

Detailed Changes from H.R. 3053, as reported, to Rules Committee Print 115-69

- Changed throughout the bill, the short title is amended from Nuclear Waste Policy Amendments Act of 2017 to 2018.
- [Section 103] Technical correction on reference to standard contract from 10 CFR 691.11 to 10 CFR 961.11
 - Reported bill: p. 10 line 6 and line 14
 - RCP: p. 8, line 18 and p. 9, line 1
- [Section 103] Removed requirement for Secretary of Energy to consult with Chairman of the Nuclear Regulatory Commission to comply with rules governing licensing proceedings.
 - Reported bill: p. 10, lines 23-25.
 - RCP: p. 9, line 10
- [Section 402] Revised the amount of included on the benefits schedule for repository payments for (B) “first fuel receipt” and (C) “Annual payments after first spent fuel receipt until closure of the facility.”
 - Reported bill: p. 32 “benefits schedule” table
 - RCP: p. 31 “benefits schedule” table
 - *Purpose* – The revision was made due to the removal of Section 504 from the reported bill that would have made these approximate amounts made available without further appropriation. This maintains the minimum level of funding for benefits agreements while shifting the cost to appropriations acts.
- [Section 402] Amend section 171(c) of the Nuclear Waste Policy Act of 1982 to clarify that any benefits payments made under the benefits schedule in section 171 is only “to the extent that all amounts for that purpose are provided in advance in subsequent appropriations Acts.”
 - Reported bill, p. 33, lines 19-25.
 - RCP: p. 32 line 32 through p. 33, line 4
 - *Purpose* – CBO determined that the NWPA needed to be amended with this clarifying language to assure that the Federal government would not be held legally liable if benefits funding is not appropriated because of a contractual obligation by the Department of Energy. A contractual obligation and the potential for follow-on litigation is considered mandatory spending. This revision addresses one of the “PAYGO” issues identified in CBO’s cost estimate of the reported version of H.R. 3053.
- [Section 403] Amended the authorizing language for “benefits to which a covered unit of local government is entitled under this Act to “benefits that a covered unit of local government may receive under this Act...”
 - Reported bill: p. 34 lines 13-14
 - RCP: p. 33, lines 17-18
 - *Purpose* – CBO considered “is entitled” to constitute a legal binding legal commitment regardless of an annual appropriations, therefore classified this agreements as mandatory spending and subjected to PAYGO requirements.

- [Section 403] Revised the amendment to section 170(a)(4) of the NWPA to clarify that benefits agreements “may be made available only in accordance with such benefits agreement and to the extent that all amounts for that purpose are provided in advance in subsequent appropriations Acts.”
 - Reported bill: p. 35 line 20 through p. 36 line 3
 - RCP: p. 35 lines 1-10
 - *Purpose:* CBO determined that the NWPA needed to be amended with this clarifying language to assure that the Federal government would not be held legally liable if benefits funding is not appropriated because of a contractual obligation by the Department of Energy. A contractual obligation and the potential for follow-on litigation is considered mandatory spending. This revision addresses one of the “PAYGO” issues identified in CBO’s cost estimate of the reported version of H.R. 3053.
- [Section 501] Added language clarifying that the provision limiting fee collection to 90% is not applicable if the balance of the Waste Fund is zero.
 - Reported bill: p. 41, after line 16
 - RCP: p. 40, lines 17-20.
 - *Purpose:* If the balance of the Waste Fund is zero, Congress would not be able to meet the required additional appropriation under subparagraph (A).
- [Section 504] Remove provisions that made certain amounts of the Nuclear Waste Fund available without further appropriation and insert clarification regarding the treatment of future fee collections.
 - Reported bill: p. 43, line 16 through p. 45, line 15
 - RCP: p. 43, line 5 through p. 45, line 3.
 - *Purpose:* The reported bill included discreet amounts of funding available without further appropriation over the course of the repository program for certain site-specific activities. The revision removes those spending provisions and replaces with three new policies:
 - [p. 43, lines 9-22] Requiring that funding for benefits agreements relating to a repository for 1.) when first spent fuel is received at the repository and 2.) annual payments thereafter receive priority funding. This will provide assurance to the host state that, despite being subject to appropriations, there will be certainty in payments of the benefits funding.
 - [p. 43, line 23 through p. 44, line 12] The revised language credits fees that are collected after enactment of the legislation be credited as “offsetting collections” as appropriated for activities to be funded from the Waste Fund. The fees would be classified to discretionary accounts for the purposes of appropriations.
 - [P. 44, line 13 through p. 45, line 3] The Estimates section instructs the Congressional Budget Office to score future fees as a credit to appropriations bills. Once the fees go into the Nuclear Waste Fund, appropriations will be able to offset spending using those collected fees. This mechanism allows the fees and appropriations to be tied together,

operating in unison year-to-year, making collections and spending have a close relationship. Since CBO is the official scorekeeper for Congress, this section makes sure they record the cash flows as intended in the bill.

- [Section 608]: Adds a new section titled “Direct Budgetary Effects”
 - Reported bill: n/a
 - RCP: p. 51, line 3-13.
 - *Purpose*: PAYGO is a budget enforcement mechanism that protects against legislation that increases deficits. Changes to mandatory spending and/or revenues are enforced by PAYGO. The Office of Management and Budget tracks Statutory PAYGO and the Senate follows separate, but similar PAYGO rules. Because nuclear waste fees are recorded in the budget as mandatory receipts, PAYGO procedures apply because H.R. 3053 would affect direct spending.