

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

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No. 1541

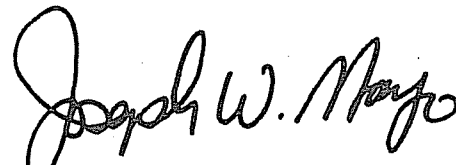
H.P. 1141

House of Representatives, May 26, 1993

**An Act Authorizing a Referendum to Ratify the Texas Low-Level
Radioactive Waste Disposal Compact with Maine and Vermont and
Approving the Compact's Terms.**

(EMERGENCY)

Reference to the Committee on Energy and Natural Resources suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Speaker MARTIN of Eagle Lake. (GOVERNOR'S BILL)
Cosponsored by Representatives: GWADOSKY of Fairfield, JACQUES of Waterville, LORD
of Waterboro, PARADIS of Augusta, WHITCOMB of Waldo, ZIRNKILTON of Mount Desert,
Senators: BUSTIN of Kennebec, CAHILL of Sagadahoc, CARPENTER of York,
DUTREMBLE of York, ESTY of Cumberland, LAWRENCE of York, LUDWIG of Aroostook.

2 2. Comply with legislative intent. Fulfill the intent of
3 section 1474;

4 3. Enact an interstate compact. Enact an interstate
5 compact for the disposal of all low-level radioactive waste
6 generated in the State that is not a federal responsibility under
7 the federal Low-Level Radioactive Waste Policy Amendments Act of
8 1985; and

10 4. Ensure equitable funding. Ensure that the funding of
11 the compact enacted by this Act is borne by the generators of
12 this waste.

14 §1518. Member of commission

16 The Governor shall appoint a person to represent the State
17 on the commission established by Article III of the Texas
18 Low-Level Radioactive Waste Disposal Compact referred to in this
19 chapter as the "compact." The Governor may appoint an alternate
20 for the commission member appointed under this section.

22 §1519. Term of commission member

24 The commission member serves for a term of 6 years and until
25 a successor is appointed and qualified. If there is a vacancy in
26 the commission member's office, the Governor shall appoint a
27 replacement to fill the unexpired term.

28 §1520. Compensation of commission member

30 The commission member is entitled to compensation at the
31 rate established for legislative per diem in Title 5, section
32 12002 and for reimbursement for actual and necessary expenses
33 incurred in the performance of the commission member's duties.
34 If a state employee is appointed as a commission member, that
35 state employee is not entitled to the legislative per diem.

38 §1520-A. Assessment for compact costs

40 The Maine Low-level Radioactive Waste Authority, as
41 established by this chapter, shall assess any nuclear plant
42 within the State for the full costs of membership and
43 participation in the Texas Low-Level Radioactive Waste Disposal
44 Compact, subject to the provisions of Articles IV and V of that
45 agreement. The assessments charged to the nuclear power plant
46 are deemed just and reasonable operating costs for retail
47 utilities in this State and may be deferred for recovery in
48 future rate proceedings. Assessments billed pursuant to this
49 section must be forwarded to the Texas Low-Level Radioactive
50 Waste Disposal Authority.

2 1. Initial assessments. The Maine Low-level Radioactive
4 Waste Authority shall bill an initial assessment in the amount of
6 \$12,500,000 within 30 days following ratification of the compact
8 agreement by the Congress of the United States. The amount
10 assessed must be paid within 15 days of assessment.

12 The Maine Low-level Radioactive Waste Authority shall bill a 2nd
14 assessment in the amount of \$12,500,000 within 30 days following
16 the date of the opening of the compact facility in Texas. The
18 amount assessed must be paid within 15 days of assessment.

20 2. Host county assessments. The Maine Low-level
22 Radioactive Waste Authority shall bill an initial host county
24 assessment in the amount of \$1,250,000 no later than 3 working
26 days following ratification of the compact agreement by the
28 Congress of the United States. The amount assessed must be paid
30 within 10 days of assessment.

32 The Maine Low-level Radioactive Waste Authority shall bill a 2nd
34 host county assessment in the amount of \$1,250,000 no later than
36 3 working days following the approval of a facility operating
38 license by the Texas Water Commission.

40 3. Pro rata shares of compact commission's operating
42 budget. On an annual basis or on any other schedule established
44 by the Texas Low-Level Radioactive Waste Disposal Compact
46 Commission, the State's share of the administrative, legal and
48 other expenses budgeted for the operation of the compact
50 commission must be assessed by the Maine Low-level Radioactive
52 Waste Authority. Amounts assessed under this section must be
paid within 30 days of assessment.

4. Limitation. Any payment under the compact established
by this Act must be paid from funds available as a result of
assessments levied pursuant to this section. In the event that
sufficient funds are not available from those assessments,
payments may not be made for this purpose from the General Fund
or any other state account without specific legislative
approval. A fee may not be charged for an indirect cost rate or
as a handling charge by any agency of the State during the time
that the funds are in the possession of the Authority.

5. Alternative payment schedule. In accordance with
section 5.02 of the compact agreement and if so designated by the
Texas Low-Level Radioactive Waste Disposal Compact Commission,
the schedule for assessments by the Maine Low-level Radioactive
Waste Authority to be forwarded to the Texas Low-Level
Radioactive Waste Disposal Authority under subsection 1 must be
revised to conform to the payment schedule for the repayment of
debt incurred for the construction of the Texas disposal
facility. An amount may not be assessed pursuant to this
subsection on less than 30 days notice and a payment may not be
required in less than 15 days from the date of assessment.

2 **6. Surcharge.** Beginning on June 30 of the first year
4 following commencement of operations at the compact facility, the
6 Maine Low-Level Radioactive Waste Authority shall assess a
8 surcharge for waste disposed of by any generator who has not been
10 assessed for compact cost pursuant to subsections 1 and 2. The
12 surcharge must be refunded to any generator who was assessed and
14 made payments pursuant to subsections 1 and 2. The surcharge
16 must be assessed based on a 30-year facility life and be based on
18 the amount of waste disposed of at the compact facility in the
20 previous calendar year. Upon commencement of operations of the
22 compact facility, the Maine Low-level Radioactive Waste Authority
24 shall adopt rules to govern the calculation of the surcharge so
26 that each generator is assessed pro rata shares of the cost of
28 the assessment under subsections 1 and 2.

16 **§1520-B. Unspent balances**

18 If the Maine Low-level Radioactive Waste Authority retains
20 in its Low-level Radioactive Waste Facility Fund an unspent
22 balance of assessments previously paid by any nuclear plant
24 within the State, the unspent balance must be used in order to
26 reduce, offset or eliminate any portion of the costs assessed
28 under section 1520-A, subsection 1, 2 or 3, except that this
30 section does not apply to the assessment and disbursement of
32 administrative costs under section 1534-A.

28 **§1520-C. Nondiscrimination in access**

30 An existing generator of low-level radioactive waste in this
32 State, including any nuclear plant, may not be discriminated
34 against with respect to access to disposal capacity at the
36 compact facility.

36 **Sec. 2. Texas Low-Level Radioactive Waste Disposal Compact**
38 **ratified.** The Legislature ratifies, endorses and recommends for
40 approval by a majority of the voters in accordance with the Maine
42 Revised Statutes, Title 38, section 1494, the Texas Low-Level
Radioactive Waste Disposal Compact to provide access to
facilities in the State of Texas for the disposal of all
low-level radioactive waste generated in this State over a
30-year period.

44 **Sec. 3. Text of Texas Low-Level Radioactive Waste Disposal**
46 **Compact.** The text of the Texas Low-Level Radioactive Waste
48 Disposal Compact, referred to in the Maine Revised Statutes,
Title 38, section 1520-A is as follows.

50 TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT

ARTICLE I. POLICY AND PURPOSE

2
3 Sec. 1.01 The party states recognize a responsibility for
4 each state to seek to manage low-level radioactive waste
5 generated within its boundaries, pursuant to the Low-Level
6 Radioactive Waste Policy Act, as amended by the Low-Level
7 Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. Secs.
8 2021b-2021j). They also recognize that the United States
9 Congress, by enacting the Act, has authorized and encouraged
10 states to enter into compacts for the efficient management and
11 disposal of low-level radioactive waste. It is the policy of the
12 party states to cooperate in the protection of the health,
13 safety, and welfare of their citizens and the environment and to
14 provide for and encourage the economical management and disposal
15 of low-level radioactive waste. It is the purpose of this
16 compact to provide the framework for such a cooperative effort;
17 to promote the health, safety, and welfare of the citizens and
18 the environment of the party states; to limit the number of
19 facilities needed to effectively, efficiently, and economically
20 manage low-level radioactive waste and to encourage the reduction
21 of the generation thereof; and to distribute the costs, benefits,
22 and obligations among the party states; all in accordance with
23 the terms of this compact.

24
25 ARTICLE II. DEFINITIONS

26
27 Sec. 2.01. As used in this compact, unless the context
28 clearly indicates otherwise, the following definitions apply:

29 (1) "Act" means the Low-Level Radioactive Waste Policy
30 Act, as amended by the Low-Level Radioactive Waste Policy
31 Amendments Act of 1985 (42 U.S.C. Secs. 2021b-2021j).

32 (2) "Commission" means the Texas Low-Level Radioactive
33 Waste Disposal Compact Commission established in Article III of
34 this compact.

35 (3) "Compact facility" or "facility" means any site,
36 location, structure, or property located in and provided by the
37 host state for the purpose of management or disposal of low-level
38 radioactive waste for which the party states are responsible.

39 (4) "Disposal" means the permanent isolation of
40 low-level radioactive waste pursuant to requirements established
41 by the United States Nuclear Regulatory Commission and the United
42 States Environmental Protection Agency under applicable laws, or
43 by the host state.

44 (5) "Generate," when used in relation to low-level
45 radioactive waste, means to produce low-level radioactive waste.
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2 (6) "Generator" means a person who produces or
processes low-level radioactive waste in the course of its
4 activities, excluding persons who arrange for the collection,
transportation, management, treatment, storage, or disposal of
6 waste generated outside the party states, unless approved by the
commission.

8 (7) "Host county" means a county in the host state in
which a disposal facility is located or is being developed.

10 (8) "Host state" means a party state in which a
compact facility is located or is being developed. The State of
12 Texas is the host state under this compact.

14 (9) "Institutional control period" means that period
16 of time following closure of the facility and transfer of the
facility license from the operator to the custodial agency in
18 compliance with the appropriate regulations for long-term
observation and maintenance.

20 (10) "Low-Level radioactive waste" has the same
22 meaning as that term is defined in Section 2(9) of the Act (42
U.S.C. Sec. 2021b(9)), or in the host state statute so long as
24 the waste is not incompatible with management and disposal at the
compact facility.

26 (11) "Management" means collection, consolidation,
28 storage, packaging, or treatment.

30 (12) "Operator" means a person who operates a disposal
facility.

32 (13) "Party state" means any state that has become a
34 party in accordance with Article VII of this compact. Texas,
Maine, and Vermont are initial party states under this compact.

36 (14) "Person" means an individual, corporation,
38 partnership or other legal entity, whether public or private.

40 (15) "Transporter" means a person who transports
42 low-level radioactive waste.

44 ARTICLE III. THE COMMISSION

46 Sec. 3.01. There is hereby established the Texas Low-Level
Radioactive Waste Disposal Compact Commission. The commission
48 shall consist of one voting members from each party state except
that the host state shall be entitled to six voting members.
Commission members shall be appointed by the party state
50 governors, as provided by the laws of each party state. Each
party state may provide alternates for each appointed member.
52

2 Sec. 3.02. A quorum of the commission consists of a
majority of the members. Except as otherwise provided in this
compact, an official act of the commission must receive the
4 affirmative vote of a majority of its members.

6 Sec. 3.03. The commission is a legal entity separate and
distinct from the party states and has governmental immunity to
8 the same extent as an entity created under the authority of
Article XVI, Section 59, of the Texas Constitution. Members of
10 the commission shall not be personally liable for actions taken
in their official capacity. The liabilities of the commission
12 shall not be deemed liabilities of the party states.

14 Sec. 3.04. The commission shall:

16 (1) Compensate its members according to the host
state's law.

18 (2) Conduct its business, hold meetings, and maintain
20 public records pursuant to laws of the host state, except that
notice of public meetings shall be given in the non-host party
22 states in accordance with their respective statutes.

24 (3) Be located in the capital city of the host state.

26 (4) Meet at least once a year and upon the call of the
chair, or any member. The governor of the host state shall
28 appoint a chair and vice-chair.

30 (5) Keep an accurate account of all receipts and
disbursements. An annual audit of the books of the commission
32 shall be conducted by an independent certified public accountant,
and the audit report shall be made a part of the annual report of
34 the commission.

36 (6) Approve a budget each year and establish a fiscal
year that conforms to the fiscal year of the host state.

38 (7) Prepare, adopt, and implement contingency plans
40 for the disposal and management of low-level radioactive waste in
the event that the compact facility should be closed. Any plan
42 which requires the host state to store or otherwise manage the
low-level radioactive waste from all the party states must be
44 approved by at least four host state members of the commission.
The commission, in a contingency plan or otherwise, may not
46 require a non-host party state to store low-level radioactive
waste generated outside of the state.

48 (8) Submit communications to the governors and to the
50 presiding officers of the legislatures of the party states
regarding the activities of the commission, including an annual
52 report to be submitted on or before January 31 of each year.

2 (9) Assemble and make available to the party states,
4 and to the public, information concerning low-level radioactive
waste management needs, technologies, and problems.

6 (10) Keep a current inventory of all generators within
8 the party states, based upon information provided by the party
states.

10 (11) By no later than 180 days after all members of
12 the commission are appointed under Article III, Section 3.01,
establish by rule the total volume of low-level radioactive waste
14 that the host state will dispose of in the compact facility in
the years 1995-2045, including decommissioning waste. The
16 shipments of low-level radioactive waste from all non-host party
states shall not exceed 20 percent of the volume estimated to be
18 disposed of by the host state during the 50-year period. When
averaged over such 50-year period, the total of all shipments
20 from non-host party states shall not exceed 20,000 cubic feet a
year. The commission shall coordinate the volumes, timing, and
22 frequency of shipments from generators in the non-host party
states in order to assure that over the life of this agreement
24 shipments from the non-host party states do not exceed 20 percent
of the volume projected by the commission under this paragraph.

26 Sec. 3.05. The commission may:

28 (1) Employ staff necessary to carry out its duties and
30 functions. The commission is authorized to use to the extent
practicable the services of existing employees of the party
32 states. Compensation shall be as determined by the commission.

34 (2) Accept any grants, equipment, supplies, materials,
or services, conditional or otherwise, from the federal or state
36 government. The nature, amount and condition, if any, of any
donation, grant or other resources accepted pursuant to this
38 paragraph and the identity of the donor or grantor shall be
detailed in the annual report of the commission.

40 (3) Enter into contracts to carry out its duties and
42 authority, subject to projected resources. No contract made by
the commission shall bind a party state.

44 (4) Adopt, by a majority vote, bylaws and rules
46 necessary to carry out the terms of this compact. Any rules
promulgated by the commission shall be adopted in accordance with
48 the Administrative Procedure and Texas Register Act (Article
6252-13a, Vernon's Texas Civil Statutes).

50 (5) Sue and be sued and, when authorized by a majority
52 vote of the members, seek to intervene in administrative or
judicial proceedings related to this compact.

2 (6) Enter into an agreement with any person, state,
3 regional body, or group of states for the importation of
4 low-level radioactive waste into the compact for management or
5 disposal, provided that the agreement receives a majority vote of
6 the commission. The commission may adopt such conditions and
7 restrictions in the agreement as it deems advisable.

8
9 (7) Upon petition, allow an individual generator, a
10 group of generators, or the host state of the compact, to export
11 low-level waste to a low-level radioactive waste disposal
12 facility located outside the party states. The commission may
13 approve the petition only by a majority vote of its members. The
14 permission to export low-level radioactive waste shall be
15 effective for that period of time and for the specified amount of
16 low-level radioactive waste, and subject to any other term or
17 condition, as is determined by the commission.

18
19 (8) Monitor the exportation outside of the party
20 states of material, which otherwise meets the criteria of
21 low-level radioactive waste, where the sole purpose of the
22 exportation is to manage or process the material for recycling or
23 waste reduction and return it to the party states for disposal in
24 the compact facility.

25
26 Sec. 3.06. Jurisdiction and venue of any action contesting
27 any action of the commission shall be in the United States
28 District Court in the district where the commission maintains its
29 office.

30
31 ARTICLE IV. RIGHTS, RESPONSIBILITIES, AND OBLIGATIONS

32
33 OF PARTY STATES

34
35 Sec. 4.01. The host state shall develop and have full
36 administrative control over the development, management and
37 operation of a facility for the disposal of low-level radioactive
38 waste generated within the party states. The host state shall be
39 entitled to unlimited use of the facility over its operating
40 life. Use of the facility by the non-host party states for
41 disposal of low-level radioactive waste, including such waste
42 resulting from decommissioning of any nuclear electric generation
43 facilities located in the party states, is limited to the volume
44 requirements of Section 3.04(11) of Article III.

45
46 Sec. 4.02. Low-level radioactive waste generated within the
47 party states shall be disposed of only at the compact facility,
48 except as provided in Section 3.105(7) of Article III.

49
50 Sec. 4.03. The initial party states of this compact cannot
51 be members of another low-level radioactive waste compact entered
52 into pursuant to the Act.

2 Sec. 4.04. The host state shall do the following:

4 (1) Cause a facility to be developed in a timely
6 manner and operated and maintained through the institutional
 control period.

8 (2) Ensure, consistent with any applicable federal and
10 host state laws, the protection and preservation of the
12 environment and the public health and safety in the siting,
 design, development, licensing, regulation, operation, closure,
 decommissioning, and long-term care of the disposal facilities
14 within the host state.

16 (3) Close the facility when reasonably necessary to
18 protect the public health and safety of its citizens or to
20 protect its natural resources from harm. However, the host state
 shall notify the commission of the closure within three days of
 its action and shall, within 30 working days of its action,
 provide a written explanation to the commission of the closure,
 and implement any adopted contingency plan.

22 (4) Establish reasonable fees for disposal at the
24 facility of low-level radioactive waste generated in the party
26 states based on disposal fee criteria set out in Sections 402.272
28 and 402.273, Texas Health and Safety Code. The same fees shall
30 be charged for the disposal of low-level radioactive waste that
 was generated in the host state and in the non-host party
 states. Fees shall also be sufficient to reasonably support the
 activities of the commission.

32 (5) Submit an annual report to the commission on the
34 status of the facility, including projections of the facility's
 anticipated future capacity, and on the related funds.

36 (6) Notify the Commission immediately upon the
38 occurrence of any event which could cause a possible temporary or
40 permanent closure of the facility and identify all reasonable
 options for the disposal of low-level radioactive waste at
 alternate compact facilities or, by arrangement and commission
 vote, at noncompact facilities.

42 (7) Promptly notify the other party states of any
44 legal action involving the facility.

46 (8) Identify and regulate, in accordance with federal
48 and host state law, the means and routes of transportation of
 low-level radioactive waste in the host state.

50 Sec. 4.05. Each party state shall do the following:

2 (1) Develop and enforce procedures requiring low-level
radioactive waste shipments originating within its borders and
4 destined for the facility to conform to packaging, processing,
and waste form specifications of the host state.

6 (2) Maintain a registry of all generators within the
state that may have low-level radioactive waste to be disposed of
8 at a facility, including, but not limited to, the amount of
low-level radioactive waste and the class of low-level
10 radioactive waste generated by each generator.

12 (3) Develop and enforce procedures requiring
generators within its borders to minimize the volume of low-level
14 radioactive waste requiring disposal. Nothing in this compact
shall prohibit the storage, treatment, or management of waste by
16 a generator.

18 (4) Provide the commission with any data and
information necessary for the implementation of the commission's
20 responsibilities, including taking those actions necessary to
obtain this data or information.

22 (5) Pay for community assistance projects designated
24 by the host county in an amount for each non-host party state
equal to 10 percent of the payment provided for in Article V for
26 each such state. One-half of the payment shall be due and
payable to the host county on the first day of the month
28 following ratification of this compact agreement by Congress and
one-half of the payment shall be due and payable on the first day
30 of the month following the approval of a facility operating
license by the host state's regulatory body.

32 (6) Provide financial support for the commission's
34 activities prior to the date of facility operation and subsequent
to the date of congressional ratification of this compact under
36 Section 7.07 of Article VII. Each party state will be
responsible for annual payments equalling its pro-rata share of
38 the commission's expenses, incurred for administrative, legal,
and other purposes of the commission.

40 (7) If agreed by all parties to a dispute, submit the
42 dispute to arbitration or other alternate dispute resolution
process. If arbitration is agreed upon, the governor of each
44 party state shall appoint an arbitrator. If the number of party
states is an even number, the arbitrators so chosen shall appoint
46 an additional arbitrator. The determination of a majority of the
arbitrators shall be binding on the party states. Arbitration
48 proceedings shall be conducted in accordance with the provisions
of 9 U.S.C. Sections 1-16. If all parties to a dispute do not
50 agree to arbitration or alternate dispute resolution process, the

2 United States District Court in the district where the commission
maintains its office shall have original jurisdiction over any
4 action between or among parties to this compact.

6 (8) Provide on a regular basis to the commission and
host state:

8 (A) an accounting of waste shipped and proposed
to be shipped to the compact facility, by volume and curies;

10 (B) proposed transportation methods and routes;
and

12 (C) proposed shipment schedules.

14 (9) Seek to join in any legal action by or against the
host state to prevent nonparty states or generators from
16 disposing of low-level radioactive waste at the facility.

18 Sec. 4.06. Each party state shall act in good faith and may
rely on the good faith performance of the other party states
20 regarding requirements of this compact.

22 ARTICLE V. PARTY STATE CONTRIBUTIONS

24 Sec. 5.01. Each party state, except the host state, shall
contribute a total of \$25 million to the host state. Payments
26 shall be deposited in the host state treasury to the credit of
the low-level waste fund in the following manner except as
28 otherwise provided. Not later than the 60th day after the date
of congressional ratification of this compact, each non-host
30 party state shall pay to the host state \$12.5 million. Not later
than the 60th day after the date of the opening of the compact
32 facility, each non-host party state shall pay to the host state
an additional \$12.5 million.

34 Sec. 5.02. As an alternative, the host state and the
36 non-host states may provide for payments in the same total amount
as stated above to be made to meet the principal and interest
38 expense associated with the bond indebtedness or other form of
indebtedness issued by the appropriate agency of the host state
40 for purposes associated with the development, operation, and
post-closure monitoring of the compact facility. In the event
42 the member states proceed in this manner, the payment schedule
shall be determined in accordance with the schedule of debt
44 repayment. This schedule shall replace the payment schedule
described in Section 5.01.

46 ARTICLE VI. PROHIBITED ACTS AND PENALTIES

48 Sec. 6.01. No person shall dispose of low-level radioactive
50 waste generated within the party states unless the disposal is at
the compact facility, except as otherwise provided in Section
52 3.05(7) of Article III.

2 so that the host state shall have a voting majority on the
4 commission, provided, however, that any modification maintains
the rights of each initial party state to retain one voting
member on the commission.

6 Sec. 7.04. If the host state withdraws from the compact,
the withdrawal shall not become effective until five years after
8 enactment of the repealing legislation and the non-host party
states may continue to use the facility during that time. The
10 financial obligation of the non-host party states under Article V
shall cease immediately upon enactment of the repealing
12 legislation. If the host state withdraws from the compact or
abandons plans to operate a facility prior to the date of any
14 non-host party state payment under Article IV, Sections 4.05(5)
and (6), or Article V, the non-host party states are relieved of
16 any obligations to make the contributions. This section sets out
the exclusive remedies for the non-host party states if the host
18 state withdraws from the compact or is unable to develop and
operate a compact facility.

20 Sec. 7.05. A party state, other than the host state, may
22 withdraw from the compact by repealing the enactment of this
compact, but this withdrawal shall not become effective until two
24 years after the effective date of the repealing legislation.
During this two-year period the party state will continue to have
26 access to the facility. The withdrawing party shall remain
liable for any payments under Sections 4.05(5) and (6) of Article
28 IV that were due during the two-year period, and shall not be
entitled to any refund of payments previously made.

30 Sec. 7.06. Any party state that substantially fails to
32 comply with the terms of the compact or to fulfill its
obligations hereunder may have its membership in the compact
34 revoked by a seven-eighths vote of the commission following notice
that a hearing will be scheduled not less than six months from
36 the date of the notice. In all other respects, revocation
proceedings undertaken by the commission will be subject to the
38 Administrative Procedure and Texas Register Act (Article
6252-13a, Vernon's Texas Civil Statutes), except that a party
40 state may appeal the commission's revocation decision to the
United States District Court in accordance with Section 3.06 of
42 Article III. Revocation shall take effect one year from the date
such party state receives written notice from the commission of a
44 final action. Written notice of revocation shall be transmitted
immediately following the vote of the commission, by the chair,
46 to the governor of the affected party state, all other governors
of party states, and to the United States Congress.

48 Sec. 7.07. This compact shall take effect following its
50 enactment under the laws of the host state and any other party

2 state and thereafter upon the consent of the United States
Congress and shall remain in effect until otherwise provided by
4 federal law. If Texas and either Maine or Vermont ratify this
compact, the compact shall be in full force and effect as to
6 Texas and the other ratifying state, and this compact shall be
interpreted as follows:

8 (1) Texas and the other ratifying state are the
initial party states.

10 (2) The commission shall consist of two voting members
12 from the other ratifying state and six from Texas.

14 (3) Each party state is responsible for its pro-rata
share of the commission's expenses.

16 Sec. 7.08. This compact is subject to review by the United
18 States Congress and the withdrawal of the consent of congress
every five years after its effective date, pursuant to federal
20 law.

22 Sec. 7.09. The host state legislature, with the approval of
the Governor, shall have the right and authority, without the
24 consent of the non-host party states, to modify the provisions
contained in Section 3.04(11) to comply with Section
26 402.219(c)(1), Health & Safety Code, as long as the modification
does not impair the rights of the initial non-host party states.

28 ARTICLE VIII. CONSTRUCTION AND SEVERABILITY

30 Sec. 8.01. The provisions of this compact shall be broadly
32 construed to carry out the purposes of the compact, but the
sovereign powers of a party shall not be infringed upon
34 unnecessarily.

36 Sec. 8.02. This compact does not affect any judicial
proceeding pending on the effective date of this compact.

38 Sec. 8.03. No party state acquires any liability, by
40 joining this compact, resulting from the siting, operation,
maintenance, long-term care or any other activity relating to the
42 compact facility. No non-host party state shall be liable for
any harm or damage from the siting, operation, maintenance, or
44 long-term care relating to the compact facility. Except as
otherwise expressly provided in this compact, nothing in this
46 compact shall be construed to alter the incidence of liability of
any kind for any act or failure to act. Generators,
48 transporters, owners and operators of facility shall be liable
for their acts, omissions, conduct or relationships in accordance
50 with applicable law. By entering into this compact and securing

2 the ratification by congress of its terms, no party state
acquires a potential liability under Section 5(d)(2)(C) of the
4 Act (42 U.S.C. Sec. 2021e(d)(2)(C)) that did not exist prior to
entering into this compact.

6 Sec. 8.04. If a party state withdraws from the compact
pursuant to Section 7.03 of Article Vii or has its membership in
8 this compact revoked pursuant to Section 7.06 of Article VII, the
withdrawal or revocation shall not affect any liability already
10 incurred by or chargeable to the affected state under Section
8.03 of this article.

12 Sec. 8.05. The provisions of this compact shall be
14 severable and if any phrase, clause, sentence, or provision of
this compact is declared by a court of competent jurisdiction to
16 be contrary to the constitution of any participating state or of
the United States or the applicability thereof to any government,
18 agency, person or circumstances is held invalid, the validity of
the remainder of this compact and the applicability thereof to
20 any government, agency, person, or circumstance shall not be
affected thereby to the extent the remainder can in all fairness
22 be given effect. If any provision of this compact shall be held
contrary to the constitution of any state participating therein,
24 the compact shall remain in full force and effect as to the state
affected as to all severable matters.

26 Sec. 8.06. Nothing in this compact diminishes or otherwise
28 impairs the jurisdiction, authority, or discretion of either of
the following:

30 (1) the United States Nuclear Regulatory Commission
32 pursuant to the Atomic Energy Act of 1954, as amended (42 U.S.C.
Sec. 2011 et seq.); or

34 (2) an agreement state under Section 274 of the Atomic
36 Energy Act of 1954, as amended (42 U.S.C. Sec. 2021).

38 Sec. 8.07. Nothing in this compact confers any new
authority on the states or commission to do any of the following:

40 (1) Regulate the packaging or transportation of
42 low-level radioactive waste in a manner inconsistent with the
regulations of the United States Nuclear Regulatory Commission or
44 the United States Department of Transportation.

46 (2) Regulate health, safety, or environment hazards
from source, by-product, or special nuclear material.

48 (3) Inspect the activities of licensees of the
50 agreement states or of the United States Nuclear Regulatory
Commission.

2 **Sec. 4. Transition; activities of authority.** The following
transition provisions are established for the Maine Low-level
4 Radioactive Waste Authority.

6 1. Within 90 days after the effective date of this Act and
until the date of the statewide voter referendum held pursuant to
8 this Act, the Maine Low-level Radioactive Waste Authority shall
suspend all activities for locating a centralized storage or
10 disposal facility in this State. Notwithstanding the previous
sentence, during the period of time prior to the statewide voter
12 referendum, the authority shall develop data storage archives.

14 2. If the voter referendum does not ratify this Act, the
siting activities and any other functions of the Maine Low-level
16 Radioactive Waste Authority that have been suspended must be
resumed by the authority.

18 3. If the statewide voter referendum ratifies this Act,
20 then the Maine Low-level Radioactive Waste Authority may address,
in compliance with the Maine Revised Statutes, Title 38, chapter
22 14-B and only to the extent necessary, issues pertaining to the
management and interim storage of low-level radioactive waste in
24 this State during the multi-year period prior to the date that
the Texas facility commences operations. If the statewide voter
26 referendum ratifies this Act, the State Planning Office shall
report to the Joint Standing Committee on Energy and Natural
28 Resources by February 1, 1994 with recommendations for the
efficient management of low-level radioactive waste in this State
30 during the multi-year period prior to the date that the Texas
low-level radioactive waste storage facility commences operations
32 and for the most appropriate and efficient means to carry out the
requirements of the interstate compact.

34 4. Within 30 days of ratification of this Act by voter
36 referendum, the Maine Low-level Radioactive Waste Authority may
not incur any additional expenses from the Low-level Radioactive
38 Waste Facility Fund, except for expenses pursuant to Title 38,
section 1534-A.

40 **Sec. 5. Statutory referendum procedure; submission at statewide**
42 **election; form of question; effective date.** This Act must be submitted
to the legal voters of the State of Maine pursuant to the Maine
44 Revised Statutes, Title 38, section 1494 at a statewide election
to be held on the Tuesday following the first Monday of November
46 following passage of this Act. The municipal officers of this
State shall notify the inhabitants of their respective cities,
48 towns and plantations to meet, in the manner prescribed by law
for holding a statewide election, to vote on the acceptance or
50 rejection of this Act by voting on the following question:

2 "Do you favor approval of the interstate compact to be made
with Texas, Maine and Vermont for the disposal of the
4 State's low-level radioactive waste over a 30-year period at
a proposed facility in Hudspeth County, Texas?"

6
8 The legal voters of each city, town and plantation shall
vote by ballot on this question, and shall designate their choice
by a cross or check mark placed within a corresponding square
10 below the word "Yes" or "No." The ballots must be received,
sorted, counted and declared in open ward, town and plantation
12 meetings and returns made to the Secretary of State in the same
manner as votes for members of the Legislature. The Governor
14 shall review the returns and, if it appears that a majority of
the legal votes are cast in favor of the Act, the Governor shall
16 proclaim that fact without delay, and the Act takes effect 30
days after the date of the proclamation.

18
20 The Secretary of State shall prepare and furnish to each
city, town and plantation all ballots, returns and copies of this
Act necessary to carry out the purpose of this referendum.

22
24 **Emergency clause.** In view of the emergency cited in the
preamble, sections 2, 3, 4 and 5 of this Act take effect when
approved. Section 1 of this Act takes effect 30 days after the
26 Governor proclaims that a majority of the legal voters have voted
in favor of the contract.

28
30

32 STATEMENT OF FACT

34 This bill allows for the entry of the State into an
interstate compact agreement with Vermont and Texas for disposal
of low-level radioactive waste at a facility proposed for
36 Hudspeth County, Texas.

38 This bill represents the formal ratification by the
Legislature and Governor of compact terms negotiated with the
40 State of Texas and approved by that state's legislature. The
bill also provides for a referendum vote by the legal voters of
42 the State in November 1993 as to whether the State should enter
into an interstate compact for access to the disposal facility in
44 Texas. The legislation also provides for the orderly closeout of
the setup activities of the Maine Low-Level Radioactive Waste
46 Authority and the transfer of funds supporting an in-state site
search to Texas, if the majority votes in November 1993 approving
48 this compact. Finally, this legislation provides for the
nomination of Maine's representative on the governing board of
50 the interstate compact and for the payment of travel and other
expenditures by that representative.

52