

September 5, 2003

The Honorable Don Nickles
United States Senate
Washington, D.C. 20510

Dear Senator Nickles:

The Nuclear Regulatory Commission (NRC) welcomes this opportunity to comment on the differing versions of H.R. 6, the "Energy Policy Act of 2003" passed by the Senate and the House of Representatives. We understand that S. 14, as reported by the Senate Committee on Energy and Natural Resources with Senate-passed floor amendments, and the Senate Finance Committee's energy tax amendments also may be considered by the conferees and therefore we have provided comments on that legislation as well. Our detailed comments and views on the NRC-related provisions of these bills are set forth in Enclosure 1. The NRC urges passage of many of the nuclear-related provisions contained in these bills, especially those that reauthorize the Price-Anderson Act, eliminate NRC's antitrust review authority over new power reactor license applications, clarify the length of combined construction permits and operating licenses for new reactors, and enhance the NRC's ability to attract employees who have critical nuclear safety regulatory skills. We are against passage of sections 14011, 14012, and 14013 of the House-passed bill, which would impose nuclear security requirements that fail to take into account NRC actions of the past two years, are unnecessary, and would in some respects, be counterproductive to the agency's efforts to enhance security. In addition, we oppose section 14022 of the House bill, which would impose greater Government in the Sunshine Act restrictions on the NRC than on any other agency subject to that Act.

The NRC respectfully requests that the enclosed (Enclosure 2) nuclear security proposals be enacted, instead of the nuclear security proposals in the House-passed bill. With slight modifications to reflect recent developments, these are the nuclear security proposals that the Administration informally provided to Congress earlier this year, and comprised a part of S. 1043, "the Nuclear Infrastructure Security Act of 2003," as introduced. Although the NRC opposes some of the provisions of S. 1043, as ordered reported by the Senate Committee on Environment and Public Works (the Commission's views on the major provisions of S. 1043 are set forth in Enclosure 3), the NRC supports the enactment of those provisions--reflected in Enclosure 2--which would enable licensee guards to possess more powerful weaponry, enlarge the classes of NRC-regulated entities whose employees would be subject to fingerprinting and criminal history background checks, expand NRC's regulatory jurisdiction to additional classes of radioactive material as a means of enhancing the protection of the public from use of the materials in radiological dispersal devices, and add new Federal criminal sanctions to cover acts that could endanger materials and activities regulated by the NRC.

The NRC is prepared to work with you on these important matters, which could substantially enhance our ability to protect the public health and safety and promote the common defense and security in the civilian use of radioactive materials and nuclear energy.

Sincerely,

/RA/

Nils J. Diaz

Enclosures:

1. Detailed NRC Views
2. NRC Security Legislation
3. NRC views on S. 1043, as ordered reported
4. NRC Scholarship and Fellowship Program - proposed legislation and analysis

Identical letter sent to:

The Honorable Don Nickles
United States Senate
Washington, D.C. 20510

The Honorable Larry E. Craig
United States Senate
Washington, D.C. 20510

The Honorable Ben Nighthorse Campbell
United States Senate
Washington, D.C. 20510

The Honorable Craig Thomas
United States Senate
Washington, D.C. 20510

The Honorable Charles E. Grassley
United States Senate
Washington, D.C. 20510

The Honorable Trent Lott
United States Senate
Washington, D.C. 20510

The Honorable Bryon L. Dorgan
United States Senate
Washington, D.C. 20510

The Honorable Bob Graham
United States Senate
Washington, D.C. 20510

The Honorable Ron Wyden
United States Senate
Washington, D.C. 20510

The Honorable Tim Johnson
United States Senate
Washington, D.C. 20510

The Honorable Max Baucus
United States Senate
Washington, D.C. 20510

The Honorable Michael Bilirakis
United States House of Representatives
Washington, D.C. 20515

The Honorable Joe Barton
United States House of Representatives
Washington, D.C. 20515

The Honorable Fred Upton
United States House of Representatives
Washington, D.C. 20515

The Honorable Cliff Stearns
United States House of Representatives
Washington, D.C. 20515

The Honorable John M. Shimkus
United States House of Representatives
Washington, D.C. 20515

The Honorable Henry A. Waxman
United States House of Representatives
Washington, D.C. 20515

The Honorable Edward J. Markey
United States House of Representatives
Washington, D.C. 20515

The Honorable Rick Boucher
United States House of Representatives
Washington, D.C. 20515

The Honorable Bobby L. Rush
United States House of Representatives
Washington, D.C. 20515

The Honorable Paul E. Gillmor
United States House of Representatives
Washington, D.C. 20515

I. H.R. 6

As Passed by the House of Representatives

Sections 14001-14009. Price-Anderson Act Amendments.

The Senate and the House have each enacted legislation that would reauthorize the Price-Anderson Act. That Act, codified as Section 170 of the Atomic Energy Act, sets forth a framework for liability and compensation to the public for injury to property or person arising from a nuclear accident. Under the Act, Congress has made power reactors collectively responsible for the costs of any accident up to the statutory limit of liability, now exceeding \$10 billion.

The sole significant substantive issue to be resolved in conference with regard to NRC Price-Anderson is the selection of the duration of renewal. Last year the Commission endorsed the 15-year renewal to August, 2017 then proposed by the House and now reflected in H.R. 6 for what will be less than a 14-year renewal. The Commission still would choose the House provision in preference to the now less than 9-year renewal to August 2012 proposed by the Senate. However, the Commission urges renewal without specified termination as provided in S.14, as reported by the Senate Committee on Energy and Natural Resources. Regardless of the length of renewal, Congress, of course, may act at any time to terminate the indemnification authorities or to amend the Act in any way it deems appropriate.

Pursuant to a statutory requirement, the Commission recently issued a rule that adjusted for inflation the maximum amount of the standard deferred premium. The current maximum that may be charged under the retrospective premium plan to licensees per reactor with respect to a nuclear accident is \$95.800,000. Thus, the Commission requests the Congress to substitute that figure for the \$94,000,000 contained in the House- and Senate-passed versions.

The Commission also suggests deletion of the requirement in section 170p. that the Commission submit to the Congress a detailed Price-Anderson report. The current requirement for a report 4 years before the expiration date of the Act has resulted in reports that are too far removed in time from renewal to be as useful as anticipated. The Commission will continue to keep the Congress fully and currently informed of any significant developments, and will provide reports on any needed amendments to Price-Anderson upon Congressional request or its own initiative.

The Price-Anderson Act sets forth a needed, fair, and just liability regime and the Commission strongly supports its renewal.

Section 14011. Secure Transfer of Nuclear Materials.

The requirements mandated by this section are unnecessary because a transportation regime is already in place that satisfies the objectives of this legislation for those nuclear materials that warrant protection. Department of Transportation regulations found at 49 C.F.R. part 172 require that manifests accompany the shipments of hazardous material that would include

information, for example, on the form and quantity of the material being shipped and a 24-hour emergency contact. Similarly, the USA Patriot Act requires security background checks for truck drivers who are authorized to transport hazardous materials and the Department of Homeland Security has published final regulations implementing this requirement. That Department is now examining the implementation of background checks on other transportation workers pursuant to provisions in statutes such as the Maritime Transportation Security Act of 2002.

Moreover, the section as drafted could be read to bar the export of byproduct materials, including those routinely used for medical, industrial, and agricultural purposes, except to those countries that have entered into an Agreement for Cooperation with the United States under section 123 of the Atomic Energy Act. At present, such an agreement is required under the Atomic Energy Act only for export of source and special nuclear material and major components of nuclear reactors. The United States has Agreements for Cooperation with fewer than 40 countries, and these agreements do not encompass byproduct material. The United States exports byproduct material to dozens of countries. A unilateral change by the United States in its export licensing regime would not likely be well-received within the international community, which is currently addressing protection of nuclear materials in transit through various efforts, including negotiations to amend the Physical Protection Convention and an IAEA initiative to update a Code of Practice on protection of radioisotopes.

The NRC further notes that this provision is unduly broad. It would capture all Atomic Energy Act materials, even ones that pose trivial risks to the public health and safety (for example, slightly contaminated concrete that would be less radioactive than the granite in the Capitol). This could have serious consequences because the needless expansion of requirements could significantly impede transportation of radioisotopes used in medicine. Although the section permits the NRC to make appropriate exceptions to this breadth, the exceptions can be made only through rulemaking. Additionally, we are concerned that the section treats nuclear materials transportation in isolation from transportation of other potentially toxic materials.

The section also fails to take into account NRC's actions to enhance transportation security over the past two years through the issuance of orders to selected classes of licensees with orders to additional classes under development. In developing its orders, the NRC works closely with the Departments of Homeland Security, Transportation, and Energy. As noted above, the international community is also in the process of developing revised transportation security standards that would encompass the types of materials warranting protection.

In summary, the section is unnecessary, needlessly burdensome and does not take into account recently enacted statutes, the issuance of transportation-related regulations and orders, and the ongoing negotiation of new international requirements. We urge this section not be enacted.

Section 14012 Nuclear Facility Threats.

This section would direct the President, in consultation with the NRC and other appropriate Federal, State and local agencies and private entities, to conduct a study to identify the types of threats that pose an appreciable risk to the security of the facilities regulated by the NRC. The section would also direct the NRC to promulgate by rule a design basis threat (DBT) based on the threats identified in the study, and to establish an operational safeguards response

evaluation program that tested licensees' ability to defeat the design basis threat. The Commission believes this section is not necessary. The NRC has already conducted a comprehensive review of the security regime and environment, after extensive consultation with numerous Federal agencies, and by order has enhanced the security at nuclear power plants, fuel cycle facilities and certain materials licensees. These orders impose requirements that go beyond those required to implement the DBTs set forth in NRC's regulations. The requirement that the NRC promulgate new DBTs by rule needlessly constrains the Commission's procedural flexibility for imposing new security requirements. The detailed and specific security requirements imposed by the NRC over the past two years contain classified national security information, or safeguards information protected from public disclosure under section 147 of the Atomic Energy Act and therefore have not been generally published. Codifying the recently imposed requirements through notice and comment rulemaking would not be appropriate because making this detailed security information publicly available would provide invaluable assistance to potential terrorists, undermining the objective of this section and severely damaging the security of the nuclear facilities and materials that should be protected. The Commission strongly opposes this provision.

Section 14013. Unreasonable Risk Consultation.

This section would require that the NRC, before signing an indemnification agreement for a new reactor, "consult" with the Department of Homeland Security on whether the proposed location and design of the facility would ensure adequate protection of public health and safety in the event of a terrorist attack on the facility. This section is unnecessary in light of the agency's stringent security requirements already in place and the agency's extensive interactions with the Department of Homeland Security and other governmental agencies on matters of security. The Commission opposes this provision.

Section 14021. Licenses.

This section would provide that an initial combined construction permit and operating license issued under the Commission's regulations in 10 C.F.R. Part 52 could last for up to 40 years beyond the date on which the Commission found that the licensee had met the acceptance criteria for operation contained in the license. The Commission supports enactment of this section. It would remove any doubts that the Atomic Energy Act provides that plants licensed under the Commission's newer regulations for advanced, standardized designs are permitted to operate for the same number of years as existing nuclear power plants.

Section 14022. Nuclear Regulatory Commission Meetings.

This section would require the Commission to keep transcripts of Commission business discussions not covered by the Government in the Sunshine Act. The Commission would be required to advise the public of such discussions after the fact, to record the discussions, and to release discussion transcripts upon request, withholding only that information authorized by law, generally under the Freedom of Information Act. The NRC strongly opposes this provision. The NRC's Sunshine Act definition of "meeting," found in its Sunshine Act regulations, is in complete accord with the Supreme Court's opinion in *FCC v. ITT World Communications, Inc.*, 466 U.S. 463 (1984). In fact, the NRC's definition was challenged in court and upheld by the D.C. Circuit in *NRDC v. NRC*, 216 F. 3d 1180 (D.C. Cir. 2000). The NRC's approach also is

supported by the American Bar Association and other legal experts. Section 14022 would unjustifiably single out the NRC for unique requirements extending Sunshine Act requirements to non-Sunshine Act discussions. To our knowledge, no other agency's non-Sunshine Act discussions are subject to a Sunshine Act regime. The provision would discourage the kind of exchange and collegiality that can be one of the primary strengths of a multi-member agency; it would frustrate or impede the efficient conduct of Commission business; and it would hamper "good government" by isolating individual Commission members and imposing unnecessary constraints on general discussions among Commissioners.

Section 14023. NRC Training Program.

This section, like section 542 of the Senate-passed bill, would authorize the establishment of a training and fellowship program to address shortages of individuals with critical nuclear safety regulatory skills. For Fiscal Years 2003-2006, \$1 million per year would be authorized to be appropriated to carry out this program. As the Congress knows, there has been a significant decline in the number of nuclear-related academic programs. This is of great concern to the Commission because these programs produce the skilled employees that the NRC needs to carry out its mission. Thus, to help stem this decline, the Commission strongly urges that this provision be included in the legislation. We would, however, recommend that the provision be revised to reflect the passage of time and authorize the program for Fiscal Years 2004-2007.

Section 14024. Cost Recovery From Government Agencies.

This provision would authorize the NRC to charge Federal agencies fees for licensing and inspections. Without this authority, the NRC must recoup the costs of these activities through the annual fees charged to other licensees. Section 302 would eliminate this inequity, thereby creating a more fair and just fee schedule.

Section 14025. Elimination of Pension Offset.

This provision, like section 541 of the Senate-passed bill, would greatly aid the NRC because it would make it more attractive for retired NRC employees with specialized skills to serve as consultants to the NRC while the NRC recruits and trains the next generation of nuclear regulators. Currently, retired NRC employees are reluctant to work for the NRC because the pay for such activities is reduced by the amount received from the Federal government in the form of pension payments. By allowing retirees with critical skills to receive full pay from the NRC for their consulting services, the NRC could more readily obtain critical skills to sustain high-quality regulatory efforts.

Section 14026. Carrying of Firearms by Licensee Employees.

This is an outdated version of one of the legislative proposals that the NRC submitted to the 107th Congress. The NRC prefers the firearms provisions (with a technical amendment) contained in section 5 of S. 1043, the "Nuclear Infrastructure Security Act of 2003", as ordered reported by the Senate Committee on Environment and Public Works. The NRC's preferred version is contained in Enclosure 2.

Section 14027. Unauthorized Introduction of Dangerous Weapons.

The NRC has long sought enactment of this provision, and the Commission supports Section 14027.

Section 14028. Sabotage of Nuclear Facilities or Fuel.

This is an outdated version of one of the legislative proposals that the NRC submitted to the 107th Congress. The NRC prefers the version found in section 9 of S. 1043, the "Nuclear Infrastructure Security Act of 2003," as ordered reported by the Senate Committee on Environment and Public Works. The NRC's preferred version is contained in Enclosure 2.

Section 14031. Medical Isotope Production.

The NRC does not object to this provision pertaining to the export of high-enriched uranium targets for the production of medical isotopes by specified countries.

Section 14033. Whistleblower Protection.

The NRC opposes extending the Department of Labor process established by section 211 of the Energy Reorganization Act to NRC employees. There are already statutorily established processes to protect NRC whistleblowers and there is no justification for establishing redundant parallel procedures. NRC employee whistleblowers may challenge workplace retaliatory actions against them by filing a complaint with the U.S. Office of Special Counsel, and, if dissatisfied with that process, an appeal to the Merit Systems Protection Board (MSPB), in accordance with 5 U.S.C. Chapter 12, Subchapters 2 and 3. MSPB decisions are reviewable by the United States Court of Appeals for the Federal Circuit. Additionally, NRC employees have available to them grievance procedures which allow for review of alleged whistleblower retaliation claims. To be heard, NRC whistleblowers do not need additional forums.

With respect to extending the provisions of section 211 to NRC contractors, we point out there are also government-wide procedures under 41 U.S.C. 265 to protect whistleblowers who are employees of NRC contractors with respect to reporting wrongdoing related to their contracts. These remedies include an independent investigation by the NRC's Office of the Inspector General and, in meritorious cases, award of appropriate relief, including reinstatement, monetary costs and expenses. Appeal is available to a United States Court of Appeals. There are also specific NRC contractual provisions that permit these individuals to raise safety issues, and contractors at the time of the award of the contract are advised of the availability of the Inspector General Hotline as a means of reporting fraud, waste and abuse within NRC programs and its contracting operations.

Section 14037 would direct DOE to report to Congress on the "feasibility" of commercial nuclear energy at DOE sites. The report would be required to cover, among other things, "potential improvements in the licensing and safety oversight procedures of nuclear power plants located on Federal sites." Those plants would be regulated by the NRC, and therefore the provision, if included in the legislation, should direct DOE to consult with the NRC during preparation of the report.

II. H.R. 6

As passed by the Senate

Sections 501-509. Price-Anderson Act Reauthorization.

These provisions would reauthorize the Price-Anderson Act until August 1, 2012. The Commission prefers the version reported by the Senate Committee on Energy and Natural Resources, which would renew the Act without date limitation. The NRC's detailed views on these sections are set forth in our discussion of sections 14001-14009 of the House-passed bill.

Section 521. Combined License Periods.

This section, like section 14021 of the House bill, would provide that an initial combined license issued under 10 C.F.R. Part 52 could last for up to 40 years beyond the date on which the Commission found that the licensee had met the acceptance criteria contained in the license. The NRC supports the enactment of this proposal.

Section 531. Antitrust Review.

This section would eliminate the NRC's antitrust review authority over any license application for a utilization facility under Section 103 or 104b. of the Atomic Energy Act that is filed after the date of enactment. The NRC would be required to notify the Attorney General when the NRC proposes to issue a license, and the Attorney General would have 90 days from the date of notification to determine whether the proposed license would tend to create or maintain a situation inconsistent with the antitrust laws. The Commission strongly supports this provision because it would eliminate redundant federal agency antitrust reviews. This support is based on our understanding, as reflected in the legislative history to the Senate-passed bill, that the Attorney General's antitrust determination would be wholly independent of the NRC's licensing process and thus not affect the substance or timing of the NRC's licensing action.

Section 532. Decommissioning.

This section would provide explicit statutory authority for the NRC to retain authority over decommissioning funds held by former licensees. The provision would also prevent NRC licensees, former licensees, or any other person from using decommissioning funds or Price-Anderson Act insurance premiums held by a licensee to satisfy the claims of any creditor before decommissioning is completed to the NRC's satisfaction. The NRC supports this provision because it gives assurance that these funds will be used only for their intended purpose -- the safe completion of decommissioning and the payment of the licensee's Price-Anderson obligation.

Section 541. Elimination of Pension Offset.

This section, like its counterpart section 14025 of the House-passed bill, would augment NRC's ability to hire employees with critical nuclear safety regulatory skills. The Commission supports enactment of this provision.

Section 542. NRC Training Program.

This section, like section 14023 of the House-passed bill, would allow the NRC to establish a training and fellowship program to address shortages of individuals with critical nuclear safety regulatory skills. The NRC strongly supports this provision, but recommends that it be revised to address Fiscal Years 2004-2007, rather than Fiscal Years 2003-2006.

Section 1505. Improved Access to Energy-Related Scientific and Technical Careers.

The Commission notes this section, which is applicable to the Department of Energy. The Commission would support a somewhat modified provision applied to the NRC. Draft legislative text and analysis are enclosed (Enclosure 4).

Section 1707. National Academy of Sciences Study.

This section would direct the Department of Transportation (DOT) to enter into an agreement with the National Academy of Sciences (NAS) for NAS to conduct a study of the procedures by which DOE, together with DOT and the NRC, selects routes for the shipment of spent nuclear fuel from DOE research reactors to existing DOE facilities currently licensed to accept such spent nuclear fuel. This provision should not be adopted as Congress enacted it as section 334 of the Department of Transportation and Related Agencies Appropriations Act for FY 2003.

III. S. 14

As Reported by the Senate Committee on Energy and Natural Resources, with Senate-Passed Floor Amendments

Sections 401-409. Price-Anderson Amendments.

The NRC strongly supports renewal of the Act, and prefers this version, which permanently would renew the Act without date limitation, to the House-or Senate-passed versions. The NRC's detailed views on these sections are set forth in our discussion of sections 14001-14009 of the House-passed bill.

Sections 431-435. Advanced Reactor Hydrogen Co-Generation Project.

Section 434(i) requires DOE to seek the active participation of the NRC throughout the project to develop risk-based criteria for any future commercial development of an advanced reactor hydrogen co-generation project. This subsection should be expanded to address whether the NRC is to license any project-related reactor construction activities.

Section 944. University Nuclear Science and Engineering Support.

DOE support for university nuclear science and engineering programs could be of substantial value to the NRC in addressing its human capital needs.

Section 1006. National Power Plant Operations Technology and Education Center.

The NRC supports this provision as it could provide for valuable training for nuclear power plant operators.

Section 1111. Electric Reliability Standards.

The reliability of the electric power grid can have a significant bearing on the safe operation and shutdown of commercial nuclear power plants. This needs to be recognized in two of the proposed amendments to Section 215 of the Federal Power Act that would be made by section 1111.

In the proposed subsection 215(b), a sentence should be added at the end of the first sentence which would read as follows:

In considering reliability standards developed by the ERO for approval under this section, the Commission shall consult with the Nuclear Regulatory Commission to determine that the standards promote the assurance of the reliability and quality of the offsite power supplies to nuclear power reactors.

In addition, section 215(i)(2) should be revised by adding at the end of the subparagraph the following:

except to assure the quality and reliability of offsite power supplies to nuclear power reactors.

IV. Senate Finance Committee Energy Tax Amendments

While the NRC does not have any specific comments on the provisions of the tax code in section 601 concerning nuclear power plant decommissioning funds, the current tax situation has resulted in complex organizational structures that have also complicated NRC license transfer actions. Thus, as a general proposition, the NRC would not object to changes that facilitate transfer of funds to new owners of licensed facilities in a manner preserving the integrity of decommissioning funds.

NUCLEAR SECURITY LEGISLATION PROPOSED BY THE NRC

SEC. 2. FINGERPRINTING FOR CRIMINAL HISTORY BACKGROUND CHECKS.

(a) IN GENERAL.--Subsection a. of section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169(a)) is amended--

(1) by striking “a. The Nuclear” and all that follows through “section 147.” and inserting the following:

“a. IN GENERAL.--

“(1) REQUIREMENTS.--

“(A) IN GENERAL.--The Commission shall require each individual or entity--

“(i) that is licensed or certified to engage in an activity subject to regulation by the Commission,

“(ii) that has filed an application for a license or certificate to engage in an activity subject to regulation by the Commission, or

“(iii) that has notified the Commission, in writing, of an intent to file an application for licensing, certification, permitting, or approval of a product or activity subject to regulation by the Commission,

to fingerprint each individual described in subparagraph (B) before the individual is permitted unescorted access or access, whichever is applicable, as described in subparagraph (B).

“(B) INDIVIDUALS REQUIRED TO BE FINGERPRINTED.--The Commission shall require to be fingerprinted each individual who--

“(i) is permitted unescorted access to--

“(I) a utilization facility; or

“(II) radioactive material or other property subject to regulation by the Commission that the Commission determines to be of such significance to the public health and safety or the common defense and security as to warrant fingerprinting and background checks; or

“(ii) is permitted access to safeguards information under section 147.

The Commission may require additional classes of individuals to be fingerprinted under this section, upon a written determination that such fingerprinting is required to protect the public health and safety or the common defense and security.”;

(2) by striking “All fingerprints obtained by a licensee or applicant as required in the preceding sentence” and inserting the following:

“(2) SUBMISSION TO THE ATTORNEY GENERAL.--All fingerprints obtained by an individual or entity as required in paragraph (1)”;

(3) by striking “The costs of any identification and records check conducted pursuant to the preceding sentence shall be paid by the licensee or applicant.” and inserting the following:

“(3) COSTS.--The costs of any identification and records check conducted pursuant to paragraph (1) shall be paid by the individual or entity required to conduct the fingerprinting under paragraph (1)(A).”; and

(4) by striking “Notwithstanding any other provision of law, the Attorney General may provide all the results of the search to the Commission, and, in accordance with regulations prescribed under this section, the Commission may provide such results to licensee or applicant submitting such fingerprints.” and inserting the following:

“(4) PROVISION TO INDIVIDUAL OR ENTITY REQUIRED TO CONDUCT FINGERPRINTING.--Notwithstanding any other provision of law, the Attorney General may provide all the results of the search to the Commission, and, in accordance with regulations prescribed under this section, the Commission may provide such results to the individual or entity required to conduct the fingerprinting under paragraph (1)(A).”.

(b) ADMINISTRATION.--Subsection c. of section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169(c)) is amended--

(1) by striking “, subject to public notice and comment, regulations--” and inserting “requirements--”; and

(2) by striking, in paragraph (2)(B), “unescorted access to the facility of a licensee or applicant” and inserting “unescorted access to a utilization facility, radioactive material, or other property described in subsection a.(1)(B)”.

(c) BIOMETRIC METHODS.--Subsection d. of Section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169(d)) is redesignated as subsection e., and the following is inserted after subsection c.:

“d. USE OF OTHER BIOMETRIC METHODS.--Any requirement for a person to conduct fingerprinting under this section may be satisfied by using any other biometric method for identification approved for use by the Attorney General.”.

SEC. 3. GUARDING OF NUCLEAR FACILITIES, EQUIPMENT, AND MATERIAL.

(a) TRANSPORTING OF SHORT-BARRELED SHOTGUN OR RIFLE.--Section 922 of title 18, United States Code is amended--

(1) in subsection (a)(4), by striking “or licensed collector,” and inserting the following: “licensed collector, or a licensee or certificate holder under title I of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), or an employee or contractor of such a licensee or certificate holder, that holds the license or certificate for the purpose of establishing and maintaining an on-site physical protection system and security organization required by Federal law or for the purpose of licensee-authorized or certificate holder-authorized training or transportation of nuclear material or equipment authorized under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.),”; and

(2) in subsection (o)(2)--

(A) in subparagraph (A), by striking “or” at the end;

(B) in subparagraph (B), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following:

“(C) a transfer to a licensee or certificate holder under title 1 of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) for purposes of establishing and maintaining an on-site physical protection system and security organization required by Federal law, or possession by an employee or contractor of the licensee or certificate holder on-site for such purposes or offsite for purposes of licensee-authorized or certificate holder-authorized training or transportation of nuclear materials or

equipment authorized under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).”.

(b) AUTHORIZATION FOR IMPORTATION OF FIREARM OR AMMUNITION.--Section 925(d)(1) of title 18, United States Code, is amended--

(1) by inserting “(A)” before “is being”;

(2) by inserting after “chapter 401 of title 10;” the following: “or”; and

(3) by inserting after paragraph (1)(A), as so amended, the following:

“(B) is being imported or brought in for transfer to a licensee or certificate holder under title I of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) for purposes of establishing and maintaining an on-site physical protection system and security organization required by Federal law;”.

(c) INTERSTATE TRANSPORTATION OF FIREARMS.--Section 926A of title 18, United States Code, is amended--

(1) by striking “Notwithstanding” and inserting the following:

“(a) IN GENERAL.--Notwithstanding”; and

(2) by adding at the end the following:

“(b) LICENSEES AND CERTIFICATE HOLDERS OF THE NUCLEAR REGULATORY COMMISSION.--Notwithstanding any other provision of any law or any rule or regulation of a State or any political subdivision of a State, a licensee or certificate holder under title I of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), or an employee or contractor of such a licensee or certificate holder, that is not otherwise prohibited by this chapter from transporting, shipping, receiving, or possessing a firearm or large capacity ammunition feeding device shall be entitled to transport and possess a firearm or large capacity ammunition feeding

device for purposes of establishing and maintaining an onsite physical protection system and security organization required by Federal law, and for purposes of licensee-authorized or

certificate holder-authorized training or transportation of nuclear material or equipment authorized under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).”.

(d) IMPORTATION OF FIREARMS.--Section 5844 of the Internal Revenue Code of 1986 (26 U.S.C. 5844) is amended--

(1) in paragraph (2), by striking “or” at the end;

(2) in paragraph (3), by inserting “or” after the semicolon; and

(3) by inserting after paragraph (3) the following:

“(4) a machinegun or short-barreled shotgun being imported or brought in for transfer to a licensee or certificate holder under title I of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) for purposes of establishing and maintaining an on-site physical protection system and security organization required by Federal law;”.

(e) SEMIAUTOMATIC ASSAULT WEAPONS; LARGE CAPACITY AMMUNITION

FEEDING DEVICES.--Section 922 of title 18, United States Code, is amended--

(1) in subsection (v)(4)(B)--

(A) by inserting “or certificate holder” after “licensee” each place that term appears;

(B) by inserting “or certificate holder-authorized” after “licensee-authorized”; and

(C) by inserting “or equipment” after “materials”; and

(2) in subsection (w)(3)(B)--

(A) by inserting "or certificate holder" after "licensee" each place that term appears;

(B) by inserting "or certificate holder-authorized" after "licensee-authorized"; and

(C) by inserting "or equipment" after "materials".

SEC. 4. TREATMENT OF ACCELERATOR-PRODUCED AND

OTHER RADIOACTIVE MATERIAL AS BYPRODUCT MATERIAL.

(a) DEFINITION OF BYPRODUCT MATERIAL.--Section 11 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2014 (e)) is amended--

(1) by striking "The term 'byproduct material' means" and inserting the following:
"The term 'byproduct material' means--";

(2) by inserting on the line following "The term 'byproduct material' means--" the clause in section 11 e. that begins "(1) any radioactive material";

(3) by striking ", and" at the end of clause (1) of section 11 e. and inserting ",";

(4) by inserting on the line following the semicolon added by clause (3) the clause in section 11 e. that begins "(2) the tailings or wastes";

(5) by striking "content." at the end of clause (3) in section 11 e. and inserting "content; and"; and

(6) by inserting on the line following "content; and" the following:

"(3)(A) any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after the date of enactment of this paragraph, for use in a commercial, medical, or research activity; or

“(B) any material that --

“(i) has been made radioactive by use of a particle accelerator;

and

“(ii) is produced, extracted, or converted after extraction, before, on, or after the date of enactment of this paragraph, for use in a commercial, medical, or research activity; and

“(4) any discrete source of naturally occurring radioactive material, other than source material that --

“(A) the Nuclear Regulatory Commission determines (after consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate Federal agency), would pose a threat similar to that posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

“(B) before, on, or after the date of enactment of this paragraph, is extracted or converted after extraction, for use in a commercial, medical, or research activity.”.

(b) AGREEMENTS.--Section 274 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2021)

is amended--

(1) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (2) the following:

“(3) byproduct materials (as defined in section 11 e.(3));

“(4) byproduct materials (as defined in section 11 e.(4));”.

(c) REGULATIONS.--

(1) IN GENERAL.--Not later than the effective date of this section, the Nuclear Regulatory Commission shall promulgate final regulations establishing such requirements and standards as the Commission considers necessary for the acquisition, possession, transfer, use, or disposal of byproduct material (as defined in paragraphs (3) and (4) of section 11 e. of The Atomic Energy Act of 1954 (as added by subsection (a))).

(2) COOPERATION.--The Commission shall cooperate with the States in formulating the regulations under paragraph (1).

(3) TRANSITION.--To ensure an orderly transition of regulatory authority with respect to byproduct material as defined in paragraphs (3) and (4) of section 11 e. of the Atomic Energy Act of 1954 (as added by subsection (a)), not later than 180 days before the effective date of this section, the Nuclear Regulatory Commission shall prepare and provide public notice of a transition plan developed in coordination with States that--

(A) have not, before the effective date of this section, entered into an agreement with the Commission under section 274 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2021); or

(B) in the case of a State that has entered into such an agreement, has not, before the effective date of this section, applied for an amendment to the agreement that would permit assumption by the State of regulatory responsibility for such byproduct material.

(d) WASTE DISPOSAL.--

(1) Notwithstanding any other Federal or State law or any action that has been taken to implement such law, commencing with the effective date of subsection (a),

byproduct material as defined in section 11 e.(3) and (4) of the Atomic Energy Act of 1954 may be transferred to and disposed of--

(A) in a disposal facility licensed by the Commission, if the disposal meets the requirements of the Commission, or

(B) in a disposal facility licensed by a State that has entered into an agreement with the Commission under section 274b. of the Atomic Energy Act of 1954, if the disposal meets requirements of the State that are equivalent to the requirements of the Commission.

(2) Notwithstanding the provisions of paragraph (1), byproduct material as defined in section 11 e.(3) and (4) of the Atomic Energy Act of 1954 may be disposed of under the provisions of Title II of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), popularly known as the "Resource Conservation and Recovery Act," to the same extent as such material was subject to those provisions before the enactment of this section.

(3) Byproduct material as defined in section 11 e.(3) and (4) of the Atomic Energy Act of 1954 shall not be considered low-level radioactive waste as defined in title I of the Low-Level Radioactive Waste Policy Amendments Act of 1985, or in implementing any Congressionally approved Compact entered into pursuant to the Low-Level Radioactive Policy Act of 1980 as amended.

(e) EFFECTIVE DATE.--Except with respect to matters that the Nuclear Regulatory Commission determines are required to be addressed earlier to protect the public health and safety or to promote the common defense and security, the amendments made by this section take effect on the date that is 4 years after the date of enactment of this Act.

SEC. 5. UNAUTHORIZED INTRODUCTION OF DANGEROUS WEAPONS.

Section 229 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2278 a(a)) is amended in the first sentence by inserting “or subject to the licensing authority of the Commission or to certification by the Commission under this Act or any other Act” before the period at the end.

SEC. 6. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.

Section 236 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2284(a)) is amended--

(1) in the first sentence, by striking “or who intentionally and willfully attempts” and inserting “or who attempts or conspires”;

(2) in paragraph (2), by striking “storage facility” and inserting “storage, treatment, or disposal facility”;

(3) in paragraph (3)--

(A) by striking “such a utilization facility” and inserting “a utilization facility licensed under this Act”; and

(B) by striking “or” at the end;

(4) in paragraph (4)--

(A) by striking “facility licensed” and inserting “uranium conversion or nuclear fuel fabrication facility licensed or certified”; and

(B) by striking the period at the end and inserting a semicolon; and

(5) by inserting after paragraph (4) the following:

“(5) any production, utilization, waste storage, waste treatment, waste disposal, uranium enrichment, or nuclear fuel fabrication facility subject to licensing or certification under this Act during construction of the facility, if the

destruction or damage caused or attempted to be caused could adversely affect public health and safety during the operation of the facility;

“(6) any primary facility or backup facility from which a radiological emergency preparedness alert and warning system is activated; or

“(7) any radioactive material or other property subject to regulation by the Nuclear Regulatory Commission that, before the date of the offense, the Nuclear Regulatory Commission determines, by order or regulation published in the Federal Register, is of significance to the public health and safety or to common defense and security;”.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.--There are authorized to be appropriated such sums as are necessary to carry out the amendments made by this title.

(b) AGGREGATE AMOUNT OF CHARGES.--Section 6101 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(c)(2)(A)) is amended--

(1) in clause (i), by striking “and” at the end;

(2) in clause (ii), by striking the period at the end and inserting “; and” and

(3) by adding at the end the following:

“(iii) amounts appropriated to the Commission for homeland security activities of the Commission for the fiscal year, except for the costs of fingerprinting and background checks required by section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169) and the costs of conducting security inspections.”.

NRC VIEWS ON S. 1043

- **SECTION 3(b), FINGERPRINTING FOR CRIMINAL HISTORY RECORD CHECKS.** The current law on fingerprinting and criminal background checks only requires that licensees and applicants for a license to operate a nuclear power reactor fingerprint each individual who is permitted unescorted access to the facility or is permitted access to safeguards information. This coverage is too limited to safeguard the public from possible terrorist threats that could involve other nuclear facilities or radioactive materials. The requirement to conduct fingerprinting should be extended to other persons that are licensed or certified to engage in an activity subject to NRC regulation. In addition, the requirement to be fingerprinted should be extended to include individuals who are permitted unescorted access to radioactive material or other property subject to regulation by the NRC and determined by the Commission to be of such significance to the public health and safety or the common defense and security as to warrant fingerprinting and background checks. These checks are necessary to help ensure the reliability of employees who have unescorted access to nuclear facilities and materials that could be the subject of terrorist attacks. The Commission strongly supports section 3(b) of S. 1043 (enclosure 2, sec. 2).

- **SECTION 5, GUARDING OF NUCLEAR FACILITIES, EQUIPMENT AND MATERIAL.**

Federal criminal law now prohibits guards at NRC-regulated facilities and activities from receiving and possessing certain weapons important to defense against terrorist attack,

Enclosure 3

such as fully automatic weapons. These provisions must be revised, so that guards at nuclear facilities will not be “outgunned” in defending against terrorist or other criminal intruders who are armed with the latest weaponry. Also, in this subject area, State law applies in the absence of a preemptive Federal statute. To ameliorate guards’ concerns that their possession or use of a particular weapon may make them subject to criminal prosecution under State law (or under another Federal law), it must be made clear by Federal statute that neither Federal nor State laws that contain restrictions on possession or use of firearms apply to the guards while they are carrying out their official duties. The Commission strongly supports section 5 of S. 1043 (enclosure 2, sec. 3), which would make the necessary revisions.

- SECTION 7, TREATMENT OF ACCELERATOR-PRODUCED AND OTHER RADIOACTIVE MATERIAL AS BYPRODUCT MATERIAL. Extending the NRC’s regulatory oversight over certain materials not now covered by the Atomic Energy Act will lead to greater public assurance that the materials are used and controlled in a manner that protects the common defense and security and maintains public health and safety. This would be accomplished by extension of NRC regulatory authority over discrete sources of radium-226, accelerator-produced material, and certain discrete sources of naturally occurring radioactive material that pose a threat similar to that posed by a discrete source of radium-226. It would be counterproductive, however, to add to the NRC’s authority radioactive material that is currently fully dealt with by other Federal agencies. This would lead to dual regulation and extensive time spent in consultation and coordination between agencies, using scarce resources that are needed for accomplishing other tasks. The Commission supports section 7 of S. 1043 (enclosure 2, sec. 4), since it is

appropriately directed to cover those materials and sources that warrant attention. The Commission opposes section 6 of S. 1043, SENSITIVE RADIOACTIVE MATERIAL SECURITY, which is unnecessary.

- SECTION 8, UNAUTHORIZED INTRODUCTION OF DANGEROUS WEAPONS.

SECTION 9, SABOTAGE OF NUCLEAR FACILITIES OR FUEL. Section 8 of S. 1043 (enclosure 2, sec. 5), and section 9 of S. 1043 (enclosure 2, sec. 6) address issues that the Commission has long sought to address, and the Commission supports these sections of

S. 1043. As part of the effort to better secure the public against terrorist attack, it is important to provide for Federal criminalization of the unauthorized introduction of dangerous weapons into nuclear facilities and of the sabotage of nuclear facilities, fuel, and material. Currently, there is no Federal law permitting imposition of criminal penalties in these circumstances.

- SECTION 13, AUTHORIZATION OF APPROPRIATIONS. The costs of security-related activities should be covered from the general fund, rather than from fees paid by NRC licensees, except for fingerprinting, criminal history checks, and conduct of security inspections. Imposition of security requirements is of considerable benefit to the public, and it is, therefore, more equitable not to require all the costs of compliance with the requirements to be covered through fees. For this reason, the Commission supports section 13 of S. 1043.

- SECTION 2 and SECTION 3(a) - DBT study and revision, security plan revisions, emergency preparedness study and revision, employee access, Federal Security Coordinators. It is important to recognize that not all facilities and activities using or containing radioactive material warrant the same level of protection as nuclear power plants. To rationalize the system and to prevent NRC licensees from being overwhelmed by regulatory burdens, discretion needs to be given to the Commission to determine which types of facilities and activities require various levels of protection. The Commission currently has authority in the areas of security examinations, design basis threats, upgrade of security plans, and review of emergency response plans. The NRC has already undertaken a number of steps under that authority, including issuing orders to enhance security at nuclear power plants and fuel cycle facilities by imposing requirements that go beyond those required to implement the DBTs set forth in NRC's regulations and ordering the upgrade of security plans. Requiring these areas to be revisited again at this time is wholly unnecessary, would entail the needless expenditure of scarce regulatory resources, and could actually complicate emergency planning and the security upgrades the NRC has already imposed. Moreover, the requirement to promulgate new DBTs by rule is problematic, since notice and comment rulemaking would make public detailed security information that would provide invaluable assistance to potential terrorists and undermine the security of the nuclear facility and materials that need to be protected.

- Keeping access and training standards for employees of nuclear facilities current is clearly important, but the NRC does not require additional authority to review and update

such standards. In fact, under its existing authority, the NRC recently issued orders imposing new requirements in these areas.

- Issues of coordination between private security forces at nuclear facilities and State, local, and Federal emergency response agencies are best addressed by consensual agreements, rather than prescriptive legislation. NRC-licensed nuclear power plants already make agreements with local law enforcement authorities for response assistance. There is also no need for the appointment of a Federal Security Coordinator at each NRC region. NRC resident inspectors are able to perform the communication and coordination functions with other governmental authorities.

For all these reasons, the Commission opposes sections 2 and 3(a) of S. 1043.

- SECTION 4, OFFICE OF NUCLEAR SECURITY AND INCIDENT RESPONSE, security response evaluations, emergency response exercises. There is no need for statutory provisions on force-on-force exercises or on security response evaluations. NRC has already established a pilot program for force-on-force exercises at nuclear facilities, and such exercises have taken place in recent months. The NRC is currently evaluating the results of these exercises. There is also no need for statutory provisions that specify enforcement actions for failure to satisfy performance criteria. The NRC has ample enforcement authority to impose sanctions against licensees that fail to take corrective actions following notification of deficiencies in performance. In addition, NRC regulations require full scale emergency response exercises every two years and FEMA and NRC evaluate emergency preparedness using these exercises. There is no need for

statutory provisions on emergency response exercises. Finally, an Office of Nuclear Security and Incident Response was established within the NRC more than a year ago. Making the office and its duties statutory would have the undesirable result of depriving the Commission of needed flexibility to respond to evolving circumstances.

For all these reasons, the Commission opposes section 4 of S. 1043.

- SECTION 11, PROTECTION OF WHISTLEBLOWERS. With respect to extending whistleblower protection to NRC contractors and subcontractors, the Commission would point out that there are also government-wide procedures under 41 U.S.C. 265 to protect whistleblowers who are employees of NRC contractors with respect to reporting wrongdoing related to their contracts. The remedies include an independent investigation by the NRC's Office of the Inspector General and, in meritorious cases, award of appropriate relief, including reinstatement, monetary costs and expenses. Appeal is available to a U.S. Court of Appeals.

DRAFT BILL

To authorize the United States Nuclear Regulatory Commission to establish and operate a program to award scholarships and fellowships to undergraduate and graduate students, based on financial need, in science, engineering, law, or other critical skills academic areas and to establish an outreach program with Historically Black Colleges and Universities, Hispanic Serving Institutions, and Tribal Colleges for the performance of collaborative research and to enhance the capacity of these institutions to train and mentor personnel and students in science, engineering, law, or other critical skills academic areas at these institutions.

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

SECTION 1. SHORT TITLE

This Act may be cited as the "Nuclear Regulatory Commission Critical Regulatory Skills Recruitment and Retention Act of 2003."

SECTION 2. NRC SCHOLARSHIP AND FELLOWSHIP PROGRAM.

Chapter 19 of the Atomic Energy Act of 1954 (42 U.S.C. 2015 et seq.) is amended by inserting after section 241 the following:

“Sec. 242. Scholarship and Fellowship Program.

(a) The Commission is authorized to carry out a program for--

(1) awarding scholarships to undergraduate students who--

(A) are United States citizens in order to enable such students to study, for at least one academic semester or equivalent term, science, engineering, law, or another field of study that the Commission determines is in a critical skill area related to its regulatory mission; and

(B) pursuant to subsection (b) of this section, enter into an agreement to be employed by the Nuclear Regulatory Commission in the area of study for which the scholarship was awarded;

(2) awarding fellowships to graduate students who--

(A) are United States citizens to enable such students to pursue education as part of a graduate or professional degree program of a United States institution of higher education in science, engineering, law, or another field of study that the Commission determines is in a critical skill area related to its regulatory mission; and

(B) pursuant to subsection (b) of this section, enter into an agreement to be employed by the Nuclear Regulatory Commission in the area of study for which the fellowship was awarded.

(b) In awarding a scholarship or fellowship under this program, the Commission shall require a recipient of any scholarship or fellowship to enter into an agreement that, in return for such assistance, the recipient--

(1) will maintain satisfactory academic progress, as determined by the Commission, and agrees that failure to maintain such progress shall constitute grounds upon which the Commission may terminate such assistance;

(2) will, upon completion of such recipient's education under the program, and in accordance with such determinations by the Commission, be employed by the Nuclear Regulatory Commission for a period specified by the Commission, which period shall be not less than one and not more than three times the period for which the assistance was provided; and

(3) if the recipient fails to meet either of the obligations set forth in paragraph (1) or (2), will reimburse the United States Government for the entire amount of the assistance provided the recipient under the program, together with interest at a rate determined by the Commission.

(c) Recipients of awards of scholarships or fellowships pursuant to this section shall be selected on their financial need."

SECTION 3. PARTNERSHIP PROGRAM WITH HISTORICALLY BLACK COLLEGES AND UNIVERSITIES, HISPANIC SERVING INSTITUTIONS, AND TRIBAL COLLEGES.

Chapter 19 of the Atomic Energy Act of 1954 (42 U.S.C. 2015 et seq.) is amended by inserting after section 242 the following:

"Sec. 243. Partnership Program with Historically Black Colleges and Universities, Hispanic Serving Institutions, and Tribal Colleges.

(a) DEFINITIONS.--- In this section:

(1) HISPANIC SERVING INSTITUTIONS.--- The term "Hispanic Serving Institution" has the same meaning as given the term in section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101(a)).

(2) HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.--- The term "Historically Black Colleges and University" has the same meaning given the term "part B institution" in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

(3) TRIBAL COLLEGES.--- The term "Tribal Colleges" has the same meaning as given the term "tribally controlled college or university" in section 2(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)).

(4) ACTIVITIES---For purposes of the Partnership Program the term "activities" may include collaborative research, mentoring, and training activities conducted at Historically Black Colleges and Universities, Hispanic Serving Institutions, and Tribal Colleges, or at United States Nuclear Regulatory Commission's facilities.

(b) PARTNERSHIP PROGRAM.--- The Commission is authorized to establish and participate in outreach partnership programs in science, engineering, law, or other critical skill fields to increase the participation of Historically Black Colleges and Universities, Hispanic Serving Institutions, and Tribal Colleges in activities that will enhance their capacity to train personnel and students in science, engineering, law, or other fields of study that the Commission determines are critical to its regulatory mission.

SECTION ANALYSIS

Section 1 would entitle this Act the “Nuclear Regulatory Commission Critical Regulatory Skills Recruitment and Retention Act of 2003.”

Section 2 would authorize the United States Nuclear Regulatory Commission (NRC) to establish a scholarship and fellowship program. The NRC would be authorized, under this program, to award scholarships to undergraduates in institutions of higher learning who are United States citizens to enable them to study science, engineering, law, or other critical skills needed by the NRC to meet its regulatory mission. This program would also authorize the NRC to award fellowships to United States citizens who are graduate students, or students pursuing professional or post-graduate degrees in science, engineering, law, or other critical skills areas.

Recipients of these scholarships or fellowships would be required to enter into a written agreement with the NRC. In the agreement, the recipient shall agree to maintain satisfactory academic progress and that failure to maintain such progress shall constitute grounds for termination of the assistance. The recipient shall also agree to be employed by the NRC upon completion of the recipient’s education under the program in the area of study for which the scholarship or fellowship was granted for a period not less than one, and not more than three times, the period for which the assistance was provided. Failure to meet any of these requirements will require the recipient to reimburse the United States Government for the entire

amount of the assistance provided with interest. The award of scholarships or fellowships will be based on the financial need of the potential recipient.

Section 3(a) would define the terms Hispanic Serving Institutions, Historically Black Colleges and Universities as having the same meaning for those terms, respectively, in the Higher Education Act of 1965 and the term Tribal Colleges for the term “tribally controlled college or university” in the Tribally Controlled College or University Assistance Act of 1978.

The term “Activities,” for purposes of the Partnership Program in this Act, may include collaborative research, mentoring, and training activities conducted at Historically Black Colleges and Universities, Hispanic Serving Institutions, and Tribal Colleges or conducted at NRC facilities.

Section 3(b) would authorize the NRC to establish and participate in outreach science, engineering, or law partnership programs to increase the participation of Historically Black Colleges and Universities, Hispanic Serving Institutions, and Tribal Colleges in activities that will enhance their capacity to train personnel and students in science, engineering, law, or other critical fields needed by the NRC to meet its regulatory mission.