Message to the 105th South Carolina General Assembly

Nuclear Waste—Effective Policies for the Protection of Our State

Richard W. Riley, Governor
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Dear Mr. President and Members of the Senate:
Dear Speaker Schwartz and Members of the House of Representatives:

Four years ago South Carolina found itself in the position of being the sole solution to the nation's nuclear waste problem. We were receiving 90% of the nation's low level nuclear waste. A generation had passed, and we were still "temporarily" storing over 25 million gallons of high level nuclear waste at the Savannah River Plant. And then, in 1979, we faced the new prospect of a Federal AFR facility being established in our state to store spent nuclear fuel from around the nation.

We have made considerable progress in the past four years. We have reduced the amount of low level waste being buried at the Barnwell facility by 50%. We have strengthened our state laws and entered into written agreements with Federal officials governing the packaging and shipment of nuclear waste into and through our state. We have been successful in getting Congress to pass laws establishing national policy for high level and low level nuclear wastes, laws which are designed to bring about national solutions to the nation's problem rather than simply South Carolina solutions.

There is, however, much which remains to be done. In the enclosed Message I have outlined a number of specific actions which must be taken by the General Assembly and myself. I urge your action on these matters so that we can achieve our common goal: to protect the health and safety of our children and our childrens' children for generations to come.

Respectfully,

Richard W. Riley

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Enclosure
A. Low Level Waste Compact

In 1980, the Congress passed the Low Level Radioactive Waste Policy Act of 1980 (P.L. 96-573). This Act established a national policy which required state responsibility for assuring the safe management and disposal of low level radioactive waste and encouraged regional efforts to carry out this responsibility.

During 1981, South Carolina negotiated a proposed Southeastern Interstate Low Level Waste Compact with seven other southeastern states. In 1982, the General Assembly ratified this Compact after altering a number of the provisions in the proposed Compact. Further negotiations with the other southeastern states resulted in compromise language which has preserved the basic improvements made by the General Assembly last year. These amendments have been submitted to the General Assembly for adoption this session.

This Southeastern Compact preserves the full regulatory and fiscal control by the State of South Carolina over the state-owned disposal facility in Barnwell County. In accordance with the 1980 Act, it provides for the exclusion of low level waste generated outside the region from burial in the Southeast after January 1, 1986. Under the terms of the Compact, the Barnwell facility would serve as a regional disposal facility until 1992, at which time it would be replaced by a disposal facility located in another state in the region. The Compact also establishes clear benchmarks to measure progress toward establishing this successor disposal facility.

I urge the General Assembly to enact these amendments as expeditiously as possible so that we can submit this Compact to the United States Congress.
and seek Congressional consent. I believe it is important that we move forward with the implementation of the 1980 Act in order to demonstrate to Congress and the other regions in the country that South Carolina expects all states and regions to fulfill their responsibilities under the law to provide their own means for the handling and the disposal of their low level radioactive waste.

B. Spent Nuclear Fuel

In early 1979, the United States Department of Energy submitted proposed legislation to the United States Congress which would have authorized the establishment of three or more Federal facilities for the away-from-reactor (AFR) storage of commercial spent nuclear fuel. At the time I stated my opposition to this proposal on two grounds: that such facilities were not needed and that assigning this responsibility to the Federal government would inevitably divert attention and resources away from the government’s primary responsibility to seek a permanent solution to the high level waste disposal problem in our nation.

By Joint Resolution 202 (March 26, 1981) the General Assembly established a Committee to Officially Consult with the Federal Government Concerning the Establishment of an AFR Facility in South Carolina (see Appendix A for the text of J.R. 202). The Committee, which is chaired by the Governor, is comprised of the President of the Senate and the Speaker of the House, or their designees, two members of the Senate and two members of the House, and two persons appointed by the Governor (see Appendix B for a list of the membership of the Committee). Joint Resolution 202 also required that any proposal to establish an AFR storage facility in South Carolina would have to be approved by a joint resolution of the General Assembly before the facility could be established.
In December of 1982, Congress passed the Nuclear Waste Policy Act of 1982 (P.L. 97-425). This law authorized a "last resort" Federal storage program for commercial spent fuel from utilities which "can not reasonably" provide the storage needed to maintain operation of their nuclear power reactors. Although the law precludes the use of the Allied General Nuclear Services facility in Barnwell County for such AFR storage, other Federal facilities within the state could be eligible for such spent fuel storage.

Today, February 17, this AFR Consultation Committee is conducting a public meeting at which representatives of the United States Department of Energy, the United States Nuclear Regulatory Commission, Duke Power Company, Carolina Power and Light Company, and South Carolina Electric and Gas Company will testify as to how each of their organizations plans to implement its responsibilities for the management and storage of spent fuel as defined in the 1982 Act. Following this meeting, the Committee will take such actions as it deems appropriate to fulfill its responsibilities as authorized by the General Assembly.

The Committee will keep the General Assembly fully informed of actions by the utilities and the Federal government under the spent fuel provisions of P.L. 97-425 in order to insure that South Carolina does not become the "first" resort storage location for the nation's spent nuclear fuel.

It is my belief that the utilities have available to them the means by which they can manage their own spent fuel. The 1982 Act required the utilities to "diligently" pursue all of these alternative storage methodologies. I will work with the General Assembly and other state officials to insure that utilities carry out this responsibility in
the safest and most efficient manner possible.

C. High Level Nuclear Waste

For a generation now South Carolina has played host to the "temporary" storage of liquid high level waste at the Savannah River Plant. This accumulated waste is now approaching 30 million gallons. I urge the members of the General Assembly to continue to work with me to support our Congressional delegation in its efforts to secure the necessary funding for the waste solidification facility at the Savannah River Plant. This facility is essential in order to insure the processing and packaging of these wastes for disposal in a permanent repository.

South Carolina now faces another prospect with respect to high level waste. The Nuclear Waste Policy Act of 1982 established a program and a schedule for the development of permanent repositories for high level waste. The Act required that the President recommend two such facilities, one in 1987 and the second in 1990. Under the terms of the Act, the first repository is expected to be proposed either in the Gulf States region or in the western United States; while the program schedule is designed to give preference to siting the second repository in crystalline rock (granite). South Carolina is one of eighteen states which are included in the Department of Energy's crystalline program for repository siting.

Under the terms of the 1982 Act, extensive procedures are spelled out for state participation in the repository program. These procedures envision extensive consultations by Federal officials with the governors and the state legislatures in the states included in this program.

The AFR Consultation Committee was established by the General Assembly to deal with the subject of spent fuel storage by the Federal government.
Since this mandate must now be exercised under the provisions of P.L. 97-425, since P.L. 97-425 also defines the Federal government's repository development program and the state's role in that program, and since the AFR Committee is an existing vehicle for joint executive-legislative action in consultations with Federal officials, I am proposing that the AFR Committee broaden the scope of its efforts to begin the process of consultation with Federal officials on South Carolina's role in the national high level waste repository program.

By October 1, 1983, the Committee will report to the General Assembly recommendations for an appropriate course of action for continued state executive-legislative consultations with the Federal government on the repository program. Among the alternatives which will be considered by the Committee will be an amendment to Joint Resolution 202 to broaden the mandate of the Committee to cover all aspects of Federal-State relations defined in P.L. 97-425 or a proposal to establish a separate executive-legislative mechanism for consultations on the high level waste program.

D. Other Issues

There are several other aspects of nuclear waste and nuclear technology generally which state officials are currently acting on or will be required to take action. These include

-- My request to the Secretary of Energy to conduct an EIS on the restart of the L-Reactor at the Savannah River Plant and the Attorney General's participation in a federal lawsuit seeking similar relief.
-- The Reagan Administration's decision to discontinue further funding for the Allied General Nuclear Services reprocessing plant in Barnwell County, and the apparent lack of interest on the part of the nuclear industry to provide the necessary funding for the plant.

-- A proposal, which I will be submitting in the coming weeks, for a tax to be levied on the low level waste which is buried at the state-owned facility in Barnwell County; the revenues from this tax to be directed primarily toward the funding of local infrastructure needs in counties, cities, towns, and special purpose districts throughout the state.

I will keep the General Assembly fully informed of whatever action I take on these and related matters, and I will seek your support and cooperation to insure that South Carolina will never again become the single state solution to the nation's nuclear waste problem.
APPENDIX A

Joint Resolution 202

(R46, H2357) No. 202

A Joint Resolution To Establish A Committee To Officially Consult With The Federal Government Concerning The Establishment Of An Away-From-Reactor Storage Facility In South Carolina For Spent Nuclear Fuel Produced By Utilities With No Operations In The State, And To Require That The Establishment Of Any Away-From-Reactor Storage Facility Must Be Approved By A Joint Resolution Voted Upon Favorably By A Majority Of The Membership Of Both The Senate And The House Of Representatives.

Whereas, the General Assembly of the State of South Carolina passed a Concurrent Resolution in 1989 creating a committee to consult with the Federal Government; and

Whereas, United States Senators Strom Thurmond and Ernest F. Hollings placed the Concurrent Resolution of the General Assembly of South Carolina in the Congressional Record; and

Whereas, it is now deemed advisable to have such committee created on a more permanent basis by a Joint Resolution of the General Assembly; and

Whereas, the General Assembly of the State of South Carolina finds that this State, as a sovereign state of these United States, has a duty and a responsibility guaranteed by the reservation of powers unto it in the Tenth Amendment of the Constitution of the United States to protect and insure the health, safety and welfare of its citizens; and

Whereas, the General Assembly further finds that no decisions have yet been made by the Federal Government regarding the disposition of spent fuel or high-level radioactive waste; and

Whereas, the General Assembly further finds that there are many technical, legal, environmental, economic and social issues which must be resolved before a permanent repository for high-level radioactive waste and an interim storage terminal for spent fuel can be established; and

Whereas, the General Assembly further finds that the principles of equity require that serious consideration be given to an even distribution of the responsibilities and burdens of having nuclear waste storage facilities within any given state; and

Whereas, the State of South Carolina is already storing more than its proportionate share of radioactive waste and materials. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:
Committee established

Section 1. There is hereby established the Committee to Consult on Away-From-Reactor Storage to officially consult with the Federal Government concerning the establishment of an away-from-reactor facility in South Carolina for spent nuclear fuel produced by utilities with no operations in the State. This committee shall study, report and make recommendations to the General Assembly. The committee shall consist of nine members and shall include the Governor, who shall serve as chairman, the Speaker of the House or his House designee, two members of the House of Representatives to be appointed by the Speaker of the House, the President of the Senate or his Senate designee, two members of the Senate to be appointed by the President of the Senate, and two members to be appointed by the Governor. The members shall serve at the pleasure of their appointers, without compensation, and shall meet not less than twice annually and at other times upon call of the chairman.

State agencies, etc., to cooperate with committee

Section 2. The Department of Health and Environmental Control, the Governor’s Nuclear Advisory Council, the Joint Legislative Committee on Energy and such other state agencies, boards and commissions as may be required, shall cooperate with and provide information and assistance to the committee.

Storage facility must be approved by Joint Resolution

Section 3. Through June 30, 1990, the establishment of an away-from-reactor storage facility for commercial spent fuel produced by utilities with no operations in the State of South Carolina must be approved by a Joint Resolution of the General Assembly which receives a favorable vote of a majority of the total membership in both the Senate and the House of Representatives.

Committee to be dissolved

Section 4. The Committee to Consult on Away-From-Reactor Storage shall exist until June 30, 1990, at which time it shall dissolve.

State’s role in use of Barnwell Nuclear Fuel Plant

Section 5. This act shall not be construed as applying in any way, or having any effect upon, questions involving the state’s role in the possible use of the Barnwell Nuclear Fuel Plant as a reprocessing facility.

Time effective

Section 6. This act shall take effect upon approval by the Governor.

Approved the 26th day of March, 1981.
APPENDIX B

The Committee to Officially Consult with the Federal Government Concerning the Establishment of An Away-From-Reactor Storage Facility in South Carolina

Established by Joint Resolution No. 202 of the South Carolina General Assembly (March 26, 1981)

Governor Richard W. Riley, Chairman
Lieutenant Governor Michael R. Daniel
Senator Alex Sanders
Senator Thomas L. Moore
Representative Harriet H. Keyserling
Representative Palmer Freeman, Jr.
Representative David H. Wilkins
Dr. Bernard Graham
Ms. Mary Crum