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Tonko on Proposed Nuclear Waste Storage Legislation

Washington, D.C. – *Environment Subcommittee Ranking Member Paul Tonko (D-NY) offered the following remarks at an Environment Subcommittee hearing on consideration of draft legislation titled, The Nuclear Waste Policy Amendments Act of 2017:*

Thank you, Mr. Chairman. I know this is an issue you are passionate about, so I welcome the opportunity to hear more views on this discussion draft.

I also want to welcome our colleagues Reps. Titus, Kihuen, Rosen, and Wilson for joining us this morning. And Senator Heller for making the trip from the Senate side.

Mr. Chairman, I appreciate you accommodating Mr. Kihuen's request to hold a Member Panel. Last year we heard from some of our Nevadan colleagues, including Ms. Titus, at a nuclear waste hearing.

Since then, we have welcomed two new Members from the Nevadan delegation to the House. It is important for us to hear their views.

Similarly, since our last hearing, we have had a change in administration.

President Trump's initial budget proposal includes a \$120 million effort to "restart licensing activities for the Yucca Mountain nuclear waste repository and to initiate a robust interim storage program."

Clearly, this is a change in policy from the previous administration, which had not requested funding for the Yucca license application for a number of years and began to develop a "consent-based" approach.

It is indeed important to get this Administration's feedback on this bill as well as a better sense of their policy on the future of America's nuclear waste.

I also want to highlight a concerning trend.

This is the third legislative hearing this year in this subcommittee where we have not had a witness or feedback from the Administration. We need to hear from them and should not rush forward without having a better understanding of its position.

Today, there is over 72,000 metric tons of waste, which is expected to grow as a number to 139,000 metric tons by 2067. More and more reactors are shutting down— many of them are going through decommissioning early.

There is no question our nation has serious nuclear waste challenges. As we will hear, some of these are political, but there are also technical and transportation issues.

I understand these are very difficult challenges, but if we continue to ignore the problem, taxpayers—from every state—will pay the price.

In December 2015, CBO testified before this subcommittee on the federal government's liabilities under the Nuclear Waste Policy Act.

Courts have determined that DOE has breached contractual obligations under this statute. DOE was scheduled to start removing waste by 1998.

After the government missed this deadline, utilities began suing for damages, which have been paid from the Treasury's Judgment Fund.

At the time of our previous hearing, those payments totaled \$5.3 billion, which has only continued to grow.

DOE estimated that if it could begin to accept waste within the next 10 years, liabilities would ultimately total \$29 billion.

So I understand the urgency of the issue. And I understand the Chair's genuine desire to help communities dealing with waste and protect taxpayers from any further need to make payments from the Treasury.

But I am not sure that the continued strong linkage between Yucca and an interim solution is the best option to limit further taxpayer liability.

The draft before us takes a number of steps to solve our nation's nuclear waste problems. Some of which I think are positive, but many provisions will not bring us to a solution any quicker.

The bill authorizes interim storage that can be operated by DOE or a private contractor, but it prohibits any interim projects from moving forward until the Nuclear Regulatory Commission makes a final decision on a construction authorization for a permanent repository.

We know there are companies interested in pursuing interim storage, but this link may create unnecessary uncertainty to their financing and business model.

It would be possible for us to consider the merits of interim storage and a long-term repository on separate but parallel tracks.

Also, I know many Members care about states' rights. And those from the West are especially sensitive about water rights.

This bill would declare the construction of a nuclear waste repository a beneficial use of water. I find this troubling. It is not an issue we need to consider at this time.

There are many Members on this Committee, on both sides of the aisle, that would like to see a fair outcome that acknowledges these challenges, finds workable solutions, and protects the American taxpayers.

But ultimately, if you have confidence in the new Administration— and frankly, I do not, but there are many on the majority's side that do— you should trust them to move the ball forward on a long-term nuclear waste repository.

Regardless of the text before us today, a permanent solution will take many years and be mired by litigation.

In the meantime, we may want to examine the steps Congress can take to start resolving the issue now. I am not wholly convinced that this draft, as currently written, would accomplish that.

Thank you, Mr. Chairman. I look forward to this morning's discussion. With that, I yield back.

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