

EXECUTIVE OFFICE OF THE PRESIDENT
BUREAU OF THE BUDGET
WASHINGTON 25, D. C.

Last Day
9/1/54

Approved
8/30/54

AUG 24 1954

My dear Mr. President:

The Congress has enacted H. R. 9757, "To amend the Atomic Energy Act of 1946, as amended, and for other purposes."

This legislation was passed in response to your message on atomic energy, dated February 17, recommending amendments to the Atomic Energy Act of 1946, as amended, to provide for (1) widened cooperation with our allies in certain atomic energy matters, (2) improved procedures for control and dissemination of atomic energy information, and (3) broadened participation in the peacetime development of atomic energy in the United States.

The specifics of your proposals were simultaneously transmitted by the Atomic Energy Commission to the Joint Committee on Atomic Energy in two pieces of legislation drafted within the executive branch. The Joint Committee did not introduce these bills, but rewrote entirely the existing Atomic Energy Act incorporating within their bill provisions intended to accomplish your recommendations as well as numerous other amendments.

Although the bill in large measure accomplishes the purposes set forth in your recommendations, the specific provisions in many respects differ significantly from the draft legislation proposed by the executive branch.

Attached to this letter is a brief summary of the significant provisions of the legislation compared with the existing Atomic Energy Act. Set forth below are comments on points of particular significance.

International atomic cooperation

The bill provides the substance of most of the authority requested by you. However, the authority is qualified (e.g., proposed agreements would have to be submitted to the Joint Committee on Atomic Energy for a period of 30 days while Congress is in session) and may limit your freedom of action in foreign relations and give rise to awkward administration. Although you did not request legislation to authorize an international atomic agency, the bill contains a provision on this subject. However, when taken in the context of the qualifications referred to above, it is unclear as to whether the provision helps or hinders you.

Widened participation in atomic power development

The bill authorizes the licensing of public and private groups to lease fissionable material from the Government, and to build and operate



facilities for the utilization of such nuclear material for the development of and subsequently the routine production of atomic power.

One aspect of the atomic power provisions which gives the Bureau of the Budget concern is the general question of pricing and procurement policy for fissionable material (primarily plutonium) produced as a by-product in the generation of electric power.

The problem stems from the Congress' refusal to follow your recommendation that private ownership of fissionable material be allowed. The enrolled bill provides for retention of title by the Government to all fissionable material, the payment by AEC of a "fair price" to licensees for fissionable material produced as byproducts of power reactor operation, and the making of "reasonable charges" for materials and services supplied to licensees. As a result, AEC is required to buy all plutonium offered to it by private licensees and has no authority to refuse to issue more and more licenses, unless there occurs a shortage of atomic fuel. Altogether, these provisions could result, over a period of time, in heavy commitments by and large costs to the Government, including indirect subsidies to licensees, notwithstanding your announced desire that the atomic power industry be a self-sufficient one.

The standards governing pricing (both "fair prices" and "reasonable charges") leave great discretion to AEC; the "fair price" for byproduct plutonium can be established over a wide range and will be of critical importance both for the new industry (since it will determine the allocation of costs between plutonium and electric power) and for the Federal budget.

In the area of procurement policy, the possibly adverse budgetary effects of the bill's provisions could probably be overcome by AEC's strongly encouraging reactor designs which would maximize the production of power rather than of plutonium, to avoid the establishment of an industry dependent upon Government plutonium purchases.

Because of the substantial budgetary implications of AEC's price and procurement policy, the Bureau of the Budget intends to discuss this problem with the Commission during their development of the policy.

As a result of the lengthy Senate debate, several "public power" amendments to the Joint Committee bill were adopted. Government agencies authorized to produce, distribute, or market electric energy are explicitly not precluded from obtaining commercial licenses. The Atomic Energy Commission is required, in selling byproduct electric energy, to give preference to public bodies and cooperatives or to privately-owned utilities serving high-cost areas. Similarly, in granting commercial licenses, it must, when opportunity is limited, give such preference to public bodies and cooperatives. This preference guaranteed public bodies and cooperatives is similar to that found in existing power legislation, but it was not in the bill developed by the executive branch.



Patents

The bill contains the substance of the provision included in the executive branch bill requiring compulsory licensing for five years of atomic patents declared affected with the public interest. It also contains a provision, originally intended by the House to be a substitute for compulsory licensing, which gives to the Government ownership of atomic patents conceived under any relationship with the AEC. These provisions should adequately carry out your recommendation on atomic patent policy.

Joint Committee on Atomic Energy scrutiny of executive branch actions

Under existing law, AEC is required to keep the Joint Committee on Atomic Energy fully informed with respect to its activities. In the enrolled bill the Joint Committee has inserted itself into numerous other aspects of executive branch activities. Reference to 30-day Joint Committee scrutiny of agreements for international cooperation has already been made. The Department of Defense is henceforth required to keep the Joint Committee fully informed of its atomic activities. Proposed AEC electric power contracts and Presidential determinations regarding source and special nuclear materials are subject to 30-day Joint Committee scrutiny. These provisions represent to a rather significant degree infringement by the Joint Committee upon executive branch responsibilities.

Requirement for construction authorization

At present AEC has basic authority to construct whatever facilities it may deem necessary to carry out the program, subject to appropriation action. Over AEC's protest, the bill now requires that AEC's construction program be specifically authorized by the Congress prior to appropriation action, generally in the military construction pattern. This will require that funds for construction be requested in supplemental estimates each year rather than in the January budget.

AEC organization

It should be noted that the bill gives the Atomic Energy Commission potentially great new responsibilities in the regulatory and services fields, in addition to its substantial operating responsibilities. This poses a problem for future solution.

In the provision governing the relationships among the five Commissioners, the Chairman is designated "official spokesman" of the Commission and is required to see to the faithful execution of its decisions. This is all that remains of the controversial clause designating the Chairman the principal officer of the Commission. In addition, there are provisions requiring the establishment of certain specific divisions within AEC. Such requirements have proved awkward in the past.



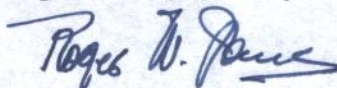
Long-term utility contracts

The Atomic Energy Commission's authority to enter into long-term electric contracts has been expanded to permit such contracts to provide for replacement of power supplied to AEC by TVA, subject to prior review by the Joint Committee on Atomic Energy as noted above. This authorizes the Dixon-Yates contract.

Recommendations

The Atomic Energy Commission and the Departments of State, Defense, and Agriculture recommend approval of the bill. The Departments of Commerce and Interior, the Federal Trade Commission, and the Federal Power Commission raise no objection. The Tennessee Valley Authority believes that replacement power contracts are likely to increase AEC's power costs significantly and to prove cumbersome for all concerned. The Department of Justice letter has not been received, but Justice staff advise that Justice will probably have no objection to the bill. Although there are several undesirable features in the bill, the Bureau of the Budget recommends approval.

Respectfully yours,



Assistant Director for
Legislative Reference

The President

The White House

Enclosures

