AMENDMENT TO ___________
OFFERED BY MR. SHIMKUS OF ILLINOIS

At the end, add the following:

DIVISION C—NUCLEAR WASTE POLICY ACT AMENDMENTS

SEC. 101. SHORT TITLE.
This division may be cited as the “Nuclear Waste Policy Amendments Act of 2018”.

SEC. 102. APPLICATION PROCEDURES.

(a) STATUS REPORT ON APPLICATION.—Section 114(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(c)) is amended by striking “the date on which such authorization is granted” and inserting “the date on which the Commission issues a final decision approving or disapproving such application”.

(b) APPLICATION PROCEDURES AND INFRASTRUCTURE ACTIVITIES.—Section 114(d) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(d)) is amended by striking “the expiration of 3 years after the date of the submission of such application” and inserting “30 months after the date of enactment of the Nuclear Waste Policy Amendments Act of 2018”.

SEC. 103. TITLE TO MATERIAL.

Section 123 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10143) is amended—

(1) by striking “Delivery” and inserting “(a) In GENERAL.—Delivery”;

(2) by striking “repository constructed under this subtitle” and inserting “repository or monitored retrievable storage facility”; and

(3) by adding at the end the following new subsection:

“(b) CONTRACT MODIFICATION.—The Secretary may enter into new contracts or negotiate modifications to existing contracts, with any person who generates or holds title to high-level radioactive waste or spent nuclear fuel of domestic origin, for acceptance of title, subsequent transportation, and storage of such high-level radioactive waste or spent nuclear fuel (including to expedite such acceptance of title, transportation, and storage of such waste or fuel from facilities that have ceased commercial operation) at a monitored retrievable storage facility authorized under subtitle C.”.

SEC. 104. MONITORED RETRIEVABLE STORAGE.

(a) PROPOSAL.—Section 141(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10161(b)) is amended—

(1) in paragraph (1)—
(A) by striking “1985” and inserting “2019”; and

(B) by striking “the construction of”;

(2) in paragraph (2)—

(A) by amending subparagraph (C) to read as follows:

“(C) designs, specifications, and cost estimates sufficient to—

“(i) solicit bids for the construction of one or more such facilities; and

“(ii) enable completion and operation of such a facility as soon as practicable;”;

(B) in subparagraph (D), by striking “this Act.” and inserting “this Act; and”;

(C) by adding at the end the following:

“(E) options to enter into MRS agreements with respect to one or more monitored retrievable storage facilities.”; and

(3) by amending paragraph (4) to read as follows:

“(4) The Secretary shall, not later than 90 days after the date of enactment of the Nuclear Waste Policy Amendments Act of 2018, publish a request for information to help the Secretary evaluate options for the Sec-
(b) ADDITIONAL AMENDMENTS.—

(1) IN GENERAL.—Section 141 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10161) is further amended—

(A) in subsection (c)(2)—

(i) by striking “If the Congress” and all that follows through “monitored retrievable storage facility, the” and inserting “The”; and

(ii) by striking “construction of such facility” and inserting “construction of a monitored retrievable storage facility”; and

(B) by striking subsections (d) through (h).

(2) DEFINITIONS.—Section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101) is amended—

(A) in paragraph (34), by striking “the storage facility” and inserting “a storage facility”; and

(B) by adding at the end the following:

“(35) The term ‘MRS agreement’ means a cooperative agreement, contract, or other mechanism
that the Secretary considers appropriate to support the storage of Department-owned civilian waste in one or more monitored retrievable storage facilities as authorized under section 142(b)(2).

“(36) The term ‘Department-owned civilian waste’ means high-level radioactive waste, or spent nuclear fuel, resulting from civilian nuclear activities, to which the Department holds title.”.

(3) TECHNICAL AMENDMENTS.—Section 146 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10166) is amended—

(A) in subsection (a), by striking “such subsection” and inserting “subsection (f) of such section”; and

(B) in subsection (b), by striking “this subsection” and inserting “this section”.

SEC. 105. AUTHORIZATION AND PRIORITY.

Section 142 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10162) is amended by striking subsection (b) and inserting the following:

“(b) AUTHORIZATION.—Subject to the requirements of this subtitle, the Secretary is authorized to—

“(1) site, construct, and operate one or more monitored retrievable storage facilities; and
“(2) store, pursuant to an MRS agreement, Department-owned civilian waste at a monitored retrievable storage facility for which a non-Federal entity holds a license described in section 143(1).

“(c) PRIORITY.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall prioritize storage of Department-owned civilian waste at a monitored retrievable storage facility authorized under subsection (b)(2).

“(2) EXCEPTION.—

“(A) DETERMINATION.—Paragraph (1) shall not apply if the Secretary determines that it will be faster and less expensive to site, construct, and operate a facility authorized under subsection (b)(1), in comparison to a facility authorized under subsection (b)(2).

“(B) NOTIFICATION.—Not later than 30 days after the Secretary makes a determination described in subparagraph (A), the Secretary shall submit to Congress written notification of such determination.”.
SEC. 106. CONDITIONS FOR MRS AGREEMENTS.

(a) AMENDMENT.—Section 143 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10163) is amended to read as follows:

“SEC. 143. CONDITIONS FOR MRS AGREEMENTS.

“(a) IN GENERAL.—The Secretary may not enter into an MRS agreement under section 142(b)(2) unless—

“(1) the monitored retrievable storage facility with respect to which the MRS agreement applies has been licensed by the Commission under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);

“(2) the non-Federal entity that is a party to the MRS agreement has approval to store Department-owned civilian waste at such facility from each of—

“(A) the Governor of the State in which the facility is located;

“(B) any unit of general local government with jurisdiction over the area in which the facility is located; and

“(C) any affected Indian tribe;

“(3) except as provided in subsection (b), the Commission has issued a final repository decision; and
“(4) the MRS agreement provides that the quantity of high-level radioactive waste and spent nuclear fuel at the site of the facility at any one time will not exceed the limits described in section 148(d)(3) and (4).

“(b) INITIAL AGREEMENT.—

“(1) AUTHORIZATION.—The Secretary may enter into one MRS agreement under section 142(b)(2) before the Commission has issued a final repository decision.

“(2) FUNDING.—There are authorized to be appropriated to carry out this subsection—

“(A) for each of fiscal years 2020 through 2022, the greater of—

“(i) $50,000,000; or

“(ii) the amount that is equal to 10 percent of the amounts appropriated from the Waste Fund in that fiscal year; and

“(B) for each of fiscal years 2023 through 2025, the amount that is equal to 10 percent of the amounts appropriated from the Waste Fund in that fiscal year.

“(3) PRIORITY.—

“(A) IN GENERAL.—An MRS agreement entered into pursuant to paragraph (1) shall, to
the extent allowable under this Act (including under the terms of the standard contract established in section 961.11 of title 10, Code of Federal Regulations), provide for prioritization of the storage of Department-owned civilian waste that originated from any facility that—

“(i) has ceased commercial operation; and

“(ii) is located in—

“(I) an area that is of high seismicity; and

“(II) close proximity to a major body of water.

“(B) NO EFFECT ON STANDARD CONTRACT.—Nothing in subparagraph (A) shall be construed to amend or otherwise alter the standard contract established in section 961.11 of title 10, Code of Federal Regulations.

“(4) CONDITIONS.—

“(A) NO STORAGE.—Except as provided in subparagraph (B), the Secretary may not store any Department-owned civilian waste at the initial MRS facility until the Commission has issued a final repository decision.

“(B) EXCEPTION.—
“(i) Finding.—The Secretary may make a finding that a final repository decision is imminent, which finding shall be updated not less often than quarterly until the date on which the Commission issues a final repository decision.

“(ii) Storage.—If the Secretary makes a finding under clause (i), the Secretary may store Department-owned civilian waste at the initial MRS facility in accordance with this section.

“(iii) Notice.—Not later than 7 days after the Secretary makes or updates a finding under clause (i), the Secretary shall submit to Congress written notification of such finding.

“(iv) Reporting.—In addition to the requirements of section 114(c), if the Secretary makes a finding under clause (i), the Secretary shall submit to Congress the report described in such section 114(c) not later than 1 month after the Secretary makes such finding and monthly thereafter until the date on which the Commission issues a final repository decision.
“(C) No effect on federal disposal policy.—Nothing in this subsection affects the Federal responsibility for the disposal of high-level radioactive waste and spent nuclear fuel, or the definite Federal policy with regard to the disposal of such waste and spent fuel, established under subtitle A, as described in section 111(b).

“(e) Definitions.—For purposes of this section:

“(1) Final repository decision.—The term ‘final repository decision’ means a final decision approving or disapproving the issuance of a construction authorization for a repository under section 114(d).

“(2) Initial MRS facility.—The term ‘initial MRS facility’ means the monitored retrievable storage facility with respect to which an MRS agreement is entered into pursuant to subsection (b)(1).”.

Sec. 107. Survey.

Section 144 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10164) is amended—
(1) by striking “After the MRS Commission submits its report to the Congress under section 143, the” and inserting “(a) IN GENERAL.—The”;

(2) in the matter preceding paragraph (1), by striking “for a monitored retrievable storage facility” and inserting “for any monitored retrievable storage facility authorized under section 142”;

(3) in paragraph (6), by striking “; and” and inserting a semicolon;

(4) in paragraph (7), by striking the period at the end and inserting “; and”; and

(5) by adding after paragraph (7) the following:

“(8) be acceptable to State authorities, affected units of local government, and affected Indian tribes.

“(b) REQUEST FOR PROPOSALS.—The Secretary shall issue a request for proposals for an MRS agreement authorized under section 142(b)(2) before conducting a survey and evaluation under subsection (a), and shall consider any proposals received in response to such request in making the evaluation.”.

SEC. 108. SITE SELECTION.

Section 145 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10165) is amended—

(1) in subsection (a)—
(A) by striking “select the site evaluated” and inserting “select a site evaluated”; (B) by striking “the most”; and (C) by inserting “authorized under section 142(b)(1)” after “monitored retrievable storage facility”; and (2) by striking subsection (g).

SEC. 109. BENEFITS AGREEMENT.

Section 147 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10167) is amended— (1) by inserting “the Secretary intends to construct and operate under section 142(b)(1)” after “storage facility”; and (2) by inserting “or once a non-Federal entity enters into an MRS agreement under section 142(b)(2),” after “section 145,”.

SEC. 110. LICENSING.

(a) REVIEW OF LICENSE APPLICATION.—Section 148(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10168(c)) is amended by striking “section 142(b)” and inserting “section 142(b)(1)”.

(b) LICENSING CONDITIONS.—Section 148(d) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10168(d)) is amended—
(1) in paragraph (1), by striking “has issued a license for the construction of a repository under section 115(d)” and inserting “has issued a final decision approving or disapproving the issuance of a construction authorization for a repository under section 114(d)”; and

(2) in paragraph (2), by striking “or construction of the repository ceases”.

SEC. 111. FINANCIAL ASSISTANCE.

Section 149 of the Nuclear Waste Policy Act of 1982 is amended by inserting “authorized under section 142(b)(1)” after “a monitored retrievable storage facility”.

SEC. 112. ASSESSMENT AND COLLECTION OF FEES.

(a) IN GENERAL.—Section 302(a)(4) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)(4)) is amended—

(1) in the first sentence—

(A) by striking “(4) Not later than” and inserting the following:

“(4) ASSESSMENT, COLLECTION, AND PAYMENT OF FEES.—

“(A) ASSESSMENT OF FEES.—Not later than”;
(B) by striking “the date of enactment of this Act” and inserting “the date of enactment of the Nuclear Waste Policy Amendments Act of 2018”; and

(C) by striking “collection and payment” and inserting “assessment”;

(2) in the second sentence, by striking “collection of the fee” and inserting “such amount”;

(3) in the third sentence, by striking “are being collected” and inserting “will result from such amounts”;

(4) in the fifth sentence, by striking “a period of 90 days of continuous session” and all that follows through the period at the end and inserting “the date that is 180 days after the date of such transmittal.”; and

(5) by adding at the end the following:

“(B) COLLECTION AND PAYMENT OF FEES.—

“(i) IN GENERAL.—Not later than 180 days after the date of enactment of Nuclear Waste Policy Amendments Act of 2018, the Secretary shall establish procedures for the collection and payment of the fees established by paragraph (2) and
paragraph (3), or adjusted pursuant to subparagraph (A).

“(ii) LIMITATION ON COLLECTION.—

The Secretary may not collect a fee established under paragraph (2), including a fee established under paragraph (2) and adjusted pursuant to subparagraph (A)—

“(I) until the date on which the Commission issues a final decision approving or disapproving the issuance of a construction authorization for a repository under section 114(d); and

“(II) after such date, in an amount that will cause the total amount of fees collected under this subsection in any fiscal year to exceed 90 percent of the amounts appropriated for that fiscal year for purposes described in subsection (d).

The limitation in subclause (II) shall not apply during a fiscal year if, at any time during that fiscal year, the Waste Fund has a balance of zero.

“(iii) PAYMENT OF FULL AMOUNTS.—

Notwithstanding the noncollection of a fee
by the Secretary pursuant to clause (ii) in
any fiscal year, a person who has entered
into a contract with the Secretary under
this subsection shall pay any uncollected
amounts when determined necessary by the
Secretary, subject to clause (ii), for pur-
poses described in subsection (d).”.

(b) AUTHORITY TO MODIFY CONTRACTS.—The Sec-
retary of Energy may seek to modify a contract entered
into under section 302(a) of the Nuclear Waste Policy Act
of 1982 (42 U.S.C. 10222(a)) before the date of enact-
ment of this Act to ensure that the contract complies with
the provisions of such section, as amended by this Act.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—
Section 302(a) of the Nuclear Waste Policy Act of 1982
(42 U.S.C. 10222(a)) is amended—

(1) in paragraph (1), by striking “paragraphs
(2) and (3)” and inserting “paragraphs (2), (3), and
(4)”;

(2) in paragraph (3), by striking “126(b)”;

(3) in paragraph (4), by striking “insure” and
inserting “ensure”.
SEC. 113. USE OF WASTE FUND.

(a) IN GENERAL.—Section 302(d) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(d)) is amended—

(1) in paragraph (1), by striking “maintenance and monitoring” and all that follows through the semicolon at the end and inserting “maintenance and monitoring of any repository or test and evaluation facility constructed under this Act;”;

(2) in paragraph (4), by striking “to be disposed of” and all that follows through the semicolon at the end and inserting “to be disposed of in a repository or to be used in a test and evaluation facility;”;

(3) in paragraph (5), by striking “at a repository site” and all that follows through the end and inserting “at a repository site or a test and evaluation facility site and necessary or incident to such repository or test and evaluation facility;”;

(4) in paragraph (6), by striking the period at the end and inserting “; and”; and

(5) by inserting after paragraph (6) the following:

“(7) payments under benefits agreements for a repository entered into under section 170.”.
(b) CONFORMING AMENDMENTS.—Section 117(d) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10137(d)) is amended by inserting “designated with respect to a repository” after “such representatives”.

SEC. 114. AVAILABILITY OF CERTAIN AMOUNTS.

Section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222) is amended by adding at the end the following:

“(f) OFFSETTING FUNDING.—

“(1) IN GENERAL.—Fees collected after the date of enactment of the Nuclear Waste Policy Amendments Act of 2018 pursuant to subsection (a) shall be credited to the Waste Fund and available, to the extent provided in advance in appropriation Acts and consistent with the requirements of this section, to carry out activities authorized to be funded from the Waste Fund.

“(2) OFFSETTING COLLECTION.—Fees collected in a fiscal year pursuant to paragraph (1) shall be deposited and credited as offsetting collections to the account providing appropriations for such activities and shall be classified as discretionary appropriations as defined by section 250(c)(7) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(7)).
“(3) ESTIMATES.—For the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.) and the Congressional Budget Act of 1974 (2 U.S.C. 621 et seq.) and for determining points of order pursuant to that Act or any concurrent resolution on the budget, an estimate provided under those Acts for a provision in a bill or joint resolution, or amendment thereto or conference report thereon, that provides discretionary appropriations, derived from amounts in the Waste Fund, for such activities shall include in that estimate the amount of such fees that will be collected during the fiscal year for which such appropriation is made available. Any such estimate shall not include any change in net direct spending as result in the appropriation of such fees.”.

SEC. 115. BUDGETARY EFFECTS.

(a) Statutory PAYGO Scorecards.—The budgetary effects of this division and the amendments made by this division shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010.

(b) Senate PAYGO Scorecards.—The budgetary effects of this division and the amendments made by this division shall not be entered on any PAYGO scorecard
maintained for purposes of section 4106 of H. Con. Res. 71 (115th Congress).

SEC. 116. TRANSFER AUTHORITY.

(a) Transfer of Funds for Nuclear Waste Disposal to Support Processing of Licensing Applications at the Yucca Mountain Repository and an Interim Storage Capability.—

(1) In general.—Notwithstanding any other provision of law, the Secretary of Energy may transfer to and merge with the Department of Energy’s Nuclear Waste Disposal and Defense Nuclear Waste Disposal appropriation accounts from any unobligated balances available to the Secretary, up to $120,000,000, to remain available until expended, to resume any of the activities funded by those appropriations, including the acquisition of any real property or facility construction, or expansion, and interim storage activities, and may, without further appropriation, expend the funds so transferred and merged to resume such activities.

(2) Limitation.—Of the funds transferred and merged under this subsection, not more than 12.44 percent of the amount so transferred and merged may be used for payments under sections 116(c), 117(c), 117(d), and 118(b) of the Nuclear Waste
Policy Act of 1982 (42 U.S.C. 10136(e), 10137(e), (d), 10138(b)).

(b) Transfer of Funds to the Nuclear Regulatory Commission.—Notwithstanding any other provision of law, the Secretary of Energy may transfer to the Nuclear Regulatory Commission, from any unobligated balances available to the Secretary, and the Nuclear Regulatory Commission may accept and expend, up to $30,000,000 for processing of the Department of Energy’s licensing applications related to the nuclear waste repository at Yucca Mountain.