, or a lesser or greater amount fixed by the state board of examiners if the state board of examiners is directed by law to fix a lesser or greater amount for that fiscal year.
- 2. The total ad valorem tax levy in a county in which one or more of the county commissioners is appointed pursuant to section 5 of this act must not exceed \$5 on each \$100 of assessed valuation.
- Sec. 14. As soon as practicable after the effective date of this act the legislative commission shall appoint:
 - 1. To the board of county commissioners of Bullfrog County:
- (a) Two persons qualified pursuant to section 5 of this act to serve until 12 p.m. on December 31, 1990; and
- (b) One person qualified pursuant to section 5 of this act to serve until 12 p.m. on December 31, 1988.

2. One of this act.

Sec. 15. This act becomes effective upon passage and approval.



المنجمدية الأنبان والمراثة

LEGISLATIVE COUNSEL BUREAU

LEGIELATIVE BUILDING CAPITOL COMPLEX CARSON CITY, NEVADA 88710

DONALD A EHOOES Diverse



LEGISLA ITVE COMMISSION (702) BES-56, LOUIS W BERCEVIN GENERAL OFFICE Desired A Reside. Officer Sections INTERIM FINANCE COMMITTEE (702) BE MAINTH M LEDWAY, GENERAL OFFICER

MARVIN M. SEDWAY, Assemblyman, Chargest Desail G. Miles, Florel Analysis Mark W. Serress, Floral Analysis

LINDA S JESSEN Legalating County 1703 985-927 JOHN R CROSSLEY Legalating balant 702 985-92 ROBERT E ELICKSON Research Director 702 985-9

April 13, 1987

MEMORANDUM

TO:

Assemblyman Pami M. May, Jr.

FROM:

Donald M. Bayer, Senior Research Analyst High-Level Radioactive Waste Program

SUBJECT:

Grants Equal to Taxes (GETT) Provision of Nuclear

Waste Policy Act (NWPA)

This memorandum is in response to your rquest for information pertaining to the grants equal to taxes provision of the Nuclear Waste Policy Act.

Background

In accordance with sections 116(c)(3) and 118(b)(4) of the NWPA, the United States Department of Energy (DOE) will make payments during the site characterization, repository development and operation phases of the high-level radioactive waste repository program in amounts equal to those which the eligible jurisdiction would receive if the facility was owned, developed and operated as a private venture.

In the case of Yucca Mountain, Nevada, the site characterization phase began on May 28, 1986. According to the U.S. Department of Energy's directive on payments of GETT, the eligible jurisdiction may receive payments from commencement (May 28, 1986) through termination of site characterization activities.

Evaluation of Provision as It Applies to the State of Yevada

You asked specifically if the state can receive GETT payment retroactively. You also asked whether a new state tax law enacted after the start of site characterization but before the state requests GETT payments would apply retroactively.

Interpretation of the Act

1. Department of Energy --

I spoke with Roger Gale (202-586-2277) who is the director of Public Policy and Outreach for the OOE in Mashington, D.C. Mr. Gale expressed his belief that upon the date (May 28, 1986) when the President named the three sites--Yucca Mountain, Nevada; Hanford, Hashington; and Deaf Smith County, Texas--for site characterization, each state became eligible to receive GETT payments from the Federal Government.

2. Nevada --

Jan Needham (885-5627), who is the senate bill drafting advisor for the Nevada legislature, advised me that it was her opinion that the state could apply for GETT funds based on the laws that exist at the time the application is submitted to the Federal Government.

Summary and Conclusion

It would appear from comment received from the DOE and Nevada legislative counsel that the payment of GETT funds can be retroactive. It would also appear that the basis for the request would be the tax law that is in effect at the time of the request. You may, however, want to verify the legal opinion by speaking directly with Ms. Needham.

If you have any other questions on this matter, you may wish to call Jan Needham at 885-5627 or call me at 885-5392.

DMB/en HLRW-1:MEM069-70

Nevada would be paid to accept nuke dump

By DAVID KOENIG Appeal Washington Sureau

WABHINGTON — Nevada and other states would be affored \$100 tellites a year, plus beauses, in noisel a high-level mucleur waste dutte, under legislatius introduced tative by two lay assessors.

today by two boy sensters.

The government would begin negaliating a price with Nevada, Weishington and Texas, and allow any other state one year to accept the date.

"But the primary eather of the bill, Sin." J. Bonnett Johnston, D.La., again histoid that Novada is the healtest confidents.

"Other scientists have written artiples ... and the ectentists have pageted out Pevada is a wery likely star." Jehnsten mid et a press epsterence today with co-author Jettes McChre, R.-Idake, but added "Ibid is not my judgment; that is tild ectentists hedewood."

"Phinnion is choirman of the Senale Energy Committee, and Mc-Chire in the top Republican on that panel, which in the past year has turned into a war sense over the laderal government's search for a methan work dame.

Johnston sold years of turmeil

over nuclear waste could be ended it a state accepts the maney offered in his bill — a \$100 million beam for signing an agreement, \$50 million a year until the damp opens, another \$100 beam upon opening and \$100 million a year until the dump is filled.

In exchange for the memory, the torget state would waive its current right to vote the dump or one the government to stop construction

Although the payments could stretch over 30 years or longer, Johnston said the bill would save the government money by eliminating the mod for castly studies at all three Jending sites in Nevada, Washington and Texas.

These studies are pegged at \$1 billion aniocu

"This would be entirely consennue," Johnston said. "There is no requirement any state must enter into one of these agreements."

He optimistically declared that the reward being offered in "an offer that no one can refuse "

But if early reaction from leading public officials is any indication, Nevada can turn down the cash

Gov. Richard Bryan labelled the offer "auciear blackmail," and hald. "Nevada in not fer sale... I for

one am not going to be a party to this policy of dissater."

Sun, Harry Reid, D-Nev., said the state's residents oppose the dump and "efforts to negotiate a highticket price tag to buy us off won't change our opposition."

Johnston said he has asked officials in all three affected states to "Just think about this ... lestend of rushing to a political judgment."

He seemed puzzled by the vehoment reaction to his bill — since Nevada stands to get no money if Yucca Mountain in Nye County is chosen under current law.

"If you are a Western state and you think you might get the repusitory, all this does is give you a chance to agree in advance to be said \$160 million a year while receiving (apent nuclear) fuel," Johnnion and

"If you don't like that deal, you don't have to accept it

A nuclear dump "is going to happen to somebody anyway." Johnstonasid

In an optimistic tone, Johnston even suggested that "there may well be a competition" among states eager to take a cash settlement to accept the dump or a lemporary facility planned to be built in Tennesser

McClure suggested that the hostile and unconditioned apposition to the dump by officials in the three leading states may mellow once the states have an offer to consider.

"It is obvious under current conditions they think the benefits, and there are benefits, are not great enough to induce them to even think it may be a good deal," McClure hald

"We've put this out on the inbis and people will start shooting at it."

The first shots have already been

Reid said the bill would sidestep environmental safeguards, and warned that a nuclear waste accident would have a "debitishing and irreversible impact" on tourism, the state's fooding industry

"Nevada has already contributed more than its share to the national defense, and crough is enough," Reids aid in a statement issued by his office.

He referred to the state's rule in nuclear testing and its neveral military bases

Rep James Bilbray, D-Nev, called the Johnston-McClure bill "a brite that Congress will never access."

He said the bift was designed to pit states against one another, and is also impractical because of the cost of the proposed settlement costs.

"We are worrying about trimming millions of dollars from defense spending and there is talk of raising taxes." Bilbray said

"Where are we going to get \$160 million, year in and year out, for

Bryan, in an interview with the Las Vegas Review-Journal, said the Johnston bill "would not saids all considerations of health and safety, and it would dangle a bait of hundreds of millions of dollars in front of whichever state decides to accept this program."

Bryan said the paymer! would boost the state's economy, but the dump "is going to last force or," and vowed to cuntime appining Nevada's selection.

Sen Chic Hocht, R-Nev, said he may "have doubts" about the proposal, but praised Johnston for "considering new ways of approaching this problem."

Environmental groups may also appose the proposal

Keiki Kehne, lubbyist for the Environmental Pubcy Institute, said

Johnston's reward system could lead to a designrounly madequate sile being selected for the nation . nuclear waste

"Once you've norrowed it down to one site, the institutional insures turn in to show that site is (th. Kahan anid.

"It would not a bad environment if standard because you are not some paring it to other also or finding the best also; you are just seeing who will take it at the lowest price."

The Johnston-McClure bit would meaned the 1992 law which set guide lines for building a macteur dromp in the West by 1998, and another one in the East after that

Planning for the Western damp is habited activities, largely because of protests about the government's solection process, and plans for the Eastern dump are un hald

Johnston, a longitime supporter of nuclear power, and the process to been damaged by unfounded from about nuclear waste.

"Nuclear waste as a scientist challenge is a relatively easy if solve problem, with no great fact in the areas involved," ne sacalling safety questions "a prceived arublem." , LEGISLATIVE COUNSEL BUREAU

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LEGICLATIVE BUILDING CAPITOL COMPLEX CARSON CITY, NEVADA 98710

> DONALD A RHOOMS, Design 702) 10.5-34.27



LEUGHAR, PER COMPANION (COMPANION COMPANION COMPANION COMPANION ASSESSMENT COMPANION C INTERIM FINANCE COMMITTEE (702) ML

MARVON M. SEDWAY, commissions, Co. Depart C. Meles, Flood Analysis Mark W. Street, Clerk Andrew

LINDA S (ESSEN Legislative Commed (102) 885-562*
JOHN R CROSSLEY Legislative Auditor 102) 885-562*
ROBERT E ERICKSON Research Director (102) 885-56

March 27, 1987

<u>M E M O R A N D U M</u>

TO:

Members, Nevada Legislative Committee on

FROM:

High-Level Radipactive Waste

Donald M. Bayer Senior Research Analyst

SUBJECT:

Proposed Federal Legislation Regarding High-Level

Radioactive Waste Repository (Senator Bennett

Johnston, Democrat--Louisiana)

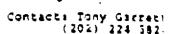
Senator Hickey asked me to forward to you copies of a press release and the bill which was introduced by Senator Bennett Johnston pertaining to the U.S. Department of Energy's (DOE's) high-level radioactive waste siting program.

As you will note, the bill (amending the Nuclear Waste Policy Act) provides an incentive payment schedule for the state which enters into an agreement with the DOE to permit detailed site characterization of a site within the state.

Under the revised act, it appears that Nevada, Texas and Washington will be the first states to have an opportunity to negotiate an agreement. In addition, the measure provides that other states will be given an opportunity to enter into an agreement if none can be executed with Nevada, Texas or Washington.

If you have any question on the enclosed material, give me a call at 885-5392.

DM8/en Encs. HLRW-1: MEMOS6



JOHNSTON BILL NOOLD PAY \$100 MILLION YEARLY TO M-MASTE SITE

(Mashington, D.C.) - Sen. Bennett Johnston (D-La.), Chairman c the Senate Energy Committee, today introduced legislation t provide annual payments of \$100 million to a state which agrees t accept a permanent disposal site for high-level nuclear waste.

The proposal would also authorize creation of a temporal Monitored Retrieval Storage (MRS) facility and provide for annupayments of \$50 million to a state which accepts that facility.

According to Johnston, the incentives are needed because theffort to designate a site for nuclear waste disposal "was verseriously Jamaged" when the Department of Energy last year helt the search for a second repository, to be located in the Easter U.S.

"As a result of that action," Johnston said, "the state selected for a potential first repository in the West have demands a shutdown of that part of the program as well. Somehow a neconsensus must be developed to allow the program to go forward."

In addition, Johnston said the creation of a temporary was facilility would help the federal government keep a commitment accept spent fuel from civilian nuclear reactors beginning in 1998.

Once incentive agreements are eighed by states to accept an HE and to accept a first repository, the search for a secon repository would be deferred.

Johnston said the legislation is not designed to "shor circuit" the provisions of the 1981 Nuclear Waste Policy Act but t "move them technical process foward by addressing some of the political issues" related to nuclear waste disposal.

"Any state that hosts a nuclear waste facility will be performing an immanse service to the nation, and we should be willing to pay them for that service," Johnston said.

The senator predicted that the incentives would allow the Department of Energy to narrow its final studies or "sit characterizations" for a first repository to one location, rathe than three, saving an estimated \$2 billion in the cost of the program. Payments to states hosting the permanent repository and the temporary MRS facility would be drawn from these savings under Johnston's proposal.



Nuclear Maste Policy Act Agendments Act of 1987

Summary of Major Provisions March 25, 1987

Leaves ticles I-III of the existing Nuclear Waste Policy sended.

Adds new title IV that provides an alternative procedure ing a repository.

Under this procedure, DOE would negotiate an incentive at with one of the three states with candidate sites you, Nevale or Texas). For 12 months after enactment any tate with a suitable site could also seek to enter into an we agreement with DOE for a repository.

Under an incentive agreement a state would receive:

- \$100 million at execution of the agreement;
- \$ 50 million annually until the opening of the
 - \$100 million at the opening of the facility; and
 - \$100 million annually until closure of the facility.

-third of any payment must be passed through to units of overnment affected by the facility.

In return a state would agree to expedite construction of ility and waive its right to judicial review of issues by the agreement and its right to veto the facility under of the Act.

A Review Panel would be established to participate with . the design and operation of the facility.

Construction of a monitored retrievable storage facility orized.

1

- 2 SECRETAR. OF THE IREASURY SHALL DETERMINE THE RATE OF INTEREST
- 3 "(6) The Parties to the agreement shall share with one
- 4 ANOTHER INFORMATION RELEVANT TO THE LICENSING PROCESS FOR THE
- 5 REPOSITORY OR MONITORED RETRIEVANCE STORAGE PACILITY, AS 17
- 6 BECOMES AVAILABLE; AND
- 7 "(7) THE STATE OR AFFECTED INDIAN TRIBE PARTICIPATE IN TH
- B DESIGN OF THE REPOSITORY OR MONITORED RETRIEVABLE STORAGE
- 9 FACILITY AND IN THE PREPARATION OF DOCUMENTS REQUIRED UNDER LA
- ig or regulation governing the effects of the facility on the pub
- 11 HEALTH AND SAFETY.
- 12 "(C) THE SECRETARY SHALL MAKE PAYMENTS TO THE STATES OR
- 13 AFFECTED INDIAN TRIBES UNDER THIS SECTION FROM THE NUCLEAR WAS
- 14 FUND ESTABLISHED BY SECTION 301(C) OF THIS ACT. THE SIGNATURE
- 15 THE SECRETARY ON A VALID INCENTIVE AGREEMENT UNDER SECTION 401
- 16 SHALL CONSTITUTE A COMMITMENT BY THE UNITED STATES TO MAKE
- 17 PAYMENTS IN ACCORDANCE WITH SUCH AGREEMENT.
- 18 "REVIEW PANEL
- 19 "SEC. 403.(A) THE REVIEW PAREL REQUIRED TO BE ESTABLISHED
- 20 SECTION 402(B)(2) OF THIS ACT SHALL CONSIST OF A CHAIRMAN
- 21 SELECTED BY THE SECRETARY IN CONSULTATION WITH THE GOVERNOR OF
- 22 THE STATE OR GOVERNING BODY OF THE AFFECTED INDIAN TRIBE, AS
- 23 APPROPRIATE, AND SIX OTHER MEMBERS AS FOLLOWS:
- 24 "(1) TWO MEMBERS SELECTED BY THE GOVERNOR OF THE STATE OR
- 25 GOVERNING BODY OF THE AFFECTED INDIAN TRIBE;

- 1 EARLIEST PRACTICABLE DATE, AT THE SITE DESIGNATED IN THE
- 2 INCENTIVE AGREEMENT.
- 3 "(C) WHILE AM INCENTIVE AGREEMENT UNDER THIS TITLE WITH
- 4 RESPECT TO A MONITORED RETRIEVABLE STORAGE FACILITY IS IN EFFE

5

- # (1) THE SECRETARY AND THE COMMISSION SHALL NOT BE SUBJECT
- 7 THE REQUIREMENTS OF TITLE I WITH RESPECT TO A SECOND REPOSITOR
- B' AND
- 9 "(2) THE COMMISSION SHALL NOT BE SUBJECT TO THE REQUIREMEN
- 10 OF SECTION 114 (D) WITH RESPECT TO THE EMPLACEMENT IN THE FIRST
- 11 REPOSITORY OF A QUANTITY OF SPENT FUEL CONTAINING AN EXCESS OF
- 12 70,000 HETRIC PONS OF HEAVY METAL OR A QUANTITY OF SOLIDIFIED
- 13 HIGH-LEVEL PADICACTIVE WASTE RESULTING FROM THE REPROCESSING C
- 14 SUCH A QUANTITY OF SPENT FUEL.
- 15 "TERMINATION
- 16 "SEC. 406.(A) THE SECRETARY MAY TERMINATE AN INCENTIVE
- 17 AGREEMENT UNDER THIS TITLE IF (I) THE SITE UNDER CONSIDERATION
- 18 DISQUALIFIED FOR ITS FAILURE TO COMPLY WITH GUIDELINES AND
- 19 TECHNICAL REQUIREMENTS ESTABLISHED BY THE SECRETARY IN ACCORDA:
- 20 WITH THIS ACT, (II) THE SECRETARY DETERMINES THAT THE COMMISSION
- 21 CANNOT LICENSE THE FACILITY WITHIN A REASONABLE TIME, (III) THE
- 22 STATE OR AFFECTED INDIAN TRIBE PAILS TO ADHERE TO THE AGREEMENT
- 2] IN A MANNER THE SECRETARY FINOS TO BE A SUBSTANTIAL BREACH OF
- 24 AGREEMENT, (IV) THE SECRETARY DETERMINES THE STATE OR AFFECTED
- 25 INDIAN TRIBE TO BE DILATORY IN EXECUTING ITS RESPONSIBILITIES
- 26 UNDER THE AGREEMENT, OR (V) THE STATE OR AFFECTED INDIAN TRIBE
- 27 DEFAULTS UNDER THE AGREEMENT.

- 2 INCENTIVE AGREEMENT UNDER THIS TITLE ONLY IF THE SECRETARY
- 3 DISQUALIFIES THE SITE UNDER CONSIDERATION FOR ITS FAILURE TO
- 4 COMPLY WITH TECHNICAL REQUIREMENTS ESTABLISHED BY THE SECRETAR!
- 5 IN ACCORDANCE WITH THIS ACT OR THE SECRETARY DETERMINES THAT TO
- & COMMISSION CANNOT LICENSE THE PACILITY WITHIN A REASONABLE TIME
- 7 "(C) IF AN INCENTIVE AGREEMENT IS TERMINATED UNDER THIS
- 8 . SECTION, THE SECRETARY MAY, FOR A PERIOD OF 12 MONTHS AFTER THE
- 9 DATE OF TERMINATION, HEGOTIATE A NEW INCENTIVE AGREEMENT UNDER
- 10 THIS TITLE OR PROCEED UNDER THE PROCEDURES OF TITLES I AND 111
- 11 THIS ACT TO DEVELOP REPOSITORIES OR MONITORED RETRIEVABLE STORE
- 12 FACILITIES AS APPROPRIATE.
- (3) "(D) IF A NEW AGREEMAND HAS NOT BEEN REGOTIATED WITHIN 12
- 14 MONTHS AFTER TERMINATION OF THE PREVIOUS AGREEMENT, THE SECRET!
- 15 SHALL PROCEED UNDER THE PROCEDURES OF TITLES I AND III OF THIS
- 16 ACT TO DEVELOP REPOSITORIES OR MONITORED RETRIEVABLE STORAGE
- 17 PACILITIES AS APPROPRIATE.
- 18 "MISCELLANEOUS PROVISIONS
- 19 "SEC. 407.(A) THIS TITLE DOES NOT AFFECT THE PROVISIONS OF
- 20 TITLES I AND III OF THIS ACT EXCEPT TO ESTABLISH AN AUTERNATIVE
- 21 PROCEDURE FOR THE DEVELOPMENT OF REPOSITORIES AND MONITORED
- 22 RETRIEVABLE STORAGE FACILITIES.
- 23 . "(B) THE POWERS AND DUTIES OF THE SECRETARY UNDER THIS ACT
- 24 ARE NOT AFFECTED BY THIS TITLE EXCEPT AS EXPRESSLY STATED IN TH
- 25 TITLE.

ľ

- 26 "(C) IN IMPLEMENTING THE AUTHORITIES CONTAINED IN THIS TITL
- 27 THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 SHALL NOT APPLY.

- 13
- 2 SCHEDGLE FOR OPENING A REPOSITORY OR HONITORED RETRIEVABLE
- 3 STORAGE FACILITY RESULTING FROM THE IMPLEMENTATION OF THIS TITLE
- 4 IN ANY PROCEEDING INVOLVING A CIVILIAN NUCLEAR POWER REACTOR.
- 3 SEC. 3. THE TABLE OF CONTENTS OF THE HOCLEAR WASTE POLICY
- 6 ACT OF 1982 IS AMENDED BY ADDING THE FOLLOWING AT THE END!
- TITLE IV INCENTIVE AGREEMENTS
- 8 . "SEC. 401. AUTHORITY TO ENTER INTO INCENTIVE AGREEMENTS.
- s "SEC. 402. CONTENT.
- 10 *SEC. 403. REVIEW PANEL.
- 11 "SEC. 404. ACTION ON REPOSITORY.
- 12 "SEC. 405. ACTION ON MRS.
- 13 "SEC. 406. TERMINATIONS"
- 14 *SEC. 407. MISCELLANOUS PROVISIONS. *.

LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING CAPITOL COMPLEX CARSON CITY, NEVADA 88710

DONALD A. RHODES, Director 1782) 885-3627



COURS OF BELLEGIEVEN ASSESSMENT SERVICES INTERIM FINANCE COMMITTEE (702) & MARVIN IS SETWAY Assemblemen, Our Depart O. Miller Placed Assemble Mark W. Serross, Placed Assets

LINDA 5 JESSEN Legunaria Consul 1702) 185-5627 JOHN R CROSSLEY Legunaria tadam 702) 855-562 ROBERT E ERICKSON Research Director 702) 885-5

April 23, 1987

M_E M O R A N D U M

TQ:

Assemblyman Paul May

FROM:

Robert E. Erickson, Research Director

SUBJECT:

Proposed Legislation Which Would Have Created

Bullfrog County

You asked for background information pertaining to the bill considered by the 1909 Nevada legislature which would have created Bullfrog County from the southern end of Nye County. The northern boundary of Bullfrog County would have been an east-west line located approximately midway between Tonopah and Beatty. This proposed county was named for the old Bullfrog Mining District and its initial county seat would have been temporarily established at the town of Rhyolite.

Enclosed you will find a copy of Assembly Bill No. 77 of the 1909 session, plus excerpts from the journals of the senate and assembly relating thereto.

If you require any further assistance, please let me know.

REE/11p:M10 Enc.

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AB 17 - 1909 BULLFROG COUNTY

THE TWENTY-FIFTH DAY.

Carson City (Thursday), February 11, 1909.

House convened at 11 a.m.

Mr. Speaker in the chair.

Roll called.

All present except Messrs. Bradshaw, Gallagher, and Ross, who were excused.

Prayer by the Chaplain, Rev. Chas. H. Powell.

The Sergeant-at-Arms announced a message from the Senate.

The Journal of the previous day was read and approved.

PETITIONS.

Mr. Chas. A. Kane presented a petition relating to the proposed division of Nye County.

REPORTS OF COMMITTEES.

Mr. Speaker:

Your Committee on Judiciary have had Assembly Bill No. 67 under consideration and beg leave to report favorably on the same, with the recommendation that it do pass. Also, Assembly Bill No. 68, and beg leave to report favorably on the same, with the recommendation that it do pass.

Also, Assembly Bill No. 82, and beg leave to report favorably on the same, with the recommendation that it do pass.

Also, Assembly Bill No. 64, and beg leave to report favorably on the same, with the recommendation that it do pass.

recommendation that it do pass.

Also, Assembly Bill No. 84, and beg leave to report favorably on the same, with the recommendation that it do pass.

T. A. BRANDON, Chairman,

Mr. Speaker:

Your Committee on Agriculture have had Senate Bill No. 13 under consideration, and beg leave to report favorably on the same, with the recommendation that it do pass.

LEM ALLEN, Chairman,

Mr. Speaker:

Your Committee, the Washoe Delegation, have had Senate Bill No. 8 under consideration, and beg leave to report favorably on the same, with the recommendation that it do ness

Also, Senate Bill No. 81, and beg leave to report unfavorably on the same, with the recommendation that it do not pass.

Also, Assembly Bill No. 33, and beg leave to report the same back without recom-

Also, Senate Bill No. 20, and beg leave to report unfavorably on the same, with the recommendation that it do not pass.

E. R. Dodge, Chairn

MESSAGES FROM THE SENATE.

SENATE CHAMBER, CARSON CITY, NEVADA, February 10, 1909.

To the Honorable the Assembly:

I have the honor herewith to present for the consideration of your honorable body Substitute for Senate Bill No. 9, which passed the Senate by the following vote: Yeas, 10; nays, 9.

Also, Senate Concurrent and Joint Resolution No. 1, which passed the Senate by the following vote: Yeas, 18; nays, none; absent, 1.

Also, Senate Bill No. 14, which passed the Senate by the following vote; Yeas, 18; nays, none; absent, 1.

Also, Senate Bill No. 15, which passed the Senate by the following vote: Yeas, 16; nays, none; absent, 1; not voting, 2.

W. M. GRIMES, Secretary of the Senate.

SPECIAL ORDER.

Assembly Bill No. 77, referring to the division of Nye County, was taken up and placed on third reading.

On motion of Mr. Folsom, the House took a recess until 2 p. m.

HOUSE IN SESSION

At 2 p. m.

Mr. Speaker in the chair.

Roll called.

All present except Messrs. Bradshaw, Gallagher, and Ross.

The Sergeant-at-Arms announced a message from the Senate.

Assembly Bill No. 77 was taken up.

Mr. Berry introduced an amendment, which was carried by roll call, by the following vote:

YEAS-Messrs. Allen, Aylesworth, Berry, Blake, Brooks, Bulmer, Clark, Dodge, Duborg, Ferguson, Fitzgerald, Hunter, Matt. Kane, Luke, McNamara, Merten, Reynolds, Riddell, Schoer, Smith, Winter, Woolcock, and Mr. Speaker-23.

NAYS-Messrs. Bergman, Brandon, Brogan, Burke, Church, Conaway, Curtin, Ellis, Folsom, Chas. A. Kane, Leary, Lunsford, McCafferty, McIntosh, Neill, O'Brien, Pollard, Raycraft, Smaill, Todd, and Woolley-21.

Absent-Messrs. Bradshaw, Farnsworth, Gallagher, and Ross-4.

On motion of Mr. Winter, rules were suspended, Assembly Bill No. 77 was considered engrossed, placed on third reading and final passage, and passed, with amendments, by the following vote:

YEAS-Messrs. Allen, Aylesworth, Bergman, Blake, Brandon, Brogan, Brooks, Bulmer, Burke, Church, Clark, Conaway, Curtin, Dodge, Ferguson, Fitzgerald, Folsom, Hunter, Chas. A. Kane, Leary, Luke, Lunsford, McCafferty, McIntosh, Neill, O'Brien, Pollard, Raycraft, Reynolds, Riddell, Schoer, Smaill, Todd, Winter, Woolcock, and Woolley-36.

NAYS-Messrs. Berry, Duborg, Ellis, Matt. Kane, McNamara, Merten, Smith, and Mr.

Absent-Messrs. Bradshaw, Farnsworth, Gallagher, and Ross-4.

On motion of Mr. Folsom, the House adjourned until Monday, February 15, 1909, at 11 a.m.

Approved:

J. B. GIFFEN.

Speaker of the Assembly.

Attest: HARRY J. COOGAN,

Chief Clerk of the Assembly.

THE TWENTY-THIRD DAY.

Carson City (Tuesday), February 9, 1909.

House convened at 11 a.m.

Mr. Speaker in the chair.

Roll called.

All present except Mr. Hunter, who was excused.

Prayer by the Chaplain, Rev. Chas H. Powell.

The Journal of the previous day was read and approved.

REPORTS OF COMMITTEES.

Mr. Speaker:

Your Committee on Railroads and Corporations have had Assembly Bill No. 55 under consideration, and beg leave to report favorably on the same, with the recommendation that it do pass, with the following amendments:

Amend the title by inserting after the word "violation," "of the provisions." Amend Section 2, line 10, by striking out the word "which," and inserting in lieu

thereof the words "when it."

Amend Section 2, line 11, by striking out the word "every," and inserting in lieu thereof the words "on any."

FRANK WINTER. Chairman.

Mr. Speaker:

Your Committee on Counties and County Boundaries have had Assembly Bill No. 77 under consideration, and beg leave to report the same without recommendation.

CHAS, A. KANE, Chairman.

Mr. Speaker:

Your Committee on Mines and Mining have had Assembly Bill No. 6 under consideration, and beg leave to report favorably on the same, with the recommendation that it B. H. SMITH.

Chairman.

Mr. Speaker:

Your Committee on Mines and Mining have had Assembly Bill No. 78 under consideration, and beg leave to report favorably on the same, with the recommendation that it do pass.

В. Н. Ѕмітн. Chairman.

Mr. Speaker:

Your Committee on Mines and Mining have had amended Assembly Bill No. 15 under consideration, and beg leave to report the same without recommendation.

B. H. SMITH. Chairman.

Mr. Speaker:

The Churchill Delegation have had Senate Bill No. 17 under consideration, and beg leave to report favorably on the same, with the recommendation that it do pass.

Also, Assembly Bill No. 63 under consideration, and beg leave to report favorably on

the same, with the recommendation that it do pass.

LEM ALLEN. J. W. FERGUSON.

MESSAGES FROM THE SENATE.

SENATE CHAMBER, CARSON CITY, NEVADA, February 8, 1909.

To the Honorable the Assembly:

I have the honor herewith to present for the consideration of your honorable body Senate bill No. 27, which passed the Senate by the following vote: Yeas, 19; nays, none.

Also, Senate Bill No. 26, which passed the Senate by the following vote: Yeas, 19: nays, none.

Also, Assembly Bill No. 54, which passed the Senate by the following vote: Yeas, 16; nays, none; absent. 3.

Secretary of the Senate.

MOTIONS AND RESOLUTIONS.

On motion of Mr. McCafferty, Assembly Bill No. 15 was made a special order of business for Monday, February 15th, at 1:30 p. m.

On motion of Mr. McNamara, Assembly Bill No. 77 was made a special order of business for Thursday, at 11:30 a. m.

NOTICES OF BILLS.

Mr. Smaill gave notice that he would at some future date introduce a bill, upon the request of the State Surveyor-General, entitled "An Act to provide for the reclamation and occupancy of lands subject to acceptance by the State of Nevada under the provisions of the Acts of Congress approved August 14, 1894, June 11, 1896, and March 3, 1901, and to repeal all Acts in conflict therewith."

INTRODUCTION AND FIRST READING.

Senate Bill No. 27.

On motion of Mr. Allen, duly seconded, rules suspended, reading so far had considered first reading, rules further suspended, bill read second time by title, and referred to Elko Delegation.

Senate Bill No. 26.

On motion of Mr. Allen, duly seconded, rules suspended, reading so far had considered first reading, rules further suspended, bill read second time by title, and referred to Lyon Delegation.

By Washoe Delegation (by leave):

Assembly Bill No. 80—An Act to provide for certain improvements to the State University.

On motion of Mr. Lunsford, duly seconded, rules suspended, reading so far had considered first reading, rules further suspended, bill read second time by title, and referred to Committee on Way and Means.

On motion of Mr. Winter, the rules were suspended, and a report received from the Select Committee of the Elko Delegation on Senate Bill No. 27.

The committee reported Senate Bill No. 27 favorably, with recommendation that it do pass.

On motion of Mr. Winter, Senate Bill No. 27 was taken up out of regular order, and placed on third reading and final passage, and passed by the following vote:

YEAS-Messrs. Allen, Aylesworth, Bergman, Berry, Blake, Bradshaw, Brandon, Brogan, Brooks, Bulmer, Burke, Church, Clark, Conaway, Dodge, Duborg, Farnsworth, Ferguson, Fitzgerald, Folsom, Gallagher, Chas. A. Kane, Matt. Kane, Leary, Luke, Lunsford, McCafferty, McIntosh, McNamara, Merten, Neili, O'Brien, Pollard, Raycraft, Reynolds, Riddell, Ross, Schoer, Smaill, Smith, Todd, Winter, Woolcock, Woolley, and Mr. Speaker-45.

Absent-Messrs. Curtin, Ellis, and Hunter-3.

By Washoe Delegation (by leave):

Assembly Bill No. 81—An Act authorizing and directing the Board of

TWENTY-FOURTH SESSION.

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By Mr. Bulmer (by leave):

Assembly Bill No. 73—An Act to provide for union school districts,

and matters properly connected therewith.

On motion of Mr. Bulmer, duly seconded, rules were suspended, reading so far had was considered first reading, rules further suspended, bill read second time by title, and referred to Committee on Education.

By Mr. McIntosh (by leave):

Assembly Bill No. 74—An Act prohibiting gambling, providing for the destruction of gambling property, and other matters relating thereto.

On motion of Mr. Allen, duly seconded, rules suspended, reading so far had considered first reading, rules further suspended, bill read second time by title, and referred to Committee on Public Morals.

By Mr. Todd (by leave):

Assembly Bill No. 75—An Act to fix and regulate the salary and compensation of the Constable of East Fork Township, Douglas County, State of Nevada.

On motion of Mr. Church, duly seconded, rules suspended, reading so far had considered first reading, rules further suspended, bill read second time by title, and referred to Douglas Delegation.

By Mr. Brandon (by leave):

Assembly Bill No. 76—An Act to provide for the relief of W. C. Ruddell. On motion of Mr. Brandon, duly seconded, rules suspended, reading so far had considered first reading, rules further suspended, bill read second time by title, and referred to Humboldt Delegation.

By Mr. Gallagher (by leave):

Substitute for Assembly Bill No. 6—An Act to regulate the sale of stocks by stock exchanges, and by persons, corporations, partnership or associations engaged in buying or selling stocks, and providing for a violation thereof.

On motion of Mr. Gallagher, duly seconded, the rules were suspended, the reading so far had was considered first reading, the rules were further suspended, the bill was read second time by title, and referred to Committee on Mines and Mining.

By Mr. Chas. A. Kane (by leave):

Assembly Bill No. 77—An Act to create and establish the County of Bullfrog.

On motion of Mr. Kane, duly seconded, the rules were suspended, reading so far had considered first reading, rules further suspended, bill read second time by title, and referred to Committee on Counties and County Boundaries.

By Mr. Brandon (by leave):

Assembly Bill No. 78—An Act to abolish the office of Mining District Recorder in the State of Nevada, and regulating the duties of the County Recorder.

On motion of Mr. Brandon, duly seconded, rules suspended, reading so far had considered first reading, rules further suspended, bill read second time by title, and referred to Committee on Mines and Mining. By Mr. Bergman (by leave):

Assembly Bill No. 79—An Act to amend section one of an Act entitled "An Act requiring foreign corporations doing business in the State of Nevada to publish annual statements," approved March 28, 1901.

On motion of Mr. Bergman, duly seconded, rules suspended, reading so far had considered first reading, rules further suspended, bill read second time by title, and referred to Committee on corporations.

MOTIONS AND RESOLUTIONS.

On motion of Mr. Winter, the report of the Committee on Ways and Means, concerning the University of Nevada, was adopted, and the Speaker appointed Messrs. Allen, Brandon, and Curtin as a Committee of three, in compliance with the report.

GENERAL FILE AND THIRD READING.

On motion of Mr. Neill, duly seconded, Assembly Bill No. 39 was placed at the bottom of the file.

On motion of Mr. Smith, duly seconded, Assembly Bill No. 26 was placed at the bottom of the file.

On motion of Mr. Ferguson, duly seconded, the rules were suspended, and Assembly Bill No. 59 was considered engrossed, placed on its third reading and final passage, and passed by the following vote:

YEAS-Messrs. Allen, Aylesworth, Bergman, Blake, Brandon, Brogan, Brooks, Bulmer Church, Clark, Conaway, Curtin, Dodge, Duborg, Ellis, Farnsworth, Ferguson, Fitzgerald, Folsom, Gallagher, Chas. A. Kane, Matt. Kane, Leary, Luke, Lunsford, McCafferty, McIntosh, McNamara, Merten, Neill, O'Brien, Pollard, Raycraft, Reynolds, Ross, Schoer, Smaill, Smith, Todd, Winter, Woolcock, Woolley, and Mr. Speaker-43. NAYS-None.

Absent-Messrs. Berry, Bradshaw, Burke, and Hunter-4. Not voting-Mr. Riddell.

Assembly Bill No. 52 was placed at the bottom of the file.

On motion of Mr. Bulmer, duly seconded, Assembly Bill No. 48 was referred to Committee of the Whole.

On motion of Mr. Duborg, duly seconded, Senate Bill No. 16 was referred to Committee of the Whole.

On motion of Mr. Folsom, duly seconded, Substitute for Assembly Bill No. 22 was placed at the bottom of the file until such time as it could be printed.

MOTIONS AND RESOLUTIONS.

The following resolution was offered by Mr. Folsom:

Whereas, A committee of investigation into the affairs of the State University having been appointed, and consisting of Messrs. Allen, Brandon, and Curtin; therefore be it

Resolved. That the said committee be and is hereby granted leave of absence from this Assembly at all times, while in the discharge of their duties, while acting as such committee.

Mr. Dodge offered the following amendment to the resolution, which was adopted:

"That they be given the power to employ such clerical assistance as they desire to enable them to perform their duties with celerity."

The resolution, as amended, was adopted.

GENERAL FILE AND THIRD READING.

Assembly Bill No. 16—An Act to provide for the maintenance, operation, and necessary equipments for the State Agricultural Experiment Farm, situated at Logan, Lincoln County, Nevada, for the years 1909–1910, and making an appropriation therefor.

Placed on third reading and final passage, and passed by the follow-

ing vote:

YEAS—Senators Balzar, Bell, Brossemer, Carpenter, Coryell, Douglass, Easton, Holmes, House, Locklin, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury—17. NAYS—None.

Absent—Senators Boyd and Hunter—2.

Assembly Bill No. 61—An Act for the relief of Arley B. Shon and J. E. Weir, for services rendered to, and money expended for, the Nevada Historical Society.

Senator Douglass moved that Assembly Bill No. 61 be laid upon the table indefinitely.

Lost.

Placed on third reading and final passage, and passed by the following vote:

YEAS—Senators Bell, Carpenter, Coryell, Easton, Holmes, House, Locklin, Mack. Pyne, Reymers, Syphus, Tallman, and Woodbury—13.

NAYS—Senators Balzar, Brossemer, and Douglass—3. Absent—Senators Boyd, Hunter, and Kendall—3.

Senate Bill No. 38.

Senator Tallman moved that Senate Bill No. 38 be made a special order for Tuesday, February 23, 1909, at 1:45 p. m.

Carried.

REPORTS OF COMMITTEES.

Mr. President:

Your Committee on Enrolled Bills have carefully compared Senate Bill No. 16 with the engrossed copy, find the same correctly enrolled, and have this day delivered the same to the Governor.

J. W. LOCKLIN, Chairman.

Senator Bell moved that the Senate adjourn until Monday, February 15th, at 11 a.m.

Carried.

Approved:

GEO. D. PYNE,

President of the Senate.

Attest: W. M. GRIMES,

Secretary of the Scnate.

THE TWENTY-NINTH DAY.

Carson City (Monday), February 15, 1909.

The Senate was called to order at 11 a.m.

President pro tem. Pyne presiding.

Roll called, and the following Senators answered to their names:

Senators Balzar, Bell, Carpenter, Coryell, Easton, Holmes, House, Hunter, Kendall, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury-15.

Absent-Senators Boyd, Brossemer, Douglass, and Locklin-4.

Quorum present.

Prayer by the Chaplain, Rev. Father Gartland.

Senator Coryell requested leave of absence for Senators Boyd and Locklin.

Granted.

Senator Bell requested leave of absence for Senator Douglass for the week, on account of sickness.

Granted.

Journal of Thursday, February 11th, read and approved.

A message from the Assembly was announced.

REPORTS OF COMMITTEES.

Mr. President:

Your Committee on Enrolled Bills have carefully compared Senate Enrolled Bill No. 17 with the engrossed copy, find the same correctly enrolled, and have this day delivered the same to the Governor.

J. W. LOCKLIN,

Chairman.

MESSAGES FROM THE ASSEMBLY.

ASSEMBLY CHAMBER,

CARSON CITY, NEVADA, February 15, 1909.

To the Honorable the Senate:

I have the honor herewith to present for the consideration of your honorable body Assembly Bill No. 77, which passed the Assembly by the following vote: Yeas, 37; nays, 8; absent, 3.

HARRY J. COOGAN, Chief Clerk of Assembly.

ASSEMBLY CHAMBER, CARSON CITY, NEVADA, February 15, 1909.

To the Honorable the Senate:

I have the honor to present for the consideration of your honorable body Assembly Bill No. 39, which passed the Assembly by the following vote: Yeas, 44; nays, 2; absent, 2.

FRANK L. REBER, Assistant Clerk of Assembly.

INTRODUCTION AND FIRST READING.

Assembly Bill No. 39—An Act concerning franchises for furnishing electric light, heat, and power.

Senator Coryell moved that the rules be suspended, reading so far

had considered first reading, rules further suspended, bill be read seeond time by title, and referred to Committee on Judiciary.

Carried.

80

Assembly Bill No. 77—An Act to create and establish the County of Bullfrog, and to define the boundaries and establish the county seat thereof, providing for the government of said county so created and established, and for the regulation of the affairs of Bullfrog County and Nye County, in respect to the operation and effect of this Act.

Senator Tallman moved that the rules be suspended, reading so far had considered first reading, rules further suspended, bill be read seeond time by title, and referred to Committee on Counties and County Boundaries.

Carried.

GENERAL FILE AND THIRD READING.

Senate Bill No. 11-An Act to fix and regulate the salaries of certain state officers of the State of Nevada, and to repeal all Acts and parts of Acts in conflict with this Act.

Placed on third reading and final passage, and passed by the following vote:

YEAS-Senators Balzar, Bell, Brossemer, Carpenter, Coryell, Easton, Holmes, House, Hunter, Kendall, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury-16.

NAYS-None.

Absent-Senators Boyd, Douglass, and Locklin-3.

SPECIAL ORDERS.

Senator Bell moved that Senate Bill No. 29, which was a special order for 11:30 a.m., be made a special order for Thursday, February 18th, at 11:15 a.m.

Carried.

Senator Easton moved that the Senate take a recess until 2 p. m. Carried.

SENATE IN SESSION

At 2 p. m.

President pro tem. Pyne presiding.

Roll called, and the following Senators answered to their names:

Senators Balzar, Bell, Brossemer, Carpenter, Coryell, Easton, Holmes, House, Hunter, Kendall, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury-16, Absent—Senators Boyd, Douglass, and Locklin—3.

Quorum present.

Senator Reymers moved that the Senate adjourn until 11 a. m., Tuesday, February 16, 1909.

Carried.

Approved:

GEO. D. PYNE.

President of the Senate.

Attest: W. M. GRIMES.

Secretary of the Senate.

THE THIRTIETH DAY.

Carson City (Tuesday), February 16, 1909.

The Senate was called to order at 11 a.m.

President pro tem. Pyne presiding.

Roll called, and the following Senators answered to their names:

Senators Balzar, Bell, Brossemer, Carpenter, Coryell, Easton, Holmes, House, Hunter, Kendall, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury-16. Absent-Senators Boyd, Douglass, and Locklin-3.

Quorum present.

Prayer by the Chaplain, Rev. Father Gartland.

Journal of Monday, February 15th, read and approved.

Senator Kendall requested leave of absence for Senators Boyd, Douglass, and Lockin.

Granted.

A message from the Assembly was announced.

REPORTS OF COMMITTEES.

Mr. President:

Your Committee on Judiciary have had Senate Bill No. 31 under consideration. and beg leave to report favorably on the same, with the recommendation that it

Also, Assembly Bill No. 26, and beg leave to report favorably on the same, with the recommendation that it do pass.

CLAY TALLMAN.

Chairman.

MESSAGES FROM THE ASSEMBLY.

ASSEMBLY CHAMBER. CARSON CITY, NEVADA, February 16, 1909.

To the Honorable the Senate:

I have the honor herewith to present for the consideration of your honorable body Assembly Joint and Concurrent Resolution No. 4, which passed the Assembly by the following vote: Yeas, 42; nays, none; absent, 6.

FRANK L. REBER. Assistant Clerk of Assembly.

INTRODUCTION AND FIRST READING.

Senator Reymers requested permission to introduce a bill without previous notice.

Granted.

By Senator Pyne:

Senate Bill No. 40—An Act to protect benevolent, humane, fraternal, or charitable corporations in the use of their names and emblems, and providing penalties for the violation thereof.

Senator Tallman moved that the rules be suspended, reading so far had considered first reading, rules further suspended, bill be read secand time by title, and referred to Committee on Judiciary.

Carried.

Senator Tallman moved that quotation marks be inserted after the word "Nevada," in line fourteen, section one.

Carried.

Senator Tallman moved that after the word "franchise," in section one, line thirty-seven, the following be inserted: "provided, that every person, company, association, or corporation accepting the benefits of the provisions of this Act, as hereinafter provided, shall pay annually two per cent of its net profits, made in furnishing such electric light, heat, and power, to the county or counties in which such person, company, association, or corporation is engaged in business."

Carried.

Placed on third reading, and passed by the following vote:

YEAS—Senators Balzar, Boyd, Brossemer, Coryell, Easton, Holmes, House, Hunter, Kendall, Locklin, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury—16.

NAYS-Senators Bell and Carpenter-2.

Absent-Senator Douglass.

Senator Coryell moved that the Senate take a recess until 2 p. m. Carried.

SENATE IN SESSION

At 2 p. m.

President pro tem. Pyne presiding.

Roll called, and the following Senators answered to their names:

Senators Balzar, Bell, Boyd, Brossemer, Carpenter, Coryell, Douglass, Easton, Holmes, House, Hunter, Kendall, Locklin, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury—19.

All present.

A message from the Assembly was announced.

REPORTS OF COMMITTEES.

Mr. President:

Your Committee on Federal Relations have had Senate Joint and Concurrent Resolution No. 9 under consideration, and beg leave to report favorably on the same, with the recommendation that it do pass.

A. C. House, Chairman.

Mr. President:

The White Pine Delegation have had Senate Bill No. 76 under consideration, and beg leave to report favorably on the same, with the recommendation that it do pass.

A. C. House, Chairman.

Mr. President:

Your Committee on Counties and County Boundaries have had Assembly Bill No. 77 under consideration, and beg leave to report on the same without recommendation.

ZEB. KENDALL, Chairman.

Mr. President:

Your Committee on Enrolled Bills have carefully compared Senate Substitute Enrolled Bill No. 34 with the engrossed copy, find the same correctly enrolled, and have this day delivered the same to the Governor.

J. W. LOCKLIN, Chairman.

Mr. President:

Your Committee on Public Lands have had Assembly Bill No. 106 under consideration, and beg leave to report favorably on the same, with the recommendation

that the words "five per cent." on line twenty-five, section d, of original bill, be amended so as to read "six per cent."

R. L. Douglass,

Chairman.

MESSAGES FROM THE ASSEMBLY.

ASSEMBLY CHAMBER, CARSON CITY, NEVADA, March 2, 1909.

To the Honorable the Senate:

I have the honor herewith to present for the consideration of your honorable body Assembly Bill No. 83, which passed the Assembly by the following vote: Yeas, 45; nays, none; absent, 3.

Frank L. Reber,
Assistant Clerk of Assembly.

INTRODUCTION AND FIRST READING.

Senators Boyd and Pyne requested permission to introduce bills without previous notice.

Granted.

By Senator Boyd:

Senate Bill No. 77—An Act to amend an Act entitled "An Act to regulate the exercise of eminent domain," approved March 27, 1907.

Senator Boyd moved that the rules be suspended, reading so far had considered first reading, rules further suspended, bill be read second time by title, and referred to Committee on Judiciary.

Carried.

By Senator Pyne:

Senate Bill No. 78—An Act to provide for the fees and compensation of County Recorders of the various counties of this State.

Senator Tallman moved that the rules be suspended, reading so far had considered first reading, rules further suspended, bill be read second time by title, and referred to Committee on Judiciary.

Carried.

Assembly Bill No. 83—An Act for the establishment of normal training schools, and for the maintenance and control of the same.

Senator Tallman moved that the rules be suspended, reading so far had considered first reading, rules further suspended, bill be read second time by title, and referred to Committee on Education.

Carried.

Assembly Bill No. 75—An Act to fix and regulate the salary and compensation of the Constable of East Fork Township, Douglas County, State of Nevada.

Senator Mack moved that further consideration of Assembly Bill No. 75 be indefinitely postponed.

Carried.

Senate Bill No. 65.

Senator Boyd moved that the bill be referred to Committee of the Whole.

Carried.

Senate Bill No. 66.

Senator Locklin moved that the bill be referred to Committee of the Whole.

TWENTY-FOURTH SESSION.

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Substitute for Assembly Bill No. 58.

Senator Hunter moved that the bill be referred to Committee of the Whole.

Carried.

Senate Bill No. 57.

Senator Mack moved that the bill be referred to Committee of the Whole

Carried.

Assembly Bill No. 77—An Act to create and establish the County of Bullfrog, and to define the boundaries and establish the county-seat thereof, providing for the government of said county so created and established, fixing the fees and compensation of witnesses in criminal cases in said Bullfrog County, and for the regulation of the affairs of Bullfrog County and Nye County, in respect to the operation and effect of this Act.

Senator Tallman moved that Assembly Bill No. 77 be made a special order for Thursday, March 4, 1909, at 2:30 p. m., to follow Senate Bill No. 53.

Carried.

GENERAL FILE AND THIRD READING.

Senate Joint and Concurrent Resolution No. 9, relative to the just consideration to be accorded those wearing the uniform of the United States whether in the army or navy, regardless of rank.

Placed on third reading and final passage, and passed by the follow-

ing vote:

YEAS-Senators Bell, Boyd, Brossemer, Carpenter, Coryell, Douglass, Easton, Holmes, House, Kendall, Locklin, Mack, Pyne, Reymers, Tallman, and Woodbury-16. NAYS-Senator Balzar.

Absent-Senators Hunter and Syphus-2.

SPECIAL ORDERS.

Assembly Bill No. 43—An Act to regulate the hours of employment of working men in open-pit and open-cut mines, so as to better protect the health and safety of those engaged in such work or occupation, and providing penalties for the violation thereof.

Placed on third reading and final passage, and passed by the follow-

ing vote:

YEAS—Senators Balzar, Bell, Boyd, Brossemer, Carpenter, Coryell, Douglass, Easton, Holmes, House, Hunter, Kendall, Locklin, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury-19.

NAYS-None.

Senate Concurrent Resolution No. 6, proposing to amend section three article eleven of the Constitution of Nevada.

Senator Tallman moved that the resolution be rereferred to Committee on Judiciary.

Carried.

GENERAL FILE AND THIRD READING.

Senate Bill No. 76—An Act making the County Treasurer of White Pine County ex officio City Treasurer of the City of Ely, providing for his compensation, and other matters relating thereto, and repealing all Acts or parts of Acts in conflict herewith.

Senator House moved that the rules be suspended and bill considered engrossed.

Carried.

Placed on third reading and final passage, and passed by the following vote:

YEAS-Senators Balzar, Bell, Boyd, Brossemer, Carpenter, Coryell, Easton, Holmes, House, Kendall, Locklin, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury-17.

NAYS-None.

Absent-Senators Douglass and Hunter-2.

Assembly Bill No. 106—An Act to amend sections eight and nine of an Act entitled "An Act to provide for the selection and sale of lands that have been or may hereafter be granted by the United States to the State of Nevada," approved March 12, 1885, as amended March 11, 1889, as amended January 26, 1899.

Senator Bell moved the adoption of the amendment recommended by the committee, in striking out the words "five per cent" and inserting the words "six per cent" where they appear in the bill.

Placed on third reading and final passage, and passed by the following vote:

YEAS-Senators Balzar, Bell, Boyd, Brossemer, Coryell, Easton, Holmes, House, Kendall, Locklin, Mack, Pyne, Reymers, and Woodbury-14.

NAYS-Senators Syphus and Tallman-2.

Absent-Senators Carpenter, Douglass, and Hunter-3.

Senator Syphus moved that the Senate resolve itself into Committee of the Whole.

The Senate resolved itself into Committee of the Whole, Senator Revmers presiding.

REPORT OF COMMITTEE OF THE WHOLE.

Mr. President:

Your Committee of the Whole have had under consideration Senate Bill No. 57. and beg leave to report favorably on the same, with the recommendation that it do pass as amended.

Also, Senate Bill No. 66, Senate Bill No. 65, and Substitute for Assembly Bill No. 58, and beg leave to report favorably upon the same, with the recommendation that they do pass.

Senator Boyd moved the adoption of the report of the Committee of the Whole.

Carried.

A message from the Assembly was announced.

GENERAL FILE AND THIRD READING.

Senate Bill No. 57—An Act to provide for the collection, arrangement, and display of the mineral products of the State of Nevada, at the American Mining Congress, to be held in Goldfield, Esmeralda County, Nevada, during the month of October, 1909.

Senator Tallman moved to amend section three by adding: "provided, that in case any exhibitor shall not desire his exhibit returned. the same shall be shipped to and become the property of the University of Nevada, for the use and benefit of the Mackay School of Mines."

Carried.

SPECIAL ORDERS.

Senate Bill No. 53—An Act to provide for the direct nomination of candidates for public office by electors, political parties, and organizations of electors, without conventions, at elections to be known and designated as primary elections, determining the tests and conditions upon which electors, political parties, and organizations of electors may participate in any such primary election, and establishing the rates of compensation for primary election officers serving at such primary elections, providing for the organization of political parties and the promulgation of their platforms, and providing the methods whereby the electors of political parties may express their choice at such primary elections for United States Senator, to provide for the registration of voters for said primary elections and the compensation of Registry Agents, and to provide penalties for violating the provisions of this Act.

Senator Locklin moved that the rules be suspended and bill considered engrossed.

Carried.

Placed on third reading and final passage, and passed by the following vote:

YEAS—Senators Bell, Boyd, Carpenter, Coryell, Easton, Holmes, House, Hunter, Kendall, Locklin, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury—16.

NAYS—Senator Brossemer.

Absent-Senators Balzar and Douglass-2.

Assembly Bill No. 77—An Act to create and establish the County of Bullfrog, and to define the boundaries and establish the county-seat thereof, providing for the government of said county so created and established, and for the regulation of the affairs of Bullfrog County and Nye County, in respect to the operation and effect of this Act.

Senator Tallman moved to amend as follows: Section twelve, line one, after the word "county" insert "all moneys due Nye County."

Carried.

Senator Tallman moved to amend as follows: Section fourteen, line twelve, after word "of" insert "County of."

Carried.

Senator Tallman moved to strike out numerals "\$2,400" in lines six, eight, and ten, section seventeen, and insert "\$1,800." Line nine, change "\$3,000" to "\$2,400." Insert in line nine, after "\$2,400," the words "together with a commission of three per cent on all licenses and personal property collected by him."

Carried.

Senator Tallman moved to amend section eighteen, line two, after the word "administrator" insert "and except the fees and commissions to be received by the Sheriff, as provided in last preceding section." Strike out in lines seven and eight the words "the fees and mileage received by him."

Carried.

Senator Tallman moved to strike out section twenty-three and insert as follows, in lieu thereof: "It shall be the duty of the County Recorder of Bullfrog County to transcribe such portions of the records of Nye County relating to property situated in the County of Bullfrog, as the Board of County Commissioners of Bullfrog County may deem

necessary, in proper books, to be provided for that purpose, by said Board of County Commissioners. Said County Recorder and his deputies and asistants shall be allowed their actual and necessary expenses while engaged in said work. It shall be the duty of the County Clerk and the County Recorder of the County of Nye to deliver to the County Clerk and County Recorder of the County of Bullfrog, respectively, all documents and files pertaining exclusively to property situated in Bullfrog County or to the business and affairs of said Bullfrog County."

Carried.

Senator Tallman moved that section twenty-seven be amended to read: "This Act shall take effect immediately."

Carried.

Senator Kendall moved that Assembly Bill No. 77 be laid upon the table.

Roll call was demanded.

Yeas—Senators Balzar, Bell, Boyd, Brossemer, Carpenter, Coryell, Easton, Holmes, House, Hunter, Kendall, Locklin, Pyne, Reymers, and Woodbury—15.

NAYS—Senators Syphus and Tallman—2. Absent—Senators Douglass and Mack—2.

Motion carried.

Senator Bell moved that the Senate adjourn until 11 a.m., Friday, March 5th.

Carried.

Approved:

GEO. D. PYNE.

President of the Senate.

Attest: W. M. GRIMES,

Secretary of the Senate.

Placed on third reading and final passage, and passed by the following vote:

YEAS—Senators Balzar, Bell, Brossemer, Carpenter, Coryell, Douglass, Easton, Holmes, House, Hunter, Kendall, Locklin, Mack, Pyne, Reymers, Syphus, and Woodbury—17.

NAYS—Senator Tallman. Absent—Senator Boyd.

Senate Bill No. 83—An Act to provide for the government of the State Prison of the State of Nevada, and repealing other Acts in so far as they conflict with the provisions of this Act.

Senator Syphus moved that the rules be suspended and bill considered engrossed.

Carried.

Placed on third reading and final passage, and passed by the following vote:

YEAS—Senators Balzar, Bell, Boyd, Brossemer, Carpenter, Coryell, Douglass, Easton, Holmes, House, Hunter, Kendall, Locklin, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury—19.

NAYS-None.

A message from the Assembly was announced.

Assembly Bill No. 59.

Senator Reymers moved that the bill be laid upon the table. Carried.

Substitute for Senate Bill No. 40—An Act to protect benevolent, fraternal, and charitable organizations and corporations in the use of their names and emblems, and providing penalties for the violation thereof.

Senator Boyd moved that the rules be suspended and bill considered engrossed.

Carried.

Placed on third reading and final passage, and passed by the following vote:

Yeas—Senators Balzar, Bell, Boyd, Brossemer, Carpenter, Coryell, Douglass, Easton, Holmes, House, Kendall, Locklin, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury—18.

NAYS-None.

Absent-Senator Hunter.

Senate Bill No. 80.

Senator Syphus moved that Senate Bill No. 80 be recommitted to the Committee on Mines and Mining.

Carried.

Senator Coryell moved that the Senate take Assembly Bill No. 25 from the table.

Carried.

Senator Tallman moved that the Engrossing Committee be instructed to have an engrossed copy of Assembly Bill No. 77 made as amended in the Assembly.

Carried.

MESSAGES FROM THE ASSEMBLY.

ASSEMBLY CHAMBER, CARSON CITY, NEVADA, March 5, 1909.

To the Honorable the Senate:

I have the honor herewith to present for the consideration of your honorable body Assembly Bill No. 153, which passed the Assembly by the following vote: Yeas, 37; nays, 5; absent, 6.

Also, Assembly Bill No. 157, which passed: Yeas, 41; nays, 1; absent, 6.

FRANK L. REBER,
Assistant Clerk of Assembly.

INTRODUCTION AND FIRST READING.

Senator Tallman requested permission to introduce a bill without previous notice.

Granted.

By Senator Tallman:

Senate Bill No. 97—An Act to repeal an Act entitled "An Act to provide for licensing itinerant and unsettled merchants, traders, peddlers, and auctioneers," approved March 24, 1905.

Senator Tallman moved that the rules be suspended, reading so far had considered first reading, rules further suspended, bill be read second time by title, and referred to Committee on Judiciary.

Carried.

Assembly Bill No. 153—An Act to amend section two of an Act entitled "An Act to prevent the unlawful destruction of fish and game, to provide for the appointment of Fish and Game Wardens in the several counties of this State, and to define their duties and compensation," approved March 12, 1901.

Senator Holmes moved that the rules be suspended, reading so far had considered first reading, rules further suspended, bill be read second time by title, and referred to Committee on Fish and Game.

Carried.

Assembly Bill No. 157—An Act to amend an Act entitled "An Act to amend section four of an Act entitled 'An Act to prevent the unlawful destruction of fish and game, to provide for the appointment of Fish and Game Wardens in the several counties of this State, and to define their duties and compensation,' approved March 12, 1901," approved March 16, 1903.

Senator Holmes moved that the rules be suspended, reading so far had considered first reading, rules further suspended, bill be read second time by title, and referred to Committee on Fish and Game.

Carried.

GENERAL FILE AND THIRD READING.

Assembly Bill No. 25.

Senator Reymers moved that the bill be indefinitely postponed. Roll call demanded.

YEAS—Senators Balzar, Brossemer, Easton, Holmes, Kendall, Locklin, Mack, Reymers, and Syphus—9.

NAYS—Senators Coryell, Douglass, House, Pyne, Tallman, and Woodbury—6. Absent—Senators Bell, Boyd, Carpenter, and Hunter—4.

Motion for indefinite postponement carried.

GENERAL FILE AND THIRD READING.

Senator Tallman moved that Assembly Bill No. 77 be taken from the table.

Carried.

Senator Tallman moved that Assembly Bill No. 77 be referred to the Committee on Judiciary.

Carried.

Senator Syphus moved that the Senate resolve itself into Committee of the Whole.

Carried.

The Senate resolved itself into Committee of the Whole, Senator Carpenter presiding.

REPORT OF COMMITTEE OF THE WHOLE.

Mr. President:

Your Committee of the Whole have had under consideration Senate Bill No. 112, and beg leave to report favorably on the same, and recommend that it do pass, with the following amendments: Section seven, line two, strike out the words "one hundred and fifty thousand dollars" and insert "one hundred thousand dollars"; line four, after the word "appropriated" insert the following: "the same to be transferred to the State Prison Building Fund."

Senator Mack moved the adoption of the report of the Committee of the Whole.

Carried.

INTRODUCTION AND FIRST READING.

Senator Tallman requested permission to introduce a bill without previous notice.

Granted.

By Senator Tallman:

Senate Bill No. 125—An Act to define and regulate the business of banking, creating a State Banking Board and defining its powers and duties, and providing for a Bank Examiner and the examination and supervision of banking corporations, providing a guaranty fund for the protection of depositors, and for the appointment of receivers in certain cases, fixing penalties for the violation thereof, and other matters relating thereto.

Senator Tallman moved that the rules be suspended, reading so far had considered first reading, rules further suspended, bill be read second time by title, and referred to Committee on Banking.

Carried.

By Senator Pyne:

Senate Bill No. 126—An Act concerning the granting of franchises by Boards of County Commisioners, prescribing the terms under which said franchises shall be granted, and repealing certain Acts pertaining thereto, and allowing corporations, associations, and persons having franchises obtained under other laws of this State to obtain the benefits of this Act, and providing for other matters properly connected therewith.

Senator Boyd moved that the rules be suspended, reading so far had considered first reading, rules further suspended, bill be read second time by title, and referred to Committee on Judiciary.

Carried.

Senator Balzar moved that the Senate take a recess until 2 p. m. Carried.

SENATE IN SESSION

At 2 p. m.

President pro tem. Pyne presiding.

Roll called, and the following Senators answered to their names:

Senators Balzar, Bell, Boyd, Brossemer, Carpenter, Coryell, Douglass, Easton, Holmes, House, Hunter, Kendall, Locklin, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury—19.

All present.

REPORT OF CONFERENCE COMMITTEE.

Mr. President:

Your Conference Committee, with like committee from the Assembly, in the matter of Senate Bill No. 59, beg leave to report that said committee have met in conference and have agreed to recommend that the Senate and Assmbly do pass said bill with the following amendment: In section two, line two, strike out the words "owned or."

J. W. LOCKLIN,

Chairman.

Senator Brossemer moved the adoption of the report of the Conference Committee.

Carried.

REPORTS OF COMMITTEES.

Mr. President:

Your Committee on Enrolled Bills have carefully compared Senate Enrolled Bills Nos. 42 and 45, and Senate Substitute Bill No. 36 with the engrossed copies, find the same correctly enrolled, and have this day delivered the same to the Governor.

J. W. Locklin,

Chairman.

Mr. President:

Your Committee on Counties and County Boundaries have had Resolution No. 7 under consideration, and beg leave to report unfavorably on the same, with the recommendation that it do not pass.

Z. KENDALL,

Chairman.

Mr. President:

Your Committee on Mines and Mining have had Assembly Bill No. 148 under consideration, and beg leave to report unfavorably on the same, with the recommendation that it do not pass.

Z. KENDALL, Chairman.

GENERAL FILE AND THIRD READING.

Assembly Bill No. 169.

Senator Mack moved that the bill be referred to Committee of the Whole.

Carried.

Senate Bill No. 112.

Senator Syphus moved the adoption of the following amendment: Section seven, line two, strike out "and fifty," making it read "one hundred thousand dollars"; line four, after the word "appropriated" add the words "The same to be transferred to the State Prison Building Fund."

Carried.

Senator Syphus moved that the rules be suspended and bill considered engrossed.

Carried.

REPORTS OF COMMITTEES.

Mr. President:

Your Committee on Elections have had Assembly Bill No. 129 under consideration, and beg leave to report the same without recommendation.

L. N. CARPENTER, Chairman.

Mr. President:

Your Committee on Judiciary have had Senate Substitute for Senate Bill No. 130 under consideration, and beg leave to report favorably on the same, with the recommendation that it do pass.

Also, Assembly Bill No. 77, and beg leave to report on the same by introducing a substitute, and recommending that the substitute do pass.

CLAY TALLMAN,

Chairman.

Mr. President:

Your Committee on Enrolled Bills have carefully compared Senate Substitute Enrolled Bills Nos. 32, 59, and 107 with the engrossed copies, find the same correctly enrolled, and have this day delivered the same to the Governor.

J. W. LOCKLIN,

Chairman.

INTRODUCTION AND FIRST READING.

Senator Holmes was granted permission to introduce a bill without previous notice.

By Senator Holmes (by request):

Senate Bill No. 137-An Act to provide for the formation of corporations sole, for the administration of the temporalities of religious denominations, societies, and churches, and for the management of the estate and property thereof, and for the continuation of the corporate existence in case of vacancy.

Senator Holmes moved that the rules be suspended, reading so far had considered first reading, rules further suspended, bill be read sec-

ond time by title, and referred to Committee on Judiciary.

Carried.

Senator Boyd moved that the Joint Committee appointed to investigate the affairs of the State Bank and Trust Company and State Bank Commission, be granted one day additional time.

Carried.

On motion of Senator Tallman, Substitute for Assembly Bill No. 77

was adopted.

Senate Substitute for Assembly Bill No. 77-An Act to create and establish the County of Bullfrog, and to define the boundaries and establish the county-seat thereof, providing for the government of said county so created and established, and for the regulation of the affairs of Bullfrog County and Nye County, in respect to the operation and effect of this Act.

Senator Tallman moved that the rules be suspended, reading so far had considered first reading, rules further suspended, bill be read second time by title, and referred to the Nye Delegation.

Carried.

GENERAL FILE AND THIRD READING.

Senate Bill No. 131.

Senator Bell moved that the rules be suspended and bill considered engrossed.

Carried.

Placed on third reading, and passed by the following vote:

YEAS-Senators Balzar, Bell, Boyd, Brossemer, Carpenter, Coryell, Douglass, Easton, Holmes, House, Hunter, Kendall, Locklin, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury-19.

NAYS-None.

Senate Bill No. 118.

Senator Syphus moved that the rules be suspended and bill considered engrossed.

Placed on third reading, and passed by the following vote:

YEAS-Senators Balzar, Bell, Boyd, Carpenter, Coryell, Douglass, Easton, Holmes, House, Hunter, Kendall, Locklin, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury-18.

NAYS-Senator Brossemer.

Assembly Bill No. 119.

Placed on third reading, and passed by the following vote:

YEAS-Senators Balzar, Bell, Boyd, Brossemer, Carpenter, Coryell, Easton, Holmes, House, Hunter, Kendall, Locklin, Mack, Pyne, Reymers, Syphus, Tallman, and Woodbury-18.

NAYS-Senator Douglass.

SPECIAL ORDERS.

Assembly Bill No. 74.

Senator Tallman moved to amend section one as follows (Exhibit A): "Section 1. It shall be unlawful for any person to deal, play or carry on, open or conduct, in any capacity whatever, any game of faro, monte, roulette, lansquenet, rouge et noir, rondo, tan, fan-tan, studhorse poker, seven-and-a-half, twenty-one, hokey-pokey, craps, klondyke, poker, whist, bridge whist, five hundred, solo, frog, or any other card game, or any banking or percentage game, played with cards, dice, or any device for money, property, checks, credit or any representative of value; or any gambling game in which any person keeping, conducting, managing, or permitting the same to be carried on receives, directly or indirectly, any compensation or reward, or any percentage or share of money or property played, for keeping, running, carrying on or permitting the said game to be carried on, or to play, maintain, or keep, any slot machine played for money or for checks, or tokens redeemable in money; or to buy, sell or deal in pools, or make books on horse races; and any person who violates any of the provisions of this section shall be guilty of a felony, and upon conviction thereof shall be imprisoned in the State Prison for a period of not less than one year, nor more than five years."

Senator Tallman moved the adoption of the amendment.

Roll call demanded, resulting as follows:

YEAS-Senators Balzar, Bell, Boyd, Brossemer, Carpenter, House, Kendall, Locklin, Pyne, Syphus, and Tallman-11.

NAYS-Senators Coryell, Douglass, Easton, Holmes, Hunter, Mack, Reymers, and Woodbury-8.

Motion carried.

Senator Tallman moved to amend section three as follows: Strike out all words in line four beginning with the word "or" up to and including the word "gambler," in line seven. In line seven, after the word "thereof" insert "such persons."

Carried.

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AN' ACT

To create and establish the County of Bullfrog, and to define the boundaries and establish the County Seat thereof, providing for the Government of said County so created and established, fixing the fees and compensation of witnesses in criminal cases in said Bullfrog County, and for the regulation of the affairs of Bullfrog County and Mye County, in respect to the operation and effect of this great act.

Assembly Bill No. 7.77

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AN ACT.

To create and Establaih the County of Bullfrog, and to define the boundaries and establaih the County Seat thereof, profiding for the Government of said County so sceated and established, in the county of Seat County and for the regulation of the affairs of Bullfrog County and Mye Count; In respect to the operation and effect of this Act.

THE ECOPLE OF THE STATE OF MEVADA, REPRESENTED IN SENAIS AND ASSEMBLY, DO BRACT AS FOLLOWS:

SECTION 1. The County of Bullfrog is hereby created and establia same to embrace all that portion of Mye County, as heretofore existilying south of the First Standard Parallel South of the Mount Diable Base Line.

SECTION 2. The county seat of said County of Bullfrog is hereby established, temporarily, at the town of Rhyclite, at which place th various county offices of said County of Bullfrog shall be temporari situated, provided that if, at any time, within sixty days after the organisation of the Board of County Commissioners of said Bullfrog County as provided in Section Five (5) of this Act, a petition signe by one-fourth of the qualified electors residing in the territory he by established as Bullfrog County, according to the registration lis for the last general election, petitioning that a special election be called for the purpose of changing the county seat, be presented to the Board of County Commissioners of said County, the said Board shal cause a special election to be called forthwith in the manner provide by law for calling special elections, except that the notice of said election shall be thirty days; at said election the question shall b on was choice for county seat, and the ballots prepared therefor sha read essentially as follows:- " County Seat," and the voter shall write in the blank space the name

the town in said Bullfrog County for which he votes for County Se at such special election, qualified electors who shall have been tered for the last general election, shall not be required to reg: ter for said special election. The Board of County Commissioners canvass the results of said election in the manner provided by law the town receiving the highest number of votes shall become the pe next county seat of Bullfrog County, provided further, that in cas sufficient petition shall be presented to said Board of County Commissioners within sixty days after the organization of said Board, as this Section provided, then the said town of Rhyclite shall become permanent county seat of Bullfrog County.

SECTION 3. The County Officers of the County of Mye residing in that portion of the County of Mye which is hereby made the County of Bullfrog, shall hold the same offices in the said County of Bullfrog as they now hold in the County of Mye; and they are hereby declared be legal officers of said Bullfrog County; such officers shall hold office until the next general election in said County of Bullfrog, as until their successors are duly elected and qualified according to la Any vacancies thus caused in the offices of Mye County shall be fille in the manner now provided by law.

SECTION 4. Within ten days after the passage of this Act, the Governor shall appoint the remaining members of the Board of County Commissioners of said Bullfrog County not provided for by the operation of the provisions of Section three (3), preceding.

SECTION 5. Within ten days after said appointment by the Governor, as provided in Section four (4) preceding, the County Commissioners of said Bullfrog County shall meet at the County Seat of said Bullfrog County, and legally qualify and organise; and at said first meeting the:

shell appoint the remaining County Officers provided for in this A whose offices shall not have been filled by the operation of Sectithree (3) of this Act; said officers so appointed to qualify at one on their appointment, and to hold office until the next general eletion in Bullfrog County, and until their successors are duly elect and qualified according to law.

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SECTION 6. The County of Bullfrog shall be and remain a portion the Fifth Judicial District of the State of Nevada, and each of the counties composing said District shall pay its portion of the sala of the Judge of said District, in the manner and amount prescribed law.

SECTION 7. All suits and proceedings, civil and criminal, now p ing in the District Court of the Fifth Judicial District of the St of Nevada, in and for Nye County, wherein the cause of action accr or the offense is alleged to have been committed within the territ included within the boundary of the County of Bullfrog as by this established; and all actions now pending in said Courts for the recovery of such property or of any interest therein, or for the det mination of any form of such right or interest, or for the determi tion of any interest in, or partition of, real property, or for the foreclosure of any mortgage or other lien on real property, where t subject of the action is situated within the territory included wit in the boundary of said County of Bullfrog; and all civil cases now pending in said Court wherein the defendant or a majority of the d fendants, if there be more than one, reside in said County of Bull frog, shall, as soon as the said County of Bullfrog is organized, transferred by the Clerk of said Mye County, on an order of the Ju of the District Court thereof, to the Court of like jurisdiction i said County of Bullfrog. The County of Bullfrog shall pay to the

Clerk of the District Court of the County of Mye, the fees allowed by law for making and certifying to all copies and transcripts necessary to effect a complete transfer of said suits and proceedings to the District Court in and for Bullfrog County, but in all civil cases so transferred, the expense of making said transfer shall be taxed as costs, as other costs are taxed, to the parties to said suits and rpoceedings.

SECTION 8. All witnesses summnoued on behalf of the State in criminal cases within and for the County of Bullfrog in the Fifth Judicial Disstrict, shall receive as compensation, (\$3.00) Three Dollars per diem from the date of their appearance at Court, as per subpoens, until excused. The Clark of said Court shall keep a pay-roll, enrolling therein all names of witnesses, the number of days in attendance and the actual number of miles traveled by the most practical route in coming to and going from said Court, for which said witnesses shall receive ten cents (10) per mile for each mile so traveled, in addition to the per diem compensation above provided for. The Clark of said Court shall forthwith give a statement of such amount to the County Auditor, who shall draw his warrant upon the County Treasurer for the payment of such witnesses.

SECTION 9. In all criminal cases where the defendant is unable to defray the expenses of his witnesses, he shall make an affidavit setting forth that fact, whereupon the Court may, in its discretion, order the Clerk to issue subpoenss for said witnesses, and their names shall be entered on the witness pay-roll; provided, that no defendant shall summon more than two witnesses to prove the same fact at the expense of the State, and that the Judge before whom the case is tried, shall certify that the testimony of said witness was material and relevant to the matter tried.

The indebtedness of Mye County, exclusive of the SECTION 10. bonded indebtedness, shall be apportioned between the Counties of Mye and Bullfrog in the ratio of the tamble property in said Mye and Bullfrog Counties, respectively, as shown by the assessment rolls for the year, 1908, provided that there shall be deducted from the portion of said indebtedness apportioned to Bullfrog County, and added to the portion apportioned to Eye County, an amount equal to the interest of Bullfrog County in Mye County property, to be determined as provided in Section welve (18) of this Act, provided that all county property situated within the boundaries of Bullfrog County shall be and remain the property of Bullfrog County, and proper allowance therefor shall be made to Mye County in making the apportionment provided for in this Act, provided forther, that in case the interest of Bullfrog County in Mye County property as so determined, shall exceed in value the amount of Mys County indebtedness, exclusive of bonded indebtedness, apportioned to Bullfrog County, then the difference shall be paid to Bullfrog County by Mye County, on demand, after the expiration of one year from the approval of this Act.

SECTION 11. The net bonded indebtedness (total bonded indebtedness less accrued sinking funds) of Mye County, existing en December 31, 1908, shall be apportioned between Mye County and Bullfrog County in the ratio of the taxable property in said respective Counties, according to the assessment roll for the year 1908, and the amount apportioned to Bullfrog County shall be paid by said County to Mye County, at the times and in the amounts as same shall become due under the law authorizing, and the contract or contracts creating, said bonded indebtedness.

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all monies now in the Treasury of Mye County, and all monies that may come into the Treasury of said County from taxes for the year 1908, and previous years, together with all mor ies arising from the redemption of lands sold for taxes for the year 1908, and previous years, and from all other sources of revenue, exclusive of monies belonging to town, school district, bor all interest funds and sinking funds, shall be apportioned between the County of Mye and the County of Bullfrog, in the ratio of the taxable property in said Counties, respectively, as shown by the assessment rolls for the year 1908, and the Treasurer of Mye Count shall pay to Bullfrog County its proportion of said monies, on demand, as soon as the amount thereof has been apportioned and adjusted, as provided in Section this been apportioned and adjusted, as provided in Section this section this section.

SECTION 13. The title to all property situate in the County c Bullfrog, on which taxes have or may become delinquent, and which said property has been or may be, forfeited to, and bid in by. Mye County, shall west in and become the property of Bullfrog County, and on demand of the Commissioners of Bullfrog County, for a tax deed to said property, or any part thereof, the County Commissione of Mye County shall forthwith cause the execution and delivery to Mye County, of a good and sufficient tax deed, conveying said property to Bullfrog County.

SECTION 14. The election precincts, school districts, road districts, cities, towns and townships embraced within the territory comprising the County of Bullfrog, shall be as heretofore fixed and established during the time the same composed a part of Mye County until otherwise changed by the Board of County Commissioners of Bulfrog County; and the officers heretofore elected or appointed to of fice in said precincts, districts, cities, towns, and townships

shall hold their respective offices in the County of Bullfrog until
their successors are appointed or elected and qualified the same as
if the County of Bullfrog had not been created; and the registration lists, school censuses, and the records of said offices, respectively, are hereby made the same in the County of Bullfrog as
they were heretofore in the County of Bye. And the County Treasurof the County of Bye is hereby atthorized and directed to pay to
the County Treasurer of Bullfrog, on demand, as soon as said Count;
of Bullfrog shall become organized, the sums of money held by him
as custodial for said precincts, school districts, cities, towns a
townships, rendering proper account with each of said funds.

To determine the value of all county property, ex

clusive of money, tax alaims and roads and bridges: within ten day after the passage of this Act, the Board of County Commissioners o Bye County shall appoint an appraiser who shall be a resident and tax payer of said Mye County; the Board of County Commissioners of Bullfrog County, at the first meeting of said Board, shall also ap point an appraiser who shall be a resident and tax payer of Bullfr County: the two appraisers thus appointed, shall, within five days after their appointment, meet in the lower of Tonopah, Mye County. Mevada, and appoint a third appraiser who shall be a resident of t State of Nevada, but not a resident or tax payer of either Nye or Bullfrog Counties. Said three appraisers so appointed, shall, with in five days after the appointment of said last appraiser, meet in the Towy of Tonopah and thereupon, after being duly sworn to faith fully discharge the duties by this fict imposed, proceed to examine and appraise the cash value of all county property of Nye County, exclusive of money, tax claims and roads and bridges; in making ea

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appraisal, such dounty property as is situate within the boundaries

separately; the decision of the majority of said three appraiser as to the value of said property shall control. As soon as said appraisers shall have completed said appraisal, they shall certi the results thereof to the respective clerks of the Boards of Co Commissioners of Mye and Bullfrog Counties; said appraisers shall receive as compensation for their services, the sum of \$10.00 pe day, together with their sotual and necessary expenses in making said appraisal, same to be paid by Bullfrog County the same as o County bills are paid.

SECTION 16. The Board of County Commissioners of Mye County jointly with the Board of County Commissioners of Bullfrog Count shall have full power and authority to apportion, adjust and set all matters of property, indebtedness and revenue, proper to be portioned, adjusted and settled, under the provisions of this ic and for these purposes the said Commissioners of the County of F frog shall neet the Commissioners of the County of Nye at Tonopa State of Nevada, at any time after the completion of the apprais provided for in Section (12) of this Act, upon five days notice being given by the Commissioners of Bullfrog County to t Clerk of the Board of County Commissioners of Mys County, and a : jority of said united Boards of Commissioners shall be a legal qu rum to make said apportionments, adjustments and settlements of ϵ of said matters of property, indebtedness and revenue, and from decisions and adjust ments so made by the said Boards of Commiss of said Counties, acting jointly as aforesaid, any county intere or any parada aggrieved, may institute an action in the District Court of the Judicial District in which the County in which said justment is being made is situated, to review the acts of said

Boards of Commissioners, and in the said action a change of venue may be taken as in other civil cases, upon good cause shown by eithe party to such proceedings. In case there should be no quorum presen at any such meeting between the Commissioners of the County of Bullfrog and the County of Mye, or in case said joint Boards of Commismioners, or a majority thereof, shall fail to agree on the adjustmen of the revenue and county property and the apportionment thereof, and the apportionment of indebtedness, then at the request of either of said Boards of County Commissioners, the Governor of the State is hereby authorised and directed to appoint some disinterested person to adjust and settle said matters of property, funds and indebtedness. From the decisions and adjustments so made by said Commissi ess' appointed by the Governos, an action may be instituted in the D triat Court as above provided with reference to the decisions and adjustments made by the Boards of County Commissioners. For the pu pose of aiding the said joint Boards of County Commissioners, or sa: Commissioner appointed by the Governor, in making the apportionment: adjustments and settlements in this Section provided for, the respective officers of Mye County shall render said joint Boards of Commissioners, or either of said Boards, on demand, such necessary : ports, data, or information, as said joint Boards, or sither of said Boards, may require, for which purpose all books and records in any the offices of said Nye County, shall be open to the inspection of said Boards, or either of them, and their authorized agents and atto neys; and any failure on the part of said officers to comply with said demand on reasonable notice thereof, or to exhibit said books a records, shall be a misdemeanor. The members of the respective Boar of County Commissioners of said Mys County and Bullfrog County, shall be allowed their actual and necessary expenses in making said apportionments, adjustments and settlements, each County to pay for the

expenses of its own Commissioners.

tive compensations, shall be as follows: Three County Commissioners tive compensations, shall be as follows: Three County Commissioners at a selary of Stx. Hundred Dollars (\$500.00) each, per annum; together with mileage allowed by law; one County Clerk, who shall be exception Clerk of the District Court of Bullfrog County, and ex-officity Clerk of the Board of County Commissioners, at an annual salary of Twenty-four Hundred Dollars (\$2400.00); one County Recorder, who shall be ex-officio Auditor, at an annual salary of Twenty-four Hundred Dollars (\$2400.00); one Treasurer at an annual salary of Twenty-four Hundred Dollard (\$2400.00); one Sheriff, who shall be ex-officio Assessor, at an annual salary of Three Thousand Dollars (\$3000.00); one District Attorney, at an annual salary of Twenty-four Hundred Dollars (\$2400.00); one County Surveyor and one Public Administrator.

except the County Surveyor and Public Administrator, from any source or for any purpose, shall be paid over to the County Treasurer at the end of each month, to be by him credited to, and placed in, the Gener al Pund, and each of said officers shall deliver to the Treasurer and Anditor, respectively, at the end of each month, a full and complete statement of all monies received and paid out during the said month and for the purposes thereof; provided that the Sheriff shall be allowed to deduct from fees and mileage received by him, the actual and necessary traveling or other expenses of himself and deputies in the performance of his or their duties, and provided the salaries herein provided for shall be paid in equal monthly installments.

SECTION 19. The Sheriff, Clerk, Freasurer, Recorder and District Attorney, provided for in Section fourteen (14) of this Act, at

have such deputies and assistants, as the Board of County Commissioners may deem necessary to provide, their compensation to be fixed by said Board and paid as other salaries are paid.

SECTION 20. Said Board of County Commissioners are hereby required to furnish for the convenient use of said County Officers and for other County purposes, such rooms, offices, jails, furniture, books and stationery as are suitable and necessary for the proper conduct of all County business.

SECTION 21. The City, Town, County and School District, licenses taxes and poll taxes, levied for the year 1909, upon persons, propert and business situated within the limits of the territory hereby established as Bullfrog County, which shall remain or become due and unpaid subsequently to the taking effect of this Act, shall be due to and collected by, the proper officers of said Bullfrog County and painto the Treasury thereof, and the said Board of County Commissioners is hereby authorized to levy such further and additional taxes for the years 1909 and 1910, as may be necessary to defray the expenses of said County.

SECTION 22. All copies and excerpts from the records and files certified as correct and true by the legal custodian thereof now on file or of record in the official records of Mye County may be recorded or filed in the official records or files of Bullfrog Cpunty, the same as original papers; and when so filed or recorded shall become for all legal purposes, the same as original records and files.

SECTION 23. The Board of County Commissioners of the County of Bullfrog, shall, as soon as practicable after said County shall be organised, receive bids for making transcripts of the records of said County of Mye, of all property situated in the County of Bullfrog, or

such portion thereof as said Board may does necessary, and transcrib ing the same as provided by law, in the proper record books to be pr wided by the said County of Bullfrog for that purpose; and the said Board of County Commissioners of the County of Bullfrog shall award such contract to the lowest responsible bidder therefor, and for the faithful performance of said contract, said Board of County Commissioners shall require a good and sufficient bond in the sum of not tess than Ten Thousand Dollars (\$10,000.00) nor more than Twanty-fiv Thousand Dollars (\$25,000.00) to be approved by said Board of County Commissioners. The Board of County Commissioners may reject any and all bids for transcribing said records, in case the lowest bid is deemed by said County Commissioners to be too high. The County Clar and the County Recorder of the County of Mye shall afford every rea sonable opportunity and facility for transcribing such records. Sai transcribed records, when accepted by the Board of County Commission ers of said Bullfrog County, shall become for all legal purposes, th same as original records and files.

SECTION 24. All members of the Legiblature elected from Mye County, who, at the time of their election, were residents of that portion of Mye County hereby detached and established as Bullfrog County, shall retain their offices as members of the Legislature for their respective unexpited terms, but as representatives of Bullfrog County; at the general election in 1910, Bullfrog County shall elect two Assemblymen and Mye County five Assemblymen, and thereafter Bullfrog County shall be entitled to one Senator and two Assemblymen; ar Mye County to One Senator and five Assemblymen.

SECTION 25, The County of Bullfrog shall be and remain a portion of the Fifth Educational Supervision District of Nevada.

SECTION 26. All Acts and parts of Acts in conflict herewith, are hereby repealed.

Secret 27. This Act shall not take effect until it shall have been submitt to the voters of Mye County at the next general election and received majority of the votes cast at said election in favor of its becoming a

Proposed Amendments to S.B. 536 (New Language Underlined)

- 1. Page 1 Line 9: This assessment must not include the value of vehicles as defined in NRS 371.020 and the value of property subject to taxation under NRS 361.157 and NRS 361.159.
- Page 1 Line 11: After establishing the valuation of the property, the commission shall allocate <u>revenue</u> and valuation among all of the counties of this state in the following manner:
 - (a) The first \$500,000 received each year is to be allocated to Nye County.
 - (b) If the valuation is \$175 Million or less thirty-four percent of the valuation is to be allocated to Nye County. For every \$1 Million increase in valuation above \$175 Million the Nye County allocation is to decrease by 1 percent but not to go below 25 percent.
 - (c) The non Nye County allocation (66 to 75 percent) is to go to the other 16 counties in the following manner:
 - i. Ten percent must be allocated to each county in the same proportion as the aggregate mileage of main rail lines, interstate highways and U.S. highways within the county bears to the total aggregate mileage, less said mileage in Nye County, of such rail lines and highways within this state.
 - ii. Ninety percent must be allocated to each county in the same proportion as the population of that county bears to the total population, less Nye County's population, of this state. The amount of valuation otherwise allocable to each county under this paragraph must be increased or decreased by the following percentages:
 - iii. The amount of valuation remaining unallocated after the adjustment provided in paragraph (ii) shall be allocated evenly to each county. The Legislature finds and declares that this allocation fairly reflects the relative risk to public health and safety, stigma and burden upon public services which will result from the location of a repository within this state.
- 3. O.K.
- 4. O.K.

1987 REGULAR SESSION (64kh)

| ASSEMBLY ACTIO | N | SENATE ACTION | |
|--|---------|--|---|
| Adopted Lost Date: Initial: Concurred in Not concurred in Date: Initial: | | Adopted Lost Date: Initial: Concurred in Not concurred in Date: Initial: | Assembly Amendment to Assembly Bill No. 756 BDR 20-2145 Proposed by Committee on Taxation |
| Amendment No. 1608 Amend section | l, page | I, line 2, by deleting: | |

"2 and 3" and inserting:

"2, 3 and 4".

Amend sec. 2, page 1, by deleting lines 3, 4 and 5 and inserting:

"Sec. 2. There shall be a county, to be known as Bullfrog County, to include all that part of the State of Nevada within the boundaries described as follows: Beginning at the northwest corner of unsurveyed section 6, unsurveyed T. 12 S., unsurveyed R. 49 E., M.D.B. & M.; thence easterly along a line common to the protracted corner of unsurveyed section 1, unsurveyed T. 12 S., unsurveyed R. 50 E., M.D.B. & M.; thence southerly along a line common to the protracted range line between R. 50 E. and R. 51 E., to the southeast corner of unsurveyed section 36, unsurveyed T. 12 S., unsurveyed R. 50 E., M.D.B. & M.; thence westerly along the south line of unsurveyed section 36 to a point along the south line of unsurveyed section 36, unsurveyed T. 12 S., unsurveyed R. 50 E., M.D.B. & M.; thence westerly along the south line of unsurveyed T. 12 S., unsurveyed R. 50 E., M.D.B. & M.; thence southerly along the east line of unsurveyed section 9, 16, 21, 28 and 33 to the southeast corner of unsurveyed section 33.

To: E&E

LCB File

Journal ✓

Engrossment
Bill

Drafted by: BJE.ddl

EXHIBIT_D

Date: 6/1487

unsurveyed T. 13 S., unsurveyed R. 50 E., M.D.B. & M.; thence continuing southerly along the east line of unsurveyed section 4 to the southeast corner of unsurveyed section 4. unsurveyed T. 14 S., unsurveyed R. 50 E., M.D.B. & M.; thence westerly along the south line of unsurveyed sections 4.5 and 6 to the southwest corner of unsurveyed section 6, unsurveyed T. 14 S., unsurveyed R. 50 E., M.D.B. & M.: thence continuing westerly along the south: line of unsurveyed sections 1, 2, 3, 4, 5 and 6 to the southwest corner of unsurveyed section 6. T. 14 S., R. 49 E., M.D.B. & M.; thence continuing westerly along the south line of sections 1, 2 and 3 to the southwest corner of unsurveyed section 3, unsurveyed T. 14 S., R. 48 E., M.D.B. & M.; thence northerly along the west line of unsurveyed sections 3, 24, 27, 22, 15 and 10 to the northwest corner of unsurveyed section 10, unsurveyed T. 13 S., unsurveyed R. 48 E., M.D.B. & M.; thence easterly along the north line of unsurveyed section 10, unsurveyed T. 13 S., unsurveyed R. 48 E., to the southwest corner of unsurveyed section 31, unsurveyed T. 12 S., unsurveyed R. 49 E., M.D.B & M.: thence northerly along a line common to the protracted range line between R. 48 E. and R. 49 E., to the northwest corner of unsurveyed section 6, unsurveyed T. 12 S., unsurveyed R. 48 E., M.D.B. & M.: and the point of beginning.".

Amend the bill as a whole by renumbering sections 4 through 12 as sections 5 through 13 and adding a new section designated sec. 4, following sec. 3, to read as follows:

"Sec. 4. The territory described in section I of this act is detached and set aside from Nye County and Bullfrog County erected therefrom.".

Amend sec. 4, page 1, line 8, by deleting:

"5, 6 and 7" and inserting:

"6, 7 and 8".

Amend sec. 5, page 1, line 11, by deleting "legislative commission" and inserting "governor".

Amend sec. 5, page 1, line 12, after "clerk," by inserting "county assessor."

Amend sec. 6, page 2, line 9, by deleting "5" and inserting "6".

Amend sec. 6, page 2, line 10, by deleting "legislative commission" and inserting "governor".

Amend sec. 6, page 2, line 15, by deleting "5" and inserting "6".

Amend sec. 7, page 2, line 16, by deleting "legislative commission" and inserting "governor".

Amend sec. 8, page 2, line 21, by deleting "5" and inserting "6".

Amend sec. 9, page 2, line 28, by deleting "5" and inserting "6".

Amend sec. 12, page 3, line 18, by deleting "subsection" and inserting "subsections".

Amend the bill as a whole by renumbering sec. 13 as sec. 17 and adding new sections designated sections 14, 15 and 16, following sec. 12, to read as follows:

"Sec. 14. NRS 245.040 is hereby amended to read as follows:

245.040 1. Sheriffs, county recorders and county auditors, county clerks, county assessors and county treasurers shall keep an office at the county seat of their county which shall be kept open on all days except Sundays and nonjudicial days from 9 a.m. to 12 m., and on all days except Sundays, nonjudicial days and Saturdays from 1 p.m. to 5 p.m. for the transaction of public business, but nothing contained herein shall be construed so as to interfere with any duty now required of any public official under any of the election laws of this state. County clerks shall keep their offices open on all election days during the hours when the polls are open for voting but may, with the consent of the district judge of the county, close their offices for all purposes except election business and the issuance of marriage licenses on any day on which the primary or general election is held.

- 2. Notwithstanding the provisions of subsection 1, the board of county commissioners of any county may, by an order regularly made and entered in the records of its proceedings, designate the days and hours during which the offices of the sheriff, county recorder and county auditor, county clerk, county assessor and county treasurer shall be kept open for the transaction of public business. [Any] Except in a county whose officers are appointed pursuant to section 6 of this act, any order so made and entered [shall] must require each office to be kept open for not less than 40 hours during each week, and [shall] must not prevent the county clerk from closing his office for all purposes except election business and the issuance of marriage licenses on primary and general election days as provided in subsection 1.
- 3. Any officer violating the provisions of this section [shall be deemed] is guilty of a misdemeanor, and if any officer mentioned in subsection 1 [shall absent] absents himself from his office except:
 - (a) When called away from his office by official duties;
- (b) When expressly permitted so to do by the board of county commissioners or a majority of the members thereof in writing; or
- (c) When he first makes provision to leave his office open for the transaction of public business on the days and during the hours prescribed by this section and in charge of a deputy [duly] qualified to act in his absence,

there [shall] must be withheld from his monthly salary that proportion thereof as the number of days of absence bears to the number of days of the month in which such absence occurs. (Such sum shall) The money must be withheld from payment of salary to the officer for the next succeeding month by order of the board of county commissioners; but no order in the premises [shall] may be made without first giving the officer affected reasonable notice and an opportunity to appear before the board and defend the charge against him.

Sec. 15. NRS 245.043 is hereby amended to read as follows:

245.043 1. As used in this section:

- (a) "County" includes Carson City.
- (b) "County commissioner" includes the mayor and supervisors of Carson City.
- 2. Except as otherwise provided by any special law, the elected officers of the counties of this state, or the persons appointed to those offices, are entitled to receive annual salaries in the base amounts specified in the following table. The annual salaries are in full payment for all services required by law to be performed by such officers. Except as otherwise provided by law, all fees and commissions collected by such officers in the performance of their duties must be paid into the county treasury each month without deduction of any nature.

ANNUAL SALARIES

| Class | County | County Commis- sioner | District Attorney | Sheriff | County Clerk | County Assessor | County Recorder | County Treasurer |
|-------|-------------|-----------------------------|----------------------|----------|-----------------|--------------------|--------------------|---------------------|
| ı | Clark | \$29,800 | \$63,900 | \$60,200 | \$44,000 | \$44,000 | \$44,000 | \$44,000 |
| 2 | Washoe | 20,200 | 55,900 | 51,000 | 42,800 | 42,800 | 42,800 | 42,800 |
| 3 | Carson City | 13,100 | 45,200 | 39,900 | 35,700 | 35,700 | 35,700 | |
| 1 | Churchill | 10,700 | 42,800 | 32,700 | 28,600 | 28,600 | 28,600 | |
| | Douglas | 11,900 | 45,200 | 39,900 | 35,700 | 35,700 | 35,700 | |
| | Elko | 11,900 | 45,200 | 32,900 | 32,100 | 32,100 | 32,100 | 32,100 |
| | Humboldt | 10,700 | 42,800 | 32,700 | 28,600 | 28,600 | 28,600 | 28,600 |
| | Lyon | 10,700 | 42,800 | 32,700 | 28,600 | 28,600 | 28,600 | |
| | Nyc | 10,700 | 42,800 | 32,700 | 28,600 | 28,600 | 28,600 | 28,600 |
| | White Pine | 10,700 | 42,860 | 32,700 | 28,600 | 28,600 | 28,600 | 28,600 |
| 4 | Lander | 10,000 | 39,900 | 28,600 | 25,000 | 25,000 | 25,000 | 25,000 |
| | Lincoln | 10,000 | 39,900 | 28,600 | 25,000 | 25,000 | 25,000 | 25,000 |
| | Mineral | 10,000 | 39,900 | 28,600 | 25,000 | 25,000 | 25,000 | |
| | Pershing | 10,000 | 39,900 | 29,800 | 25,000 | 25,000 | 25,000 | |
| 5 | Esmeralda | 8,600 | 30,000 | 23,800 | 21,400 | 21,400 | 21,400 | |
| | Eureka | 8,600 | 30,000 | 23,800 | 21,400 | 21,400 | 21,400 | |
| | Storey | 8,600 | 30,000 | 23,800 | 21,400 | 21,400 | 21,400 | |
| | Bullfrog | 1 | 1 | 1 | 1 | 1 | 1 | |

Sec. 16. NRS 245.050 is hereby amended to read as follows:

245.050 [All] Except in counties whose officers are appointed pursuant to section 6 of this act, all county officers and regular and temporary employees of the counties [shail] are entitled to be paid their salaries as fixed by law, ordinance or resolution either at regular 2-week intervals or in two equal semimonthly payments. If salaries are paid semimonthly, the first semimonthly payment for each month [shall] must be for the first half of that particular month, and the second semimonthly payment [shall] must be for the last half of the month."

Amend the bill as a whole by renumbering sections 14 and 15 as sections 19 and 20 and adding a new section designated sec. 18, following sec. 13, to read as follows:

Sec. 18. The sections, townships and ranges used in the description of Bullfrog County are as represented on the map entitled "Beatty Quadrangle, Nevada-California, 1:100 000 Scale Series (Planimetric), 1978 Surface Management Status," edited and published by the United States Bureau of Land Management.

Amend sec. 14, page 5, by deleting line 5 and inserting: "governor shall appoint:".

Amend sec. 14, page 5, line 7, by deleting "5" and inserting "6".

Amend sec. 14, page 5, line 9, by deleting "5" and inserting "6".

Amend sec. 14, page 5, by deleting line 12 and inserting:

"sections 6 and 8 of this act.".

TAXATION

Page Seven

Ms. Vilardo added if AB-645 were not successful, consideration of all the provisions of SB-561 could continue.

Chairman May requested the appointed subcommittee develop two alternatives. One if AB-645 is successful and one if it is not successful. He requested Mr. Leavitt join the subcommittee.

Mr. Ketzenberger explained why there was a three-part question proposed for the ballot:

"As it was indicated we did have a three-part question for a reason. First of all the citizens have the option of voiding what the legislature approved us doing for the first 2 years.

"Secondly, continuing with those 100 officers but not the third part of the program. If they vote the first part out, the 100 officers disappear. If they vote to continue it, then the 100 officers stav.

"Part 3 is the additional 150 officers over the next three years.

"Our reason for not going to a special election was to ask the legislature to do this because special elections cost money and there is a general election coming up in 1988 which would allow us to go to the general election with no additional costs to this question. It also gives us time to work with the public to educate them on what the problem is in Clark County.

"The problem is going to get significantly more critical as time goes on. You just do not hire 50 police officers, put them on the street and make them effective. It takes a long period of time to get them hired, trained and able to function on their own."

Chairman May closed the public hearing on SB-561.

ASSEMBLY BILL NO. 756 - Creates Bullfrog County and revises provisions governing counties.

Mr. Gaston reported on the recommendations of the subcommittee that had been assigned to study $\underline{AB-756}$ and $\underline{SB-536}$.

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Assembly Committee on June 12, 1987

Eight Page: ___

SENATE BILL NO. 536 - Requires central assessment repository for disposal of high-level radioactive waste.

The recommendation from the subcommittee is to amend AB-756 by:

Line 11, page 1 - delete "legislative commission" and insert "governor". This is to avoid a constitutional challenge. Wherever "legislative commission" appears on the appointment portion of the bill, "qovernor" should be substituted.

Section 11 should be deleted and restated as - "The board shall grant all revenue collected to the Nevada Tax Commission. The commission shall promulgate regulations for distribution of any grants to the counties." The remainder of that section through line 16 should be deleted.

In addition, there would be a sunset provision - this would sunset in 1999 - with a statement to the effect that all assests and facilities of Bullfroq county would revert to Nye County.

THE SUBCOMMITTEE WOULD THEN MOVE TO AMEND AND DO PASS AB-756.

MR. PRICE SECONDED THE MOTION.

Mr. Adler said there was a problem in that subject measure provided for a county clerk, recorder, auditor, sheriff. etc. The recorder should be an assessor - on page 1. "Would you accept that as an amendment to vour line 12. motion?"

Chairman May said those officers were named by the Counsel Bureau as being the minimum constitutional officers required in any county.

Mr. Adler asked if an assessor could be included as an addition to those listed.

Chairman May replied in the affirmative.

Mr. Price commented the constitutional officers should be guaranteed access to the waste disposal site.

Chairman May said there was at present no human habitation in the area and he was sure, should that area become the

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Assembly Committee on TAXATION
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waste disposal site, arrangements could be made to quarantee access by state officials.

Mr. Price questioned whether the officials would be restricted by statute as all other elected officials whereby one could not hold 2 offices.

Chairman May said under the provisions of AB-756, one person may be vested with the total authority for all those offices. The salary is one dollar per year for the official and for each commission member. An amendment to this effect will be forthcoming.

Mrs. Spridgs:

"I would like it noted for the record that it was not a unanimous subcommittee report. This minority person voted "No" on all of this."

Chairman May announced there was a motion and a second concerning recommendation for amendment of AB-756.

Mrs. Lambert said she would much prefer to delay the vote until after presentation of the entire report.

Mr. Bergevin question how the "fair and equal taxation" part of the constitution was circumvented - page 5, section 2.

Chairman May said he was awaiting a legal opinion on that very question, among others.

Mr. Bergevin:

"I submit to this committee, that: I spoke to our former legislative counsel, Mr. Daykin. He said this provision would take about 2 minutes in a court to break the rubber band that is holding it together."

Chairman May:

"As soon I get the written legal opinion from LCB I will be delighted to furnish the committee with it. They have told me over and over again that it is not subject to challenge. There is no precedent whatsoever for any provision contained in it."

Mr. Gaston remarked that Harry Swainston, Attorney General's Office, made comments although he could not render an official legal opinion, that indicated, with the exception

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of replacing the governor for the legislative commission, he did not foresee a constitutional problem.

MR. GASTON WITHDREW HIS MOTION TO AMEND AND DO PASS AB 756.

MR. PRICE WITHDREW HIS SECOND TO THE MOTION.

Mr. Gaston reported the subcommittee liked the formula of $\underline{SB-536}$. The subcommittee wanted to process $\underline{AB-756}$ and $\underline{SB-536}$ separately. The subcommittee's proposed amendments were as follows:

The constitutionally suspect portions of SB-536 were deleted.

Section 1, subsection 1 - delete entire section and replaced with words to the effect "The Nevada Tax Commission shall grant money received from Bullfrog County, in the following manner":

(a) 20 percent must be allocated to Nye County. That has been increased because of the impact on that county.

5 percent for Lincoln County.

- (b) 10 percent allocation as reads in present bill, beginning line 1, page 2.
- (c) 65 percent must be allocated to each county in the same proportion as the population of that county bears to the total population of this state.

Delete the remainder of that paragraph.

Mr. Gaston said that suggested amendment resolved the areas of constitutionally suspect provisions. It takes care of the formula for distribution and the measure would sunset.

Mr. Gaston announced Mrs. Spriggs had voted against the subcommittee recommendations.

Mrs. Spriggs:

"I wanted it noted that if we do this we have completely negated everything that the local governments have done and worked so hard for several

TAXATION

Assembly Committee on June 12, 1987

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years to put together for their allocation that everyone - including Clark County, City of Las Vegas, North Las Vegas, Nye County, Lincoln County - everyone had agreed upon. We are back to where they are probably adversaries again.

"I think that is an unfair thing to do. I don't see why we can't leave the formula in the bill the way it is."

Chairman May responded:

"I don't see that much variation between the subcommittee recommendation and what the local governments worked on for so long. Would you explain to me where the . . ."

Mrs. Spriggs:

"It is a flat 20 percent to Nye County; a flat 5 percent to Lincoln County; and distributes the rest based on population. That is a very very different effect than this formula that has been worked out. It hurts Nye County and it hurts Lincoln County to do it that way. If you calculate both numbers you will come out that we have hurt them."

Mr. Triqqs remarked the subcommittee, of which he was a member, wanted the distribution made clear and the amended version proposed for SB-536 would put that outside the current caps. There would not be that adverse impact on maximum allowed combined revenue.

Mr. Adler disagreed those counties named by Mrs. Spriggs were hurt because the line mileage provision remained intact. (lines 1 through 4, page 2 of SB-536) Lincoln County is allocated 5 percent whereas they received no special treatment in the original version.

MR. TRIGGS, ON BEHALF OF THE SUBCOMMITTEE MOVED TO AMEND AND DO PASS AB 756 AND ALSO MOVED TO AMEND AND DO PASS SB-536, WITH AN ADDITIONAL AMENDMENT TO ENSURE THAT WORDS BE DELETED IN SUBSECTION 7, PAGE 3, WHICH TAKES IT OUTSIDE THE CAPS.

Mr. Bergevin:

"I think we are attempting to do in a couple hours time, and in fact turning upon its head, what has taken Assembly Committee of June 19, 1987

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2 or 3 years to put together. (recommendations) This is one of the bad features I find in the closing days of the legislature that we are trying to do something as meticulous and as deep as this is, to come up with a good answer. I don't think we are coming up with a good answer. You can't come up with a good answer in a couple of hours of deliberations in a subcommmittee and therefore I will be voting "No" against both bills."

Chairman May called for a roll call vote on the motion to amend and do pass AB-756 and SB-536.

MR. ADLER SECONDED THE MOTION TO AMEND AND DO PASS AB-756 AND $\underline{\mathsf{SB}}-\underline{\mathsf{536}}$.

MOTION CARRIED. MR. BERGEVIN, MRS. LAMBERT, MR. MARVEL, AND MRS. SPRIGG VOTED "NO".

ASSEMBLY BILL NO. 76 - Revises distribution of proceeds from taxes on cigarettes.

Chairman May said there were amendments to $\underline{AB-76}$ that would increase the tax:

There is hereby levied a tax on purchase or possession of cigarettes by a consumer in the State of Nevada at the rate of 10 mills per cigarette, but not less than 20 cents for each package. (Exhibit D).

Chairman May explained the proposed amendments impose an additional 5 cents per package on cigarette retail sales and returns that money collected to the state general fund.

There were no witnesses present to speak in favor of AB-76.

Joe Midmore, representing the Tobacco Institute said the original bill was proposed by the cities and counties to have allocated to them 5 cents of the cigarette tax that is now allocated to the state. That 5 cents was imposed in 1983.

This tax increase will reduce sales in Fiscal Year 1988 by 2.8 million packages. That is an historic pattern that occurs each time cigarette tax is increased. As a result of the decrease in sales, state revenues will decrease by \$160,000; cigarette tax revenues will decrease by approximately \$340,000. People will not buy that many less cigarettes but will simply purchase them from sources not subject to this tax, such as Indian smoke shops. Out of

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64th SESSION NEVADA LEGISLATURE

| LEGISLATIVE ACTION | | | | | | | | | | |
|-------------------------------------|---|--|--|--|--|--|--|--|--|--|
| DATE OF ACTION ABO756 and SB-536 | BILL NO: | | | | | | | | | |
| SUMMARY: (Taxation of Radioactive W | Naste Depository) | | | | | | | | | |
| MOTION AMEND AND DO PASS | YOTE YES NO | | | | | | | | | |
| MADE BY: Mr. Gaston | Mr. Adler Mr. Bergevin Mr. Craddock Mr. Gaston Mrs. Lambert Mr. Marvel Mr. Price Mrs. Spriggs | | | | | | | | | |
| SECONDED BY:Mr. Price CARRIED | Mr. Triggs Mrs. Williams Chairman May TALLY 7 4 | | | | | | | | | |
| MOTION | VOTE YES NO | | | | | | | | | |
| MADE BY: SECONDED BY: | Mr. Adler Mr. Bergevin Mr. Craddock Mr. Gaston Mrs. Lambert Mr. Marvel Mr. Price Mrs. Spriggs Mr. Triggs Mrs. Williams Chairman May | | | | | | | | | |

By the Committee on Ways and Means:

Assembly Bill No. 889—An Act making an appropriation to the Commission on Economic Development for costs of operating the International Trade Office; and providing other matters properly relating thereto.

Assemblyman Sedway moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Transportation, to which was referred Senate Bill No. 353, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

LEONARD V NEVIN. Chairman

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Jeffrey moved that Assembly Bills Nos. 10, 866, 882, 883, 884; Senate Bills Nos. 23, 165, 328, 407, 468 and 536 be placed at the top of the General File.

Motion carried.

Mr. Speaker announced that if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 10:18 a.m.

ASSEMBLY IN SESSION

At 10:50 a.m.

Mr. Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr Speaker:

Your Committee on Commerce, to which was referred Senate Bill No. 410, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOHN E. JEFFREY. Chairman

MOTIONS. RESOLUTIONS AND NOTICES

Assemblyman Jeffrey moved that Assembly Bill No. 756 be placed on the Second Reading File.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 756.

Bill read second time.

The following amendment was proposed by the Committee on Taxation: Amendment No. 1608.

Amend section 1, page 1, line 2, by deleting: "2 and 3" and inserting: "2, 3 and 4".

Amend sec. 2, page 1, by deleting lines 3, 4 and 5 and inserting:

"Sec. 2. There shall be a county, to be known as Bullfrog County, to include all that part of the State of Nevada within the boundaries described as follows: Beginning at the northwest corner of unsurveyed section 6, unsurveyed T. 12 S., unsurveyed R. 49 E., M.D.B. & M.; thence easterly along a line common to the protracted corner of unsurveyed section 1. unsurveyed T. 12 S., unsurveyed R. 50 E., M.D.B. & M.; thence southerly along a line common to the protracted range line between R, 50 E, and R, 51 E., to the southeast corner of unsurveyed section 36, unsurveyed T. 12 S., unsurveyed R. 50 E., M.D.B. & M.; thence westerly along the south line of unsurveyed section 36 to a point along the south line of unsurveyed section 36, unsurveyed T. 12 S., unsurveyed R. 50 E., M.D.B. & M.; thence southerly along the east line of unsurveyed sections 9, 16, 21, 28 and 33 to the southeast corner of unsurveyed section 33, unsurveyed T. 13 S., unsurveyed R. 50 E., M.D.B. & M.; thence continuing southerly along the east line of unsurveyed section 4 to the southeast corner of unsurveyed section 4, unsurveyed T. 14 S., unsurveyed R. 50 E., M.D.B. & M.; thence westerly along the south line of unsurveyed sections 4, 5 and 6 to the southwest corner of unsurveyed section 6, unsurveyed T. 14 S., unsurveyed R. 50 E., M.D.B. & M.; thence continuing westerly along the south; line of unsurveyed sections 1, 2, 3, 4, 5 and 6 to the southwest corner of unsurveyed section 6, T. 14 S., R. 49 E., M.D.B. & M.; thence continuing westerly along the south line of sections 1, 2 and 3 to the southwest corner of unsurveyed section 3, unsurveyed T. 14 S., R. 48 E., M.D.B. & M.; thence northerly along the west line of unsurveyed sections 3, 24, 27, 22, 15 and 10 to the northwest corner of unsurveyed section 10, unsurveyed T. 13 S., unsurveyed R. 48 E., M.D.B. & M., thence easterly along the north line of unsurveyed section 10, unsurveyed T, 13 S., unsurveyed R, 48 E., to the southwest corner of unsurveyed section 31, unsurveyed T. 12 S., unsurveyed R. 49 E., M.D.B & M; thence northerly along a line common to the protracted range line between R. 48 E. and R. 49 E., to the northwest corner of unsurveyed section 6, unsurveyed T. 12 S., unsurveyed R. 48 E., M.D.B. & M., and the point of beginning.".

Amend the bill as a whole by renumbering sections 4 through 12 as sections 5 through 13 and adding a new section designated sec. 4, following sec. 3, to read as follows:

"Sec. 4. The territory described in section 1 of this act is detached and set aside from Nye County and Bullfrog County erected therefrom.".

Amend sec. 4, page 1, line 8, by deleting: "5, 6 and 7" and inserting: "6, 7 and 8".

Amend sec. 5, page 1, line 11, by deleting "legislative commission" and inserting "governor".

Amend sec. 5, page 1, line 12, after "clerk," by inserting "county assessor,".

Amend sec. 6, page 2, line 9, by deleting "5" and inserting "6".

Amend sec. 6, page 2, line 10, by deleting "legislative commission" and inserting "governor".

Amend sec. 6, page 2, line 15, by deleting "5" and inserting "6".

Amend sec. 7, page 2, line 16, by deleting "legislative commission" and inserting "governor".

Amend sec. 8, page 2, line 21, by deleting "5" and inserting "6".

Amend sec. 9, page 2, line 28, by deleting "5" and inserting "6".

Amend sec. 12, page 3, line 18, by deleting "subsection" and inserting "subsections".

Amend the bill as a whole by renumbering sec. 13 as sec. 17 and adding new sections designated sections 14, 15 and 16, following sec. 12, to read as follows:

"Sec. 14. NRS 245.040 is hereby amended to read as follows:

245.040 1. Sheriffs, county recorders and county auditors, county clerks, county assessors and county treasurers shall keep an office at the county seat of their county which shall be kept open on all days except Sundays and nonjudicial days from 9 a.m. to 12 m., and on all days except Sundays, nonjudicial days and Saturdays from 1 p.m. to 5 p.m. for the transaction of public business, but nothing contained herein shall be construed so as to interfere with any duty now required of any public official under any of the election laws of this state. County clerks shall keep their offices open on all election days during the hours when the polls are open for voting but may, with the consent of the district judge of the county, close their offices for all purposes except election business and the issuance of marriage licenses on any day on which the primary or general election is held.

2. Notwithstanding the provisions of subsection 1, the board of county commissioners of any county may, by an order regularly made and entered in the records of its proceedings, designate the days and hours during which the offices of the sheriff, county recorder and county auditor, county clerk, county assessor and county treasurer shall be kept open for the transaction of public business. [Any] Except in a county whose officers are appointed pursuant to section 6 of this act, any order so made and entered [shall] must require each office to be kept open for not less than 40 hours during each week, and [shall] must not prevent the county clerk from closing his office for all purposes except election business and the issuance of marriage licenses on primary and general election days as provided in subsection 1.

3. Any officer violating the provisions of this section [shall be deemed] is guilty of a misdemeanor, and if any officer mentioned in subsection I [shall absent] absents himself from his office except:

(a) When called away from his office by official duties;

(b) When expressly permitted so to do by the board of county commissioners or a majority of the members thereof in writing; or

(c) When he first makes provision to leave his office open for the transaction of public business on the days and during the hours prescribed by this section and in charge of a deputy [duly] qualified to act in his absence, there [shall] must be withheld from his monthly salary that proportion thereof as the number of days of absence bears to the number of days of the month in which such absence occurs. [Such sum shall] The money must be

withheld from payment of salary to the officer for the next succeeding month by order of the board of county commissioners; but no order in the premises [shall] may be made without first giving the officer affected reasonable notice and an opportunity to appear before the board and defend the charge against him

- Sec. 15. NRS 245-043 is hereby amended to read as follows:
- 245 043 1. As used in this section:
- (a) ' County' includes Carson City.
- (b) "County commissioner" includes the mayor and supervisors of Carson City
- 2. Except as otherwise provided by any special law, the elected officers of the counties of this state, or the persons appointed to those offices, are entitled to receive annual salaries in the base amounts specified in the following table. The annual salaries are in full payment for all services required by law to be performed by such officers. Except as otherwise provided by law, all fees and commissions collected by such officers in the performance of their duties must be paid into the county treasury each month without deduction of any nature.

| | County | 3 | 42,800 | | , | | 32.100 | 28.600 | | 28.600 | 28.600 | 25,000 | 25,000 | | | | | | |
|----------|--------------------|----------------|---------|-------------|-----------|----------|----------|----------|----------|----------|------------|--------|----------|----------|----------|-----------|--------|--------|----------|
| | County Recorder | 24 ,000 | 42,800 | 35,700 | 28.600 | 35.700 | 32,100 | 28,600 | 28,600 | 28,600 | 28.600 | 25.000 | 25,000 | 25,000 | 25,000 | 21,400 | 21.400 | 21.400 | 1 |
| | County Assessor | 24.000 | 42.800 | 35,700 | 28.600 | 35.700 | 32.100 | 28,600 | 28,600 | 28.600 | 28.600 | 25.000 | 25,000 | 25.000 | 25,000 | 21.400 | 21.400 | 21,400 | I |
| | County Clerk | 3 00.7 | 42,800 | 35,700 | 28.600 | 35.700 | 32,100 | 28,600 | 28,600 | 28,600 | 28.600 | 25.000 | 25,000 | 25.000 | 25.000 | 21.400 | 21,400 | 21.400 | 1 |
| SALARIES | Sheriff | \$60,200 | 51.000 | 39.900 | 32,700 | 39,900 | 32,900 | 32,700 | 32,700 | 32.700 | 32.700 | 28,600 | 28.600 | 28.600 | 29,800 | 23,800 | 23,800 | 23.800 | 7 |
| ANNUAL | District | \$63.900 | 55,900 | 45.200 | 42.800 | 45.200 | 45.200 | 42.800 | 42.800 | 42.800 | 42,800 | 39.900 | 39.900 | 39,900 | 39,900 | 30,000 | 30.000 | 30,000 | I |
| County | Commis- sioner | \$29.800 | 20,200 | 13.100 | 10.700 | . 11.900 | . 11.900 | . 10.700 | . 10,700 | . 10.700 | . 10.700 | 10,000 | . 10,000 | . 10,000 | . 10,000 | 8,600 | 8.600 | 8.600 | ~ |
| | County | Clark | washoe. | Carson City | Churchill | Douglas | Elko. | Humboldt | Lyon | Nye | White Pine | Lander | Lincoln | Mineral | Pershing | Esmeralda | Eureka | Storey | Bullfrog |
| | Class | - <i>c</i> | -1 r | n | | | | | | | • | व | | | , | Λ | | | |

Sec. 16. NRS 245.050 is hereby amended to read as follows:

245.050 [All] Except in counties whose officers are appointed pursuant to section 6 of this act, all county officers and regular and temporary employees of the counties (shall) are entitled to be paid their salaries as fixed by law, ordinance or resolution either at regular 2-week intervals or in two equal semimonthly payments. If salaries are paid semimonthly, the first semimonthly payment for each month (shall) must be for the first half of that particular month, and the second semimonthly payment [shall] must be for the last half of the month ".

Amend the bill as a whole by renumbering sections 14 and 15 as sections 19 and 20 and adding a new section designated sec. 18, following sec. 13, to read as follows:

Sec. 18. The sections, townships and ranges used in the description of Bullfrog County are as represented on the map entitled "Beatty Quadrangle. Nevada-California, I 100 000 Scale Series (Planimetric), 1978 Surface Management Status," edited and published by the United States Bureau of Land Management.

Amend sec 14, page 5, by deleting line 5 and inserting: "governor shall appoint:".

Amend sec. 14, page 5, line 7, by deleting "5" and inserting "6".

Amend sec. 14, page 5, line 9, by deleting "5" and inserting "6"

Amend sec. 14, page 5, by deleting line 12 and inserting: "sections 6 and 8 of this act."

Assembly man May moved the adoption of the amendment.

Remarks by Assemblyman May.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 10.

Bill read third time.

Remarks by Assemblyman Bergevin.

Roll call on Assembly Bill No. 10:

YEAS-42.

NAYS-None.

Assembly Bill No. 10 having received a constitutional majority. Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 866.

Bill read third time.

Remarks by Assemblyman Callister.

Roll call on Assembly Bill No. 866:

YEAS-42. NAYS-None.

(REPRINTED WITH ADOPTED AMENDMENTS) FIRST REPRINT

A.B. 756

ASSEMBLY BILL NO. 756--COMMITTEE ON GOVERNMENT AFFAIRS

MAY 6, 1987

Referred to Committee on Government Affairs

SUMMARY--Creates Bullfrog County and revises provisions governing counties (BDR 20-2145)

FISCAL NOTE: Effect on Local Government: Yes.

Effect on the State or on Industrial Insurance: No



EXPLANATION--Matter in italies is new, matter in brackets [] is material to be omitted

AN ACT relating to counties; providing in skeleton form for the creation and organization of Bullfrog County; authorizing a higher levy of ad valorem taxes in certain counties; making various other changes relating to counties; and providing other matters properly relating thereto

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- Section 1. Chapter 243 of NRS is hereby amended by adding thereto the 2 provisions set forth as sections 2, 3 and 4 of this act.
- 3 Sec. 2. There shall be a county, to be known as Bullfrog County, to
- 4 include all that part of the State of Nevada within the boundaries described
- 5 as follows: Beginning at the northwest corner of unsurveyed section 6,
- 6 unsurveyed T. 12 S., unsurveyed R. 49 E., M.D.B. & M.; thence easterly
- 7 along a line common to the protracted corner of unsurveyed section I,
- 8 unsurveyed T. 12 S., unsurveyed R. 50 E., M.D.B. & M.; thence southerly 9 along a line common to the protracted range line between R. 50 E. and R.
- 10 51 E., to the southeast corner of unsurveyed section 36, unsurveyed T. 12
- 11 S., unsurveyed R. 50 E., M.D.B. & M.; thence westerly along the south line
- 11 S., unsurveyed R. Do E., M.D.D. & M., thence westerly along the south time
- 12 of unsurveyed section 36 to a point along the south line of unsurveyed 13 section 36, unsurveyed T. 12 S., unsurveyed R. 50 E., M.D.B. & M.; thence
- 14 southerly along the east line of unsurveyed sections 9, 16, 21, 28 and 33 to
- 15 the southeast corner of unsurveyed section 33, unsurveyed T. 13 S.,
- 16 unsurveyed R: 50 E., M.D.B. & M.; thence continuing southerly along the

1 east line of unsurveyed section 4 to the southeast corner of unsurveyed 2 section 4, unsurveyed T. 14 S., unsurveyed R. 50 E., M.D.B. & M.; thence 3 westerly along the south line of unsurveyed sections 4, 5 and 6 to the 4 southwest corner of unsurveyed section 6, unsurveyed T. 14 S., unsurveyed 5 R. 50 E., M.D.B. & M.; thence continuing westerly along the south; line of 6 unsurveyed sections 1, 2, 3, 4, 5 and 6 to the southwest corner of 7 unsurveyed section 6, T. 14 S., R. 49 E., M.D.B. & M.; thence continuing 8 westerly along the south line of sections 1, 2 and 3 to the southwest corner 9 of unsurveyed section 3, unsurveyed T. 14 S., R. 48 E., M.D.B. & M.; 10 thence northerly along the west line of unsurveyed sections 3, 34, 27, 22, 15 11 and 10 to the northwest corner of unsurveyed section 10, unsurveyed T. 13 12 S., unsurveyed R. 48 E., M.D.B. & M.; thence easterly along the north line 13 of unsurveyed section 10, unsurveyed T. 13 S., unsurveyed R. 48 E., to the 14 southwest corner of unsurveyed section 31, unsurveyed T. 12 S., unsurveyed 15 R. 49 E., M.D.B & M.; thence northerly along a line common to the 16 protracted range line between R. 48 E. and R. 49 E., to the northwest 17 corner of unsurveyed section 6, unsurveyed T. 12 S., unsurveyed R. 48 E., 18 M.D.B & M.; and the point of beginning.

- 19 Sec. 3. Carson City is the county seat of Bullfrog County.
- 20 Sec. 4. The territory described in section 1 of this act is detached and 21 set aside from Nye County and Bullfrog County erected therefrom.
- Sec. 5. Chapter 244 of NRS is hereby amended by adding thereto the provisions set forth as sections 6, 7 and 8 of this act.
- Sec. 6. 1. In any county in which, upon creation or as of 6 months before any general election, less than 10 qualified electors reside, the 26 governor shall appoint the members of the board of county commissioners 27 and the county clerk, county assessor, county recorder, county auditor, 28 sheriff, district attorney and public administrator who, but for the provisions 29 of this section, would have been elected at that general election.
- 30 2. Each member of a board of county commissioners appointed pursuant 31 to this section:
 - (a) Must be a qualified elector of the state;

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- 33 (b) Must have such other qualifications as are provided in this chapter; 34 and
 - (c) Must not hold any other elective office.
- 36 3. Each other officer appointed pursuant to this section must meet all 37 qualifications for the office to which he is appointed.
- 38 4. All appointments made pursuant to this section must be for the same 39 terms as if the officers were elected.
- 40 Sec. 7. In any county for which a member of the board of county 41 commissioners or any other officer is appointed pursuant to section 6 of this

- 1 act, the governor shall continue to appoint its officers until the county has 2 maintained a total of 10 or more qualified electors as residents continuously 3 for 2 years.
- 4 Sec. 8. In any county in which the offices of county clerk, county 5 recorder, county auditor, sheriff, district attorney and public administrator 6 are all filled or to be filled by appointment pursuant to section 6 of this act, 7 the governor may consolidate the offices into one or more county offices if it 8 finds that such consolidation would be in the best interests of the county.
 - Sec. 9. NRS 244.020 is hereby amended to read as follows:
- 10 244,020 1. [County commissioners shall] Except as otherwise provided 11 in section 6 of this act, county commissioners must be qualified electors of 12 their respective counties and have such other qualifications as are provided 13 in this chapter.
- 14 2. No county or township officer [shall be] is eligible to the office of 15 county commissioner.
 - Sec. 10. NRS 244.025 is hereby amended to read as follows:

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- 17 244.025 1. [County commissioners shall] Except as otherwise provided 18 in section 6 of this act, county commissioners must be elected by the 19 qualified electors of their respective counties.
- 20. At the general election held in 1968 and at the general election every 21. 4 years thereafter, two persons [shall] must be elected to serve on the board 22. of county commissioners for terms of 4 years.
- 23 3. At the general election held in 1970 and at the general election held 24 every 4 years thereafter, one person [shall] must be elected to serve on the 25 board of county commissioners for a term of 4 years.
- 26 4. This section does not apply to counties having a population of 27 100,000 or more.
- 28 Sec. 11. NRS 244.040 is hereby amended to read as follows:
- 29 244.040 1. Any vacancy occurring in any board of county 30 commissioners must be filled by appointment of the governor. Except in 31 Carron City, the governor shall appoint the county of the governor ball appointment of the governor.

31 Carson City, the governor shall appoint a suitable person who is a member 32 of the same political party as the most recent holder of the vacant office.

- 2. The term of office of a person appointed to the office of county 34 commissioner pursuant to this section does not, by virtue of the 35 appointment, extend beyond 12 p.m. of the day preceding the 1st Monday of 36 January next following the next general election.
 - Sec. 12. NRS 244.1505 is hereby amended to read as follows:
- 38 244.1505 1. A board of county commissioners may expend money for 39 any purpose which will provide a substantial benefit to the inhabitants of the 40 county [.] or the state. The board may grant all or part of the money to [a]: 41 (a) The state: or

- 1 (b) A private organization, not for profit, to be expended for the selected 2 purpose.
- A grant to a private organization must be made by resolution which
 must specify:
 - (a) The purpose of the grant;
- (b) The maximum amount to be expended from the grant; and
- (c) Any conditions or other limitations upon its expenditure.
- 8 Sec. 13. NRS 244.335 is hereby amended to read as follows:
- 9 244.335 1. Except as otherwise provided in [subsection 2,] subsections 10 2 and 3, the board of county commissioners may:
- 11 (a) Regulate all character of lawful trades, callings, industries, 12 occupations, professions and business conducted in its county outside of the 13 limits of incorporated cities and towns.
- 14 (b) Fix, impose and collect a license tax for revenue or for regulation, or 15 for both revenue and regulation, on such trades, callings, industries, 16 occupations, professions and business.
- 2. The county license boards have the exclusive power in their respective to regulate the business of conducting a dancing hall, escort service, or gambling game or device permitted by law, outside of an incorporated city. The county license boards may fix, impose and collect license taxes for revenue or for regulation, or for both revenue and regulation, on such businesses.
- 23 3. The board of county commissioners may regulate all industries, 24 occupations, professions and business in its county which involve high-level 25 nuclear waste, including without limitation, the act of transporting the waste 26 into or through the county by motor vehicle, railroad car or any other 27 means, and may fix, impose and collect a license tax for revenue or for 28 regulation, or for both revenue and regulation, on such trades, callings, 29 industries, occupations, professions and business.
- 30 4. No license to engage in business as a seller of tangible personal 31 property may be granted unless the applicant for the license presents written 32 evidence that:
- 33 (a) The department of taxation has issued or will issue a permit for this 34 activity, and this evidence clearly identifies the business by name; or
- 35 (b) Another regulatory agency of the state or an agency of the Federal 36 Government has issued or will issue a license required for this activity.
- 37 [4.] 5. Any license tax levied for the purposes of NRS 244,3358 or 38 244A.597 to 244A.655, inclusive, constitutes a lien upon the real and 39 personal property of the business upon which the tax was levied until the tax 40 is paid. The lien must be enforced in the following manner:

- 1 (a) By recording in the office of the county recorder, within 90 days 2 following the date on which the tax became delinquent, a notice of the tax 3 lien containing the following:
 - (1) The amount of tax due and the appropriate year;
 - (2) The name of the record owner of the property;

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- (3) A description of the property sufficient for identification; and
- 7 (4) A verification by the oath of any member of the board of county 8 commissioners or the county fair and recreation board; and
- 9 (b) By an action for foreclosure against the property in the same manner 10 as an action for foreclosure of any other lien, commenced within 2 years 11 after the date of recording of the notice of the tax lien, and accompanied by 12 appropriate notice to other lienholders.
- [5.] 6. The board of county commissioners may delegate the authority to 14 enforce liens from taxes levied for the purposes of NRS 244A.597 to 15 244A.655, inclusive, to the county fair and recreation board. All information 16 concerning license taxes levied by an ordinance authorized by this section or 17 other information concerning the business affairs or operation of any licensee 18 obtained as a result of the payment of such license taxes or as the result of 19 any audit or examination of the books by any authorized employee of a 20 county fair and recreation board of the county for any license tax levied for 21 the purpose of NRS 244A.597 to 244A.655, inclusive, is confidential and 22 must not be disclosed by any member, officer or employee of the county fair 23 and recreation board or the county imposing the license tax unless the 24 disclosure is authorized by the affirmative action of a majority of the 25 members of the appropriate county fair and recreation board. Continuing 26 disclosure may be so authorized under an agreement with the department of 27 taxation for the exchange of information concerning taxpayers.
 - Sec. 14. NRS 245.040 is hereby amended to read as follows:
- 29 245.040 1. Sheriffs, county recorders and county auditors, county 30 clerks, county assessors and county treasurers shall keep an office at the 31 county seat of their county which shall be kept open on all days except 32 Sundays and nonjudicial days from 9 a.m. to 12 m., and on all days except 33 Sundays, nonjudicial days and Saturdays from 1 p.m. to 5 p.m. for the 34 transaction of public business, but nothing contained herein shall be 35 construed so as to interfere with any duty now required of any public official 36 under any of the election laws of this state. County clerks shall keep their 37 offices open on all election days during the hours when the polls are open 38 for voting but may, with the consent of the district judge of the county, 39 close their offices for all purposes except election business and the issuance 40 of marriage licenses on any day on which the primary or general election is 41 held.

- 2. Notwithstanding the provisions of subsection 1, the board of county commissioners of any county may, by an order regularly made and entered in the records of its proceedings, designate the days and hours during which the offices of the sheriff, county recorder and county auditor, county clerk, county assessor and county treasurer shall be kept open for the transaction of public business. [Any] Except in a county whose officers are appointed pursuant to section 6 of this act, any order so made and entered [shall] must require each office to be kept open for not less than 40 hours during each week, and [shall] must not prevent the county clerk from closing his office for all purposes except election business and the issuance of marriage licenses on primary and general election days as provided in subsection 1.
- 12 3. Any officer violating the provisions of this section [shall be deemed]
 13 is guilty of a misdemeanor, and if any officer mentioned in subsection 1
 14 [shall absent] absents himself from his office except:
 - (a) When called away from his office by official duties;
- 16 (b) When expressly permitted so to do by the board of county 17 commissioners or a majority of the members thereof in writing; or
- 18 (c) When he first makes provision to leave his office open for the 19 transaction of public business on the days and during the hours prescribed by 20 this section and in charge of a deputy [duly] qualified to act in his absence, 21 there [shall] must be withheld from his monthly salary that proportion 22 thereof as the number of days of absence bears to the number of days of the 23 month in which such absence occurs. [Such sum shall] The money must be 24 withheld from payment of salary to the officer for the next succeeding month 25 by order of the board of county commissioners; but no order in the premises 26 [shall] may be made without first giving the officer affected reasonable 27 notice and an opportunity to appear before the board and defend the charge 28 against him.
- 29 Sec. 15. NRS 245.043 is hereby amended to read as follows:
- 30 245.043 1. As used in this section:

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- 31 (a) "County" includes Carson City.
- 32 (b) "County commissioner" includes the mayor and supervisors of 33 Carson City.
- 2. Except as otherwise provided by any special law, the elected officers of the counties of this state, or the persons appointed to those offices, are entitled to receive annual salaries in the base amounts specified in the following table. The annual salaries are in full payment for all services required by law to be performed by such officers. Except as otherwise provided by law, all fees and commissions collected by such officers in the performance of their duties must be paid into the county treasury each month without deduction of any nature.

| | County Treasurer \$44,000 42.800 | 25,282 25 | |
|-----------------|---|--|--|
| | County Recorder \$44,000 42,800 35,700 28,700 35,700 35,700 | 35,55,55,55,55,55,55,55,55,55,55,55,55,5 | 3444 886 886 886 886 886 886 886 886 886 |
| | County Assessor \$44,000 35,700 | 18888881 198888881 198888881 198888881 1988888888 | 25,500 25,500 25,112 200 200 200 200 200 200 200 200 200 |
| ANNUAL SALARIES | County 44,000 33,700 33,600 33,500 33,500 33,500 | 12 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 | 25,000 25,000 21,400 21,400 1,400 |
| | Sheriff 550,200 31,000 32,700 33,500 | 7,7,7,7,2,8,8,8,7,7,8,8,8,8,8,8,8,8,8,8, | 880 880 733,800 78,800 78,800 78,800 78,800 78,800 78,800 |
| | District Attorney 563,900 45,2 | 444444 444444 666666666666666666666666 | 2000000 200000 200000 200000 |
| | County Commissioner Sioner Sioner Clark S29,800 Washoe 20,200 Carson City 13,100 Churchill 10,700 Douglas 11,900 | | Lincoln 10,000 Mineral 10,000 Pershing 10,000 Esmeralda 8,600 Eureka 8,600 Storey 8,600 |
| | Class 1 2 3 | 4 | S |

- Sec. 16. NRS 245,050 is hereby amended to read as follows:
- 2 245.050 [All] Except in counties whose officers are appointed pursuant 3 to section 6 of this act, all county officers and regular and temporary 4 employees of the counties [shall] are entitled to be paid their salaries as 5 fixed by law, ordinance or resolution either at regular 2-week intervals or in 6 two equal semimonthly payments. If salaries are paid semimonthly, the first 7 semimonthly payment for each month [shall] must be for the first half of that 8 particular month, and the second semimonthly payment [shall] must be for 9 the last half of the month.
- Sec. 17. NRS 361.453 is hereby amended to read as follows:
- 11 361.453 [The] I. Except as otherwise provided in subsection 2, total ad 12 valorem tax levy for all public purposes must not exceed \$3.64 on each \$100 13 of assessed valuation, or a lesser or greater amount fixed by the state board 14 of examiners if the state board of examiners is directed by law to fix a lesser 15 or greater amount for that fiscal year.
- 16 2. The total ad valorem tax levy in a county in which one or more of the 17 county commissioners is appointed pursuant to section 5 of this act must not 18 exceed \$5 on each \$100 of assessed valuation.
- 19 Sec. 18. The sections, townships and ranges used in the description of 20 Bullfrog County are as represented on the map entitled "Beatty Quadrangle,
- 21 Nevada-California, 1:100 000 Scale Series (Planimetric), 1978 Surface
- 22 Management Status," edited and published by the United States Bureau of 23 Land Management.
- 23 Lanu Management.
- 24 Sec. 19. As soon as practicable after the effective date of this act the 25 governor shall appoint:
 - 1. To the board of county commissioners of Bullfrog County:
- 27 (a) Two persons qualified pursuant to section 6 of this act to serve until 28 12 p.m. on December 31, 1990; and
- 29 (b) One person qualified pursuant to section 6 of this act to serve until 12 30 p.m. on December 31, 1988.
- 2. One or more officers for Bullfrog County pursuant to the provisions of 32 sections 6 and 8 of this act.
- 33 Sec. 20. This act becomes effective upon passage and approval.

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GENERAL FILE AND THIRD READING

Senate Bill No. 536.

Bill read third time.

Remarks by Assemblymen Gaston, Spriggs, Bergevin and May.

Assemblyman Haller moved that Senate Bill No. 536 be taken from the General File and placed on the Chief Clerk's desk

Remarks by Assemblymen Haller, Adler and May.

Motion lost.

Remarks by Assemblymen Adler, Spriggs and Gaston.

Roll call on Senate Bill No. 536:

YEAS-34.

NAYS-Bergevin, Carpenter, Getto, Humke, Kerns, Lambert, Marvel, Spriggs-8

Senate Bill No. 536 having received a constitutional majority, Mr. peaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS. RESOLUTIONS AND NOTICES

Assemblyman Jeffrey moved that all rules be suspended and that Assembly Bill No. 756 be declared an emergency measure under the Constitution and placed on third reading and final passage.

Motion carried unanimously.

Assemblyman Jeffrey moved that Assembly Bill No. 756 be taken from its position on the General File and placed at the top of the General File Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 756.

Bill read third time.

Remarks by Assemblymen May and Spriggs.

Roll call on Assembly Bill No. 756:

YEAS-32.

Nays-Bergevin, Carpenter. Getto. Humke. Kerns. Lambert, Marvel. Porter. Spriggs-9

Not young-Thomas.

Assembly Bill No. 756 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No 307.

Bill read third time.

Remarks by Assemblyman Triggs.

Roll call on Senate Bill No. 307:

YEAS-42.

NAYS-None.

MINUTES OF THE SENATE COMMITTEE ON TAXATION

Sixty-Fourth Session June 16, 1987

The Senate Committee on Taxation was called to order by Chairman Ken Redelsperger, at 2:15 p.m., on Tuesday, June 16, 1987, in Room 213 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Ken Redelsperger, Chairman Senator Charles W. Joerg, Vice Chairman Senator Ann O'Connell Senator Erik Beyer Senator Raymond C. Shaffer Senator Bob Coffin

COMMITTEE MEMBERS ABSENT:

Senator Joe Neal

STAFF MEMBERS PRESENT:

Kevin Welsh, Fiscal Analyst Flo Collier, Committee Secretary

GUEST LEGISLATORS PRESENT:

Assemblyman Paul May, Assembly District No. 19 Senator Thomas J. Hickey, Senatorial District No. 2

Chairman Redelsperger convened the meeting by opening the hearing on Assembly Bill 756.

ASSEMBLY BILL 756 - Creates Bullfrog County and revises provisions governing counties. (BDR 20-2145)

Assembly Paul May addressed the committee testifying in favor of A.B. 756 from prepared text (Exhibit C).

Senator Thomas J. Hickey, Senatorial District No. 2, came forward to respond to questions posed by the committee. He presented a chalkboard demonstration outlining the proposed Bullfrog County and explained the ramifications it will generate throughout the state. In addition to that, he explained the entire philosophy of the act and Nevada's position in relation to that act.

Senate Committee on Taxation

Date June 16, 1987

Page Two

Chairman Redelsperger recessed the meeting at 2:33 p.m. in order for the committee members to meet in the senate chambers for the afternoon legislative session. He announced the meeting would reconvene upon adjournment of session.

Chairman Redelsperger reconvened the meeting at 6:00 p.m. All committee members were present with the exception of Senator Neal.

The chairman continued the hearing on A.B. 756 by inviting Harry Swainston, deputy attorney general, Nevada attorney general's office, to the witness table to present testimony on the issue. Mr. Swainston is assigned to the nuclear waste project office. He discussed the constitutionality of the measure.

Roy Neighbors, administrative assistant, Nye County, offered testimony in opposition to A.B. 756. Nye County is in opposition to the measure because it feels the proposed legislation will create a new county within the boundaries of the already existing county of Nye. Mr. Neighbors testified, if Bullfrog County becomes law Nye County will be left with no alternative but to begin litigation similar to litigation it instituted in connection with the Nevada test site.

Chairman Redelsperger closed the hearing on A.B. 756 and opened the hearing on Senate Bill 595.

SENATE BILL 595 - Provides for formation of districts for protection of public safety.

(BDR 32-2333)

Chairman Redelsperger referred the committee to a packet of documents (Exhibit D) containing opinions from Brenda Erdos, principal deputy legislative counsel, and Frank Daykin, Carson City attorney. He explained a basic overview of A.B. 595. It sets up a taxing district within Nye County. He then referred the committee to their copies of the bill index (Exhibit E) provided by the fiscal division of the legislative counsel bureau for a further analysis of the measure.

Brenda Erdos, summoned by Chairman Redelsperger, testified to the committee relative to the opinion contained within Exhibit D. She outlined the reasons she believed S.B. 595 would hold up to a court challenge.



STATE OF NEVADA

LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING

CAPITOL COMPLEX

CARSON CITY, NEVADA 89710

DONALD A. RHODES, Director (702) \$85-5627

June 12, 1987



LEGISLATIVE COMMISSION (702) 885-5627
LOUIS W BERGEVIN, Assemblyman Chairman
Donald A Rhodes, Director Secretary

INTERIM FINANCE COMMITTEE (702) 885-5640

MARVIN M. SEDWAY. Assemblyman, Chairman
Daniel G. Miles, Fiscal Analyst
Mark W. Stevens, Fiscal Analyst

LINDA S. JESSEN, Legislative Counsel. (702) 885-5627 JOHN B. CROSSLEY, Legislative Auditor. (702) 885-5622 ROBERT E. ERICKSON, Research Director. (702) 885-5637

Assemblyman Paul May Assembly Chambers

Dear Mr. May;

You have asked for the opinion of this office as to the constitutionality of Assembly Bill No. 756 which provides for the creation of Bullfrog County.

Counties are creatures of the legislature. It has long been held that:

From the legislature a county derives its name, mode and manner of government, rights and powers. Called into existence by the legislature and subject to the restrictions named, its whole being may be changed by the legislature, its territory cut up and parceled out to other counties, its common property and burden apportioned as determined by the legislature and its existence blotted out, all against the will of its inhabitants.

County of Pershing v. Sixth Judicial Dist. Court, 43 Nev. 78 (1919). Thus, it is clear that the legislature may create a new county and indeed it has done so in the past.

The unique features of this bill are all related to its initial lack of qualified electors. The bill provides that the legislative commission shall appoint the board of county commissioners and the other officers of any county in which, upon creation or as of 6 months before any general election, less than 10 qualified electors reside. The bill also provides that the tax rate for property taxes may exceed the statutory limit of \$3.64 per \$100 of assessed valuation in any county for which the board of county commissioners are appointed by the legislative commission.

Any challenge of this bill would most likely be based upon one or both of these unique features as an alleged violation of section 25 or 26 of article 4 of the Nevada Constitution. Section 25 of article 4 states that:

The Legislature shall establish a system of County and Township Government which shall be uniform throughout the State.

The object of this section, according to the Nevada Supreme Court, was to prevent the adoption of measures proposed by the representatives of a particular locality, affecting it only, and not the state at large, in relation to county government without particular and careful scrutiny by the entire legislature. State ex rel. Attorney General v. Boyd, 19 Nev. 43 (1885). In the same case, the Court held that in order to observe the uniformity required by this section, a classification, such as the one in the bill based upon the number of qualified electors residing in the county, must be based upon reasonable and actual differences and that the legislation must be appropriate to the classification and embrace all within the class. Further, the Nevada Supreme Court in County of Clark v. City of Las Vegas. 97 Nev. 260 (1981), held that to be constitutional a classification must be prospectively applicable to all counties which might grow into it, be rationally

related to a legitimate legislative purpose and not be based upon any odious, bizarre or absurd distinctions. It is the opinion of this office that each of the unique features of this bill meets the criteria for constitutionality under this section of the Nevada Constitution because the classification is legitimate and all of the requirements are rationally related to ensuring adequate county government.

Section 26 of article 4 of the Nevada Constitution provides that:

The Legislature shall provide by law, for the election of a Board of County Commissioners in each County, and such County Commissioners shall jointly and individually perform such duties as may be prescribed by law.

The Nevada Supreme Court in State ex rel. Wichman v. Gerbig, 55 Nev. 46 (1933), held that this section has no application in cases of emergency or special occasion and that in such cases the office may be temporarily filled by other means than that of election. We believe that if a county has fewer than 10 qualified electors, it is reasonable for the legislature to provide county commissioners and the other officers necessary for a responsible local government until such time as there are a reasonable number of electors so that an election may be held. Further, the Nevada Supreme Court has held that:

There may be a county without a government of its own; as happens when a new county, created out of another, continues to be attached to and controlled by the government of such other until its own government may be organized.

Leake v. Blasdel, 6 Nev. 40 (1870).

There are other unique provisions in this bill, such as the location of the county seat outside the boundaries of the county in a city which is the county seat of another county. We have researched these provisions and have not found any relevant prohibitions. The Nevada Supreme Court has consistently held that:

Unless a limitation exists in the constitution of the state, the power of the legislature is absolute, by general or special statute, to provide for the change of boundaries, division, addition or consolidation of existing counties, or creation and organization of new counties. This doctrine finds it reason in the essential nature of counties as political subdivisions of the state and as creatures of its sovereign will.

Pershing, supra. Therefore, it is the opinion of this office that Assembly Bill No. 756 is likely to withstand constitutional challenge.

Very truly yours,

LINDA S. JESSEN LEGISLATIVE COUNSEL

under The Endour

Brenda J. Erdoes Principal Deputy



1 75 = 36 Bullying -

FRANK W. DAYKIN
ATTORNEY AT LAW
5 GAY CIRCLE
CARSON CITT. NEVADA 59701
TELEPHONE (708) 888-1767

June 13, 1987

Senator Kenneth K. Redelsperger Senate Chamber

Dear Ken:

You have asked me to comment upon the constitutionality of Assembly Bill No. 756 and Senate Bill No. 536 and to attempt to suggest how S.B. 536 can be made constitutional and workable. Because time is limited, let me concentrate first upon constructive suggestions concerning S.B. 536, for I consider both bills in their present form open to constitutional challenge which would at least greatly delay, even if it did not defeat altogether, the receipt of revenue from them.

The federal Nuclear Waste Policy Act of 1982 offers a solution for the future in its section 116(c)(3), which is 42 U.S.C. SEC. 10136(c)(3), providing a grant to the state and its local governments as if they were authorized to tax the real property and industrial activities at the repository on the same basis as other like property or activities. NRS 459.211 already provides the authority to license such activities for revenue to the state, exercisable when the legislature is not in session, and Nye County has the power at any time to require business licenses. The problem is, therefore, to devise a method of taxing the real property.

The most straightforward such method, clearly constitutional, is to provide an additional kind of general improvement district, to protect the public safety against the hazards of transporting and storing highly radioactive nuclear waste, and require any county in whose territory a repository is proposed to create such a district embracing the proposed repository. The tax rate applicable to the repository would then be the sum of the rate otherwise applicable in that part of Nye County and the rate for the new general improvement district. The sum could be exempted from the \$3.64 statutory limit provided in NRS 361.453, and the district could be required to pay over the revenue collected on its behalf from this levy to the state, for retention in the state general fund or distribution among local governments as the statute might provide. If either exemption from the limit or payment to the state is required, there should be a legislative finding of the reasons why protection of the public safety in this instance requires action throughout the state. Assessment of the real property used for the repository could be central, as now provided in S.B. 536, for the reason, which should be stated, that the assessment of property used for such a purpose



Senator Kenneth K. Redelsperger June 13, 1987 Page 2

requires an expert knowledge not likely to be found in the several counties as such.

If this, or some other solution which involves taxation of the real property at the rate applicable where it is situated, is not adopted, then at least S.B. 536 must be amended to remove the specific reference, in line 15 on page 1 and line 30 on page 2 of the 2nd reprint, to Nye County, and the specific adjustments by county on page 2 should also be removed. Colton v. Eighth Judicial Dist. Court, 92 Nev. 427 (1976). Even if the bill is so amended, and the finding on lines 31-33 of page 2 is strengthened, I question whether the bill if enacted would ultimately be sustained.

A.B. 756 seeks to create a new county embracing the repository whose tax rate at the site would be the rate desired and whose captive commissioners could grant the proceeds to the state. This bill provides for a classification by number of registered voters to govern the selection of the board of county commissioners and through the board so selected for the setting of the tax rate. While the classification by number of registered voters might arguably be sustained as reasonably related to population and the feasibility of election by so small a number, these considerations do not seem to apply so well to the rate of taxation. The latter point would probably be urged against its constitutionality, whatever others might also be argued.

Very truly yours,

Frank W. Daykin

FRANK W. DAYKIN
ATTORNEY AT LAW
5 GAY CIRCLE
CARSON CITY. NEVADA 89701
TELEPHONE (702) 588-1767

June 13, 1987

Senator Kenneth K. Redelsperger Senate Chamber

Dear Ken:

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As you requested, I have examined the opinions appended to your packet on GETT. I concur with the letter written by Brenda Erdoes, in that you cannot simply create a district, levy a tax on property within the district, and use the revenue elsewhere or for some other purpose.

The point to my suggestion of creating a district is that, if it can be shown that the purpose of protecting the public safety against those hazards is one which must be performed elsewhere, I believe you can transfer the money to be applied elsewhere for that purpose, and if a need can be shown to accumulate revenue for this purpose in the present to be spent in the future, you can provide for its retention to be so spent later. This is what I mean in my earlier letter by the need for legislative findings if you will either retain the revenue in the state general fund or distribute it to other local governments.

Very truly yours,

Frank W. Daykin

A.B. 756 Introduced May 6, 1987

Committee Hearing June 11, 1987

Section 1, Page 1

Amends chapter 243 of NRS as provided in sections 2, 3 and 4.

Section 2, Pages 1 and 2

Creates Bullfrog County from that portion of Nye County within the boundaries of the high-level nuclear waste repository.

Section 3, Page 2

Makes Carson City the county seat of Bullfrog County.

Section 4, Page 2

Detaches Bullfrog County from Nye County.

Section 5, Page 1

Amends Chapter 244 of NRS as provided in sections 5, 6 and 7.

Section 6, Page 2

Requires the Legislative Commission to appoint the county commissioners and other officers in certain counties with less than 10 qualified electors. Specifies the required qualifications of those commissioners.

Section 7, Pages 2 and 3

Requires the Legislative Commission to continue to appoint the officers of certain counties until the county has maintained 10 or more qualified electors for two years.

Section 8, Page 3

Provides that the Legislative Commission may consolidate offices in any county meeting the requirements of section 5 if it is in the best interest of that county.

Section 9, Page 3

Makes an exception to the general qualifications of county commissioners in any county meeting the requirements of section 5.

Section 10, Page 3

Makes an exception regarding the election of county commissioners in any county meeting the requirements of section 5.

Section 11, Page 3

Specifies that the term of office of a county commissioner appointed to fill a vacancy applies only to appointments made by the Governor.

Section 12, Pages 3 and 4

Permits a board of county commissioners to expend money for the benefit of state residents. Further permits the board to grant money to the state.

Section 13, Pages 4 and 5

Permits the county commissions to regulate in its county all industries, occupations, professions and businesses which involve high-level nuclear waste. Permits a county business license to be granted if an agency of the Federal Government has issued or will issue a license for the activity.

Section 14, Pages 5 and 6

Exempts Bullfrog County officers from NRS 245.040.

Section 15, Pages 6 and 7

Provides for the salary of Bullfrog County officers.

Section 16, Page 8

Exempts Bullfrog County officers from the pay intervals of other county officers.

Section 17, Page 8

Permits a maximum tax rate of \$5 per \$100 of assessed valuation in a county where a county commissioner is appointed pursuant to section 5.

Section 18, Page 8

Identifies the map upon which the description of Bullfrog County is presented.

Section 19, Page 8

Requires the Legislative Commission to appoint as soon as possible for Bullfrog County two commissioners to serve until 12 p.m. on December 31, 1990, one commissioner to serve until 12 p.m. on December 31, 1988 and one or more officers pursuant to sections 5 and 7.

Section 20, Page 8

Act effective upon passage and approval.

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