



**TONY ANAYA**  
GOVERNOR

## STATE OF NEW MEXICO

WASHINGTON OFFICE  
444 NORTH CAPITOL ST., N.W.  
SUITE NO. ~~27~~ 322  
WASHINGTON, D.C. 20001  
(202) 347-3377

### M E M O R A N D U M

To: Denise Fort/Susan Fry , Environmental Improvement Division  
From: Alicia Culver, Washington Office *Alicia*  
Date: March 4, 1986  
Re: Price Anderson Act, Superfund updates

Senator Metzenbaum has urgently requested our comments on the enclosed Amendments to the Price Anderson Act which will be considered at the Senate Energy and Natural Resources Committee mark-up scheduled for Thursday a.m.. The proposed amendments would:

- \* Eliminate the \$500 million liability limit on coverage for nuclear accidents at DOE facilities;
  - \* Hold DOE contractors liable for nuclear accidents when DOE determines that there was gross negligence involved;
  - \* Apply strict liability to any nuclear accident including routine emissions.
- Currently, the public is compensated only when the accident is classified as an "Extraordinary Nuclear Occurrence".

The bill also covers transportation, storage and disposal of high level nuclear waste at the WIPP and other sites. For more information, contact Bob Roche, LA for Senator Metzenbaum at (202) 224-2315 or (202) 224-8917. It is important that we contact Senator Bingaman regarding any of these Amendments the Governor can support before the meeting Thursday morning.

Enclosed is a side-by-side analysis of the Settlement Provisions contained in the House and Senate Superfund Bills as well as in the EPA Settlement Policy, for your review.

I am also sending you a recent EPA memo describing the Agency's proposed Radon-222 Emissions standards from uranium mill tailings sites.

Finally, enclosed are the most recent Environmental and Energy Study Institute Weekly Report and Inside EPA Weekly Bulletin highlighting upcoming activities. We are expecting to receive and send to you additional information on Rep. Florio's Asbestos clean-up bill and the Price Anderson Act mark-up.

860302





STATE OF OHIO  
WASHINGTON OFFICE

3/3/82

RICHARD F. CELESTE  
GOVERNOR

Alicia -

Here's the Paine-Anderson  
info. If your Governor  
supports any or all of  
the Amendments, Pakenbaur  
is requesting that letters to  
that effect be sent to your  
Energy Center members.

If you have any questions,  
please call me or Bob Rowland  
at 224-2315

Thanks,  
Becky

**PROVISIONS OF METZENBAUM PRICE-ANDERSON BILL  
"FEDERAL NUCLEAR FACILITIES INSURANCE AND LIABILITY ACT OF 1986"**

**1. ELIMINATES THE \$500 MILLION LIABILITY LIMIT FOR NUCLEAR ACCIDENTS INVOLVING FEDERAL CONTRACTORS.**

Under the current Price-Anderson Act, the DOE indemnifies its contractors engaged in nuclear activities for \$500 million. Although DOE has the authority to require its contractors to purchase private liability insurance, DOE does not exercise this authority. DOE's indemnity agreements cover its contractors for every dollar of liability, up to a maximum of \$500 million. If public liability exceeds \$500 million, neither the contractor, nor the DOE is legally obligated to provide additional compensation. (Congress is required to "review the situation" if an accident causes damages in excess of the limit, but there is no assurance that damages beyond \$500 million would be compensated.)

This bill obligates the federal government to fully compensate any damages resulting from federal nuclear activities. Accidents involving activities carried out under the Nuclear Waste Policy Act would be compensated out of the Nuclear Waste Fund. The Nuclear Waste Fund is a "user fee" paid by the generators of high-level nuclear waste, including both DOE and utilities operating nuclear power plants.

**2. CONTRACTORS, SUBCONTRACTORS AND/OR SUPPLIERS ARE HELD LIABLE IF AN ACCIDENT IS CAUSED BY GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.**

Under the current Price-Anderson Act, anyone who causes a nuclear accident is "held harmless" for damages to the public, regardless of negligence or fault. Thirty years ago, before the Price-Anderson Act was passed, companies working under Atomic Energy Commission contracts were indemnified by the government, unless there was gross negligence, willful misconduct or bad faith. When Price-Anderson was passed, this negligence exclusion was removed because Congress did not believe that the victims of an accident should be left uncompensated if a contractor was grossly negligent.

While obligating DOE to compensate public damages, this bill requires DOE to recover its expenses if a contractor is found to have caused the accident due to gross negligence or willful misconduct. This is an important component in any effort to increase attention to safe operating practices for DOE contractors.

**3. EXTENDS PRICE-ANDERSON COVERAGE TO INCLUDE TRANSPORTATION, STORAGE AND DISPOSAL OF HIGH-LEVEL AND TRANSURANIC NUCLEAR WASTE.**

Although the DOE has indicated its intent to include these activities within the Price-Anderson system, the current law does not specifically require this to be covered. This bill assures full coverage of all nuclear waste activities, including the WIPP facility (in New Mexico), the proposed Monitored Retrievable Storage facility (Tennessee) and any high-level nuclear waste repository.

**4. COVERS ALL ACTS OF THEFT OR DIVERSION.**

The current Price-Anderson Act does not specifically cover all acts of sabotage. For example, a release of radiation resulting from the diversion of nuclear materials during the course of transportation is not covered if the material is diverted from the planned transportation route. This bill assures full coverage of any damages to the public resulting from diversion of nuclear materials.

**5. EXTENDS COVERAGE TO PRECAUTIONARY EVACUATIONS AND EMERGENCY RESPONSE COSTS.**

Under the current Price-Anderson coverage, the costs of a precautionary evacuation are not specifically covered. If a transportation or other accident triggers a governor to order the evacuation of an area, the costs to state and local governments, as well as the costs to individuals and private businesses, would not be reimbursable unless there was an actual release of radioactive materials. Furthermore, the costs incurred by state and local governments in responding to a nuclear accident (if there is a release of radioactive materials), are not explicitly covered under Price-Anderson. The Department of Energy has taken the position that none of these costs should be covered under Price-Anderson.

This bill assures full compensation for all costs incurred by third parties--including the costs of a precautionary evacuation or emergency response expenses. This has been a significant concern for state and local governments.

**6. ASSURES THAT THE VICTIMS OF ANY NUCLEAR INCIDENT ARISING OUT OF DOE ACTIVITIES ARE AFFORDED THE FULL "BENEFITS" OF PRICE-ANDERSON.**

Many of the provisions of the Price-Anderson Act that were intended to expedite the procedure for compensating the public are not triggered unless the accident is classified as an "Extraordinary Nuclear Occurrence" (ENO). The criteria for determining an ENO includes a complex series of requirements for damages to persons and property off-site. (After a year of study, the NRC determined that the accident at Three Mile Island was not an ENO.) The use of an ENO threshold implies that victims of a "less severe" accident are not entitled to the same ease of recovery as victims of a more severe accident. Fairness would dictate a system which judges claims on the merits of the individual case, rather than by reference to injuries suffered by other parties.

This bill applies the "waiver of defense" provisions for all DOE nuclear incidents, not just ENOs, thus assuring that victims of any nuclear accident will be afforded the full "benefits" of the Price-Anderson system. This was a change that was recommended by two of the five NRC Commissioners in a 1983 report to Congress. (A nuclear incident, as defined in the Atomic Energy Act, is any occurrence causing "bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of property....")

**7. THE STATUTE OF LIMITATIONS IS EXTENDED.**

Under the current system, if an accident is an ENO, the Price-Anderson statute of limitations would supercede any more restrictive state statute of limitations. The Price-Anderson statute allows claims within 3 years of discovery, but in no event later than 20 years after the event. In recent years, many states have adopted "discovery rules" which allow claims for certain types of injuries to be filed within a period of years after the injured party discovers his or her damages, rather than arbitrarily prohibiting claims that are filed a certain number of years after the event. Because of the latent nature of many radiation-induced injuries, a discovery rule is more appropriate than a simple 20 or 30 year limit for claims.

This bill recognizes the recent developments in state tort law and provides a statute of limitations which would not arbitrarily eliminate claims beyond a certain number of years. Under this bill, claims would be allowed up to five years after the discovery of an injury. If a state has a statute of limitations that is even less restrictive than this, state law would prevail.

JAMES A. McCLURE, IDAHO, CHAIRMAN  
MARK O. MATFIELD, OREGON  
LOWELL P. WEICKER, JR., CONNECTICUT  
PETE V. DOMENICI, NEW MEXICO  
MALCOLM WALLOP, WYOMING  
JOHN W. WARNER, VIRGINIA  
FRANK H. MURKOWSKI, ALASKA  
DON NICKLES, OKLAHOMA  
CHIC HECHT, NEVADA  
DANIEL J. EVANS, WASHINGTON  
J. BENNETT JOHNSTON, LOUISIANA  
DALE BUMPERS, ARKANSAS  
WENDELL H. FORD, KENTUCKY  
HOWARD M. METZENBAUM, OHIO  
JOHN MELCHER, MONTANA  
BILL BRADLEY, NEW JERSEY  
JEFF BINGAMAN, NEW MEXICO  
JOHN D. ROCKEFELLER IV, WEST VIRGINIA

FRANK M. CUSHING, STAFF DIRECTOR  
GARY G. ELLSWORTH, CHIEF COUNSEL  
D. MICHAEL HARVEY, CHIEF COUNSEL FOR THE MINORITY

# United States Senate

COMMITTEE ON  
ENERGY AND NATURAL RESOURCES  
WASHINGTON, DC 20510

February 21, 1986

Dear Colleague,

On February 18, I introduced a bill to provide adequate and timely compensation to citizens and communities in the event of a nuclear accident at a federal nuclear facility. S. 2072, "The Federal Nuclear Facilities Insurance and Liability Act of 1986", provides greater assurance that the Department of Energy (DOE) and its contractors will do everything possible to protect the health and safety of workers and the public at federal nuclear facilities.

The current Price-Anderson Act provides inadequate compensation and coverage. Worse, it actually discourages safety by eliminating all financial incentives for DOE contractors to accent safety in their operations.

This has been confirmed through a series of General Accounting Office (GAO) studies dating back to 1981. Those studies concluded that there are serious questions about the safety of DOE's 280 nuclear facilities and the adequacy of the Department's plans to deal with a major accident, the current liability limit of \$500 million is too low, and that DOE could do a better job of protecting workers and the environment at its facilities.

The citizens and communities near DOE nuclear facilities have made a serious commitment to national defense and energy security.

It is time for the federal government to reciprocate and make a serious commitment to their safety and health.

An improved compensation scheme will become increasingly important as more and more communities around the country are put at risk by the transportation, storage and disposal of high-level nuclear waste.

S. 2072 is designed to reduce the probability of a nuclear accident involving federal facilities ever occurring, and to assure that if an accident does occur, the public is fully compensated for all damages that may result.

This bill removes DOE's \$500 million liability limit for a nuclear incident at a federal facility. This limit, which has remained unchanged since 1957, is clearly inadequate to guarantee citizens full compensation for all damages suffered in an extensive nuclear accident.

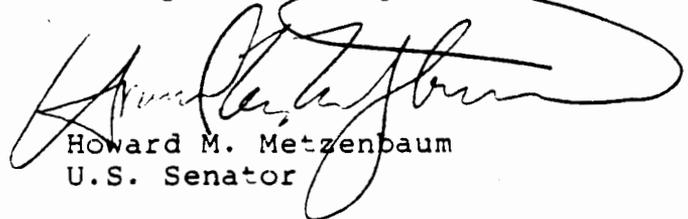
Further, it would make DOE contractors, subcontractors and suppliers liable for any damages resulting from an accident caused by their gross negligence or willful misconduct. There is no reason for any government contractor to engage in such activity. There is certainly no reason for the government to excuse it.

Finally, full coverage is extended to all activities involving the storage, transportation and disposal of nuclear waste, as well as accidents resulting from the theft or diversion of nuclear materials. State and local governments would be reimbursed for the costs of precautionary evacuations and emergency response actions.

A summary of the major provisions of my bill is attached.

If you would like to co-sponsor this bill, please contact me or have your staff contact Bob Roach of my office at 4-2315.

Warm personal regards,



Howard M. Metzenbaum  
U.S. Senator

METZENBAUM AMENDMENT

Negligence of Federal Contractors.--Section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is amended--

(1) by inserting "(1)" after the subsection designation; and

(2) by inserting at the end thereof the following new paragraph:

"(2) Subsequent to a nuclear incident or precautionary evacuation covered by an indemnity agreement entered into pursuant to this subsection, the Secretary of Energy shall promptly determine if there was gross negligence or willful misconduct on the part of the Federal contractor, or any subcontractor or supplier of such contractor, which resulted in the nuclear incident or precautionary evacuation. To the extent that the Federal contractor, subcontractor, or supplier is determined to have engaged in gross negligence or willful misconduct, and to the extent that such negligence or misconduct contributed to the incident or evacuation in question, the Secretary of Energy shall recover from the contractor, subcontractor, or supplier a proportional share of the amount paid by the Federal Government in satisfaction of all claims attributable to the nuclear incident or precautionary evacuation. No amounts recovered from any contractor, subcontractor, or supplier pursuant to the preceding sentence may be reimbursed directly or indirectly by the Department."

METZENBAUM AMENDMENT

NUCLEAR INCIDENT

(a) Waiver of Defenses.--Paragraph (1) of section 170 n. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)(1)) is amended--

(1) in the matter before clause (a) by inserting after "extraordinary nuclear occurrence" the following: "or, in the case of any agreement entered into pursuant to section 170 d., any nuclear incident";

(2) in clause (c) by striking out "a device utilizing";

(b) Jurisdiction.--The first sentence of paragraph (2) of section 170 n. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)(2)) is amended by--

(1) inserting after "resulting from an extraordinary nuclear occurrence" the following: "or, in the case of any agreement entered into pursuant to subsection 170 d., any nuclear incident"; and

(2) inserting after "extraordinary nuclear occurrence" the second and third time such phrase appears the following: "or incident".

METZENBAUM AMENDMENT

Insert at the appropriate place in the bill and make all necessary technical and conforming changes.

ELIMINATION OF LIMITATION ON LIABILITY.

(a) Elimination of Liability Limitation.--Section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is amended by--

(1) striking out, in the second sentence thereof, ``  
in the amount of \$500,000,000``; and

(2) striking out " : Provided further," and all that follows through the period at the end of the sentence thereof and inserting in lieu thereof a period; and

(3) inserting at the end of such subsection ``Any agreement of indemnification entered into pursuant to this subsection shall not limit the amount indemnified.``.

(b) In General.--Section 170 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended by--

(1) striking out "The aggregate liability for a single nuclear incident of persons indemnified," and inserting in lieu thereof "With respect to any nuclear incident to which an agreement of indemnification entered into, other than under the provisions of subsection 170 d., is applicable, the aggregate liability for a single nuclear incident of persons indemnified,"; and

(2) striking out "or contractor".

(3) striking out ": and provided further" and all that follows through the period at the end thereof and inserting in lieu thereof a period.

(c) Conforming Amendments.--(1) Section 2 i. of the Atomic Energy Act of 1954 (42 U.S.C. 2012(i)) is amended by adding at the end thereof "pursuant to section 170.".

(2) The section heading for section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended to read as follows:

"SEC. 170. LIABILITY FOR NUCLEAR INCIDENTS AND  
INDEMNIFICATION FOR FEDERAL CONTRACTORS.".

(3) The item relating to section 170 in the table of contents of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended to read as follows:

"Sec. 170. Liability for nuclear incidents and  
indemnification for Federal contractors.".

99th CONGRESS  
2nd Session

S. \_\_\_\_\_

-----  
IN THE SENATE OF THE UNITED STATES

Mr. Metzenbaum introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

-----  
A BILL

To amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to clarify the financial obligations of the United States with respect to nuclear incidents, to remove the limits on liability for a nuclear incident, to provide better economic protection for people living near Federal nuclear facilities and nuclear transportation routes, and for other purposes.

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

3       SECTION 1. SHORT TITLE.

4       This Act may be cited as the ``Federal Nuclear Facilities  
5       Insurance and Liability Act of 1986``.

6       SEC. 2. FINDINGS AND PURPOSES.

7       (a) Findings.--The Congress finds that--

8               (1) an equitable, efficient, reliable, and

1 comprehensive system should be established in advance of  
2 any accident involving Government-owned or operated  
3 facilities possessing nuclear materials pursuant to the  
4 Atomic Energy Act of 1954, as amended, to provide a  
5 mechanism for full and prompt compensation of all public  
6 liability in the event of such an accident;

7 (2) the increasing role of the Federal Government in  
8 the storage, disposal and transportation of radioactive  
9 materials, including spent fuel, high-level waste and  
10 transuranic waste, pursuant to the Nuclear Waste Policy  
11 Act of 1982 and other provisions of law, necessitates  
12 that the Federal Government unequivocally accept its  
13 legal responsibility to assure that the public will be  
14 compensated fully, promptly and without excessive  
15 litigation for all damages from any accident involving  
16 the storage, disposal, or transportation of such  
17 materials and any activities undertaken to accomplish  
18 such storage, disposal, or transportation;

19 (3) the assumption by the Federal Government, through  
20 comprehensive indemnity agreements, of full financial  
21 responsibility for any accident involving nuclear  
22 materials owned or possessed by the Federal Government  
23 and its contractors will provide additional incentives  
24 for the safe handling, storage, and disposal of such  
25 materials; and

1           (4) when the Federal Government enters into contracts  
2 with private parties to undertake certain activities  
3 involving nuclear materials subject to the Atomic Energy  
4 Act of 1954, as amended, those private parties should be  
5 provided significant incentives for the safe operation of  
6 such activities through the imposition of appropriate  
7 financial responsibility.

8           (b) Purposes.--The purposes of this Act are to--

9           (1) establish an equitable, efficient, reliable and  
10 comprehensive mechanism for full and prompt compensation  
11 of the public in the event of an accident involving  
12 nuclear materials subject to the Atomic Energy Act of  
13 1954, as amended, which are possessed or used in  
14 activities of the Federal Government or by Federal  
15 contractors; and

16           (2) provide incentives, through the imposition of  
17 financial responsibility, for the safe operation of such  
18 activities and the prevention of such accidents by the  
19 Federal Government and its contractors.

20 SEC. 3. INDEMNIFICATION FOR DEPARTMENT OF ENERGY CONTRACTORS;  
21           NUCLEAR WASTES.

22           (a) Indemnification Agreements.--Section 170 d. of the  
23 Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is amended in  
24 the first sentence by striking out "is authorized until  
25 August 1, 1987, to" and inserting in lieu thereof "shall".

1 (b) Elimination of Liability Limitation.--Section 170 d.  
2 of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is  
3 amended by--

4 (1) striking out, in the second sentence thereof, ``  
5 in the amount of \$500,000,000`` and all that follows  
6 through the period at the end thereof and inserting in  
7 lieu thereof a period; and

8 (2) inserting at the end of such subsection ``Any  
9 agreement of indemnification entered into pursuant to  
10 this subsection shall not limit the amount  
11 indemnified.``.

12 (c) Negligence of Federal Contractors.--Section 170 d. of  
13 the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is  
14 amended--

15 (1) by inserting ``(1)`` after the subsection  
16 designation; and

17 (2) by inserting at the end thereof the following new  
18 paragraph:

19 ``(2) Subsequent to a nuclear incident or precautionary  
20 evacuation covered by an indemnity agreement entered into  
21 pursuant to this subsection, the Secretary of Energy shall  
22 promptly determine if there was gross negligence or willful  
23 misconduct on the part of the Federal contractor, or any  
24 subcontractor or supplier of such contractor, which resulted  
25 in the nuclear incident or precautionary evacuation. To the

1 extent that the Federal contractor, subcontractor, or  
2 supplier is determined to have engaged in gross negligence or  
3 willful misconduct, and to the extent that such negligence or  
4 misconduct contributed to the incident or evacuation in  
5 question, the Secretary of Energy shall recover from the  
6 contractor, subcontractor, or supplier a proportional share  
7 of the amount paid by the Federal Government in satisfaction  
8 of all claims attributable to the nuclear incident or  
9 precautionary evacuation. No amounts recovered from any  
10 contractor, subcontractor, or supplier pursuant to the  
11 preceding sentence may be reimbursed directly or indirectly  
12 by the Department.''.  
13

14 (d) Indemnification for Nuclear Incidents Involving  
15 Nuclear Wastes.--(1) Section 170 d. of the Atomic Energy Act  
16 of 1954 (42 U.S.C. 2210(d)), as amended by subsection (c) of  
17 this section, is further amended by adding at the end thereof  
18 the following new paragraph:

19 ''(3)(A) The Secretary of Energy shall enter into  
20 agreements of indemnification with all Federal contractors  
21 engaged in--

22 ''(i) any activity pursuant to the Nuclear Waste  
23 Policy Act of 1982 (42 U.S.C. 10101 et. seq.), including  
24 the disposal, storage, or transportation of high-level  
25 radioactive waste and spent nuclear fuel; or

''(ii) any activity involving the disposal, storage,

1 or transportation of transuranic waste.

2 Such agreements shall indemnify such contractors for all  
3 public liability resulting from a nuclear incident or  
4 precautionary evacuation arising out of any such activity.

5 `` (B) Any Federal funds expended to compensate the public  
6 for a nuclear incident or precautionary evacuation involving  
7 the disposal, storage, or transportation of high-level  
8 radioactive waste or spent nuclear fuel shall be from funds  
9 available through the Nuclear Waste Fund established in  
10 section 302(c) of the Nuclear Waste Policy Act of 1982 (42  
11 U.S.C. 10222(c)). ``.

12 (2) Subsection s. of section 11 of the Atomic Energy Act  
13 of 1954 (42 U.S.C. 2014(s)) is amended by adding at the end  
14 thereof the following: `` For purposes of those activities  
15 that the Secretary of Energy is authorized or directed to  
16 undertake, pursuant to this Act or any other law, that  
17 involve the risk of public liability for a nuclear incident  
18 as a result of the storage or disposal of spent nuclear fuel,  
19 high-level radioactive waste, or transuranic waste, including  
20 the transportation of such materials to or from a storage or  
21 disposal site or facility, and the construction and operation  
22 of any such site or facility, the Secretary shall, to the  
23 extent that such activities are not undertaken by contract,  
24 be considered as if the Secretary were a contractor with whom  
25 an indemnity agreement has been entered into pursuant to

1 Energy Act of 1954 (42 U.S.C. 2210) is amended to read as  
2 follows:

3 ``SEC. 170. LIABILITY FOR NUCLEAR INCIDENTS AND  
4 INDEMNIFICATION FOR FEDERAL CONTRACTORS.''.  
5

6 (3) The item relating to section 170 in the table of  
7 contents of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et  
8 seq.) is amended to read as follows:

9 ``Sec. 170. Liability for nuclear incidents and  
10 indemnification for Federal contractors.''.  
11

12 SEC. 5. DISCOVERY AND STATUTE OF LIMITATIONS; EXTRAORDINARY  
13 NUCLEAR OCCURRENCE.  
14

15 (a) Waiver of Defenses.--Paragraph (1) of section 170 n.  
16 of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)(1)) is  
17 amended--  
18

19 (1) in the matter before clause (a) by inserting  
20 after ``extraordinary nuclear occurrence'' the following:  
21 ``or, in the case of any agreement entered into pursuant  
22 to section 170 d., any nuclear incident'';  
23

24 (2) in clause (c) by striking out ``a device  
utilizing''; and

(3) in subclause (iii) of the matter following clause  
(c) by--

(A) striking out ``within three years'' and  
inserting in lieu thereof ``within five years''; and

(B) striking out `` , but in no event more than  
twenty years after the date of the nuclear

1 of confinement)''.

2 (b) Federal Liability.--Section 170 d. of the Atomic  
3 Energy Act of 1954 (42 U.S.C. 2210(d)) (as amended by section  
4 4) is further amended by adding at the end thereof the  
5 following new paragraph:

6 ''(4) The Secretary of Energy shall compensate public  
7 liability claims arising out of or in connection with a  
8 nuclear incident or a precautionary evacuation resulting from  
9 source material, special nuclear material, byproduct  
10 material, high-level radioactive waste, transuranic waste, or  
11 spent nuclear fuel that is illegally diverted from its  
12 intended place of confinement, and which cannot be traced to  
13 a licensee of the Nuclear Regulatory Commission required to  
14 maintain financial protection under this section.''.  
15

16 SEC. 8. EFFECTIVE DATE.

17 The amendments made by this Act shall take effect on the  
18 date 60 days after the date of the enactment of this Act and  
19 shall apply with respect to all contracts referred to in  
20 section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C.  
21 2210(d)) without regard to whether such contracts were  
22 entered into before, on, or after the date of the enactment  
of this Act.

## OFFICE OF THE GOVERNOR'S PRESS SECRETARY

---

GOVERNOR ENDORSES METZENBAUM BILL

Governor Celeste today strongly endorsed legislation sponsored by Senator Howard Metzenbaum, that would increase federal liability for accidents resulting from federal nuclear activities. It would force the federal government to adopt stricter health and safety standards in these activities.

"I strongly support Senator Metzenbaum's initiative," said Governor Celeste. "This legislation would give the federal government a much needed incentive to operate the Feed Material Production Center and its other nuclear facilities in a way that better protects Public Health and our environment."

The Metzenbaum bill, entitled the "Federal Nuclear Facilities Insurance and Liability Act of 1985," revises the Price-Anderson Act that is the basis of the nation's national system of insurance for nuclear accidents. The proposed legislation would obligate the federal government to fully compensate any damages that result from federal nuclear activities. Currently, the U.S. Department of Energy (DOE) covers federal contractors for every dollar of liability, up to a maximum of \$500 million. Neither DOE nor the federal contractor is presently liable for damages beyond \$500 million.

Besides forcing the federal government to compensate the victims of any accident due to federal nuclear activities, the Metzenbaum bill would require the federal government to recover its expenses from a federal contractor if the contractor's gross negligence or willful misconduct caused the accident.

The Metzenbaum bill also makes explicit the liability of the federal government for accidents which occur during the transportation of nuclear wastes. It would also force the U.S. DOE to compensate both state and local governments (as well as individuals and businesses) for costs incurred if a Governor is forced to order a precautionary evacuation due to a transportation or other accident involving federal nuclear materials, even if there is no release of radioactive materials. The federal government would also be required to compensate state and local government for costs incurred if there is an actual release of radioactive materials. The U.S. Division of Energy has opposed recovery of all these costs under Price-Anderson.

Finally, the bill would give the same benefits and expedited procedures to victims of any accident due to federal nuclear activities, not just victims of an "Extraordinary Nuclear Occurrence."

# # #

For more information, contact Brian Usher or Debra Phillips at 466-5034.