

UNITED STATES DISTRICT COURT

FOR THE

DISTRICT OF VERMONT

ENTERGY NUCLEAR VERMONT)
YANKEE, LLC and ENTERGY NUCLEAR)
OPERATIONS, INC.,)

Plaintiffs,)

v.)

Docket No. 1:11-cv-99

PETER SHUMLIN, in his official capacity as)
GOVERNOR OF THE STATE OF)
VERMONT; WILLIAM SORRELL, in his)
official capacity as the ATTORNEY)
GENERAL OF THE STATE OF VERMONT;)
and JAMES VOLZ, JOHN BURKE, and)
DAVID COEN, in their official capacities as)
members of THE VERMONT PUBLIC)
SERVICE BOARD,)

Defendants.)

**LEGISLATIVE HISTORY APPENDIX
TO PLAINTIFFS' PRE-TRIAL BRIEF
VOLUME I**

LEGISLATIVE HISTORY APPENDIX**VOLUME I*****Entergy Nuclear Vermont Yankee, LLC v. Shumlin, et al.****1:11-CV-99 (jgm)**

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* This Volume provides excerpted transcriptions of the audio recordings of legislative and committee sessions obtained from the Legislative Council. Each of these excerpts is also provided in excerpted audio recording form on the accompanying CD labeled "Legislative Record Audio Excerpts." The accompanying Volume II contains key documentary evidence related to the legislative history.

[±] Plaintiffs' exhibit numbers referenced herein correspond to the trial exhibit numbers assigned to each of the 301 original audio CDs obtained from the Legislative Council. For ease of reference, the exhibit number of the original CD from which each excerpt was transcribed is listed in bold below, and tracking information is provided to locate each excerpt on the relevant original CD. Multiple excerpts from a single CD are distinguished by letters (e.g., 124A, 124B).

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<p>February 15, 2005 House Natural Resources Committee Hearing on H. 545 Testimony of Ray Shadis, New England Coalition Pl. Ex. 2A</p>	<p>[Track 2 00:07:37] RAY SHADIS: You have, I think, now the opportunity to attempt to secure the best possible practice for dry cask for the people of Vermont, and it is a really unique situation because in any other circumstance you would be foreclosed from having much of anything to say about it because of federal preemption.</p> <p style="text-align: center;">***</p> <p>[Track 2 00:08:53] RAY SHADIS: [T]he federal court told the State of Maine, in essence, you can decide on dust, construction noise, visual effects, but you may not even ask what is in those casks, and should you venture into nuclear safety territory, you know, we will surely come down on you.</p>
<p>February 15, 2005 House Natural Resources Committee Hearing on H. 545 Testimony of Ray Shadis, New England Coalition Pl. Ex. 2B</p>	<p>[Track 2 00:28:58] RAY SHADIS: The NRC is – has the attitude that these casks are impervious to just about everything, and there is no issue no matter how they’re deployed. And I have to say that when we negotiated these conditions for Maine, you know, the Maine Yankee, Entergy, NRC eventually approved the plans as they were redrawn, but they would never admit that there was any incremental or necessary boost in safety.</p>
<p>February 15, 2005 House Natural Resources Committee Hearing on H. 545 Testimony of Ray Shadis, New England Coalition Pl. Ex. 3A</p>	<p>[Track 1 00:02:03] REPRESENTATIVE LARRABEE: You’ve talked about the inherent dangers – I mean, there are, I’m sure, in – in the – the pool storage of the fuel, but in the – in the “On The Watch” newsletter – in their – in – in one of the – the articles entitled “Entergy’s Three-Prong Plan for Maximizing Profit” in the second point it – it says in the second that in general, from a safety viewpoint, dry cask storage is better than the current spent fuel pool. Could you – could you give me some clarity? Which is really the safer storage scenario?</p> <p>RAY SHADIS: Dry cask overall, in gross, is much safer than a spent fuel pool in a boiling water reactor like the Vermont Yankee where the – the fuel is on the, you know, the level of the fifth floor or sixth floor and it is in a structure that could be penetrated by aircraft or fall apart in earthquake conditions. And, you know, it is much safer in a dry cask.</p>
<p>February 15, 2005 House Natural Resources Committee Hearing on H. 545</p>	<p>[00:13:36] RAY SHADIS: What we’re talking about is the gamma radiation and neutron radiation that goes right through the casks as a beam of energy, if you will. And by the time you put the casks out</p>

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<p>Testimony of Raymond Shadis, New England Coalition Pl. Ex. 3B</p>	<p>there, geometrically you've constructed a fairly husky beam or radiation. It's something that with a radiation detector or a gamma camera you can see from offsite, you can see this radiation emanating. And it is small – the additional increase is small, especially by the time you get any distance past, but it is an incremental increase in risk for the people and the environment as it's exposed.</p>
<p>February 15, 2005 House Natural Resources Committee Hearing on H. 545 Testimony of Judy Davidson, Nuclear Free Vermont Pl. Ex. 3C</p>	<p>[Track 1 00:45:57] JUDY DAVIDSON: We really urge the Legislature to maintain oversight over dry cask storage. We have very little faith in the Nuclear Regulatory Commission and do not believe that the Nuclear Regulatory Commission is really doing its job to protect the public's health and safety in almost areas of nuclear safety.</p> <p style="text-align: center;">***</p> <p>[Track 1 00:47:02] JUDY DAVIDSON: So those of us who live close to the plant are really concerned about some of the safety issues involved with these casks. And even though we know that you, as a Legislature, cannot legislate safety, we do believe that you have a role in which you can be responsive to our concerns in a way that the Nuclear Regulatory Commission is not.</p> <p style="text-align: center;">***</p> <p>[Track 1 00:47:29] JUDY DAVIDSON: I would concur with Ray that we in southern Vermont are left with now two safety things to be concerned about, a full spent fuel pool and the risk of a spent fuel pool fire, and now the risks involved in dry cask storage. And these casks are not as safe as everybody would have you believe or at least as far as the nuclear industry would have us believe.</p> <p style="text-align: center;">***</p> <p>[Track 1 00:48:22] JUDY DAVIDSON: In 2000 – the year 2000, a man named Oscar Shirani led a quality assurance inspection that found nine major quality assurance violations, leading him to question the structural integrity of these casks. His report, which was commissioned by a group of nuclear reactor utilities, came just months after the Nuclear Regulatory Commission issued a report saying that these casks were perfectly safe, leading many people to doubt the competence of the NRC quality assurance program.</p>
<p>February 15, 2005 House Natural Resources Committee Hearing on</p>	<p>[Track 1 00:52:09] REPRESENTATIVE: The criteria that the Public Service Board uses – I'm sure you're familiar because you were –</p>

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<p>H. 545 Testimony of Judy Davidson, Nuclear Free Vermont Pl. Ex. 3D</p>	<p>JUDY DAVIDSON: Right.</p> <p>REPRESENTATIVE: – is that the criteria you suggest that we use with our responsibility for oversight in this?</p> <p>JUDY DAVIDSON: I would suggest that you find a way to include some of the safety concerns in the things – the requirements or the conditions that you place on Vermont Yankee. And I’ve always been confused about – under that Act, 248, that they are required to consider issues of environmental concerns. And it seemed to me that even in terms of the uprate, they could certainly have done – done more. And I would think that you as a committee could look at some of the environmental aspects and put more weight on that as they relate to safety, but maybe name them as environmental.</p>
<p>February 23, 2005 Joint House Natural Resources and Senate Natural Resources Committee Hearing on H. 545 Testimony of Commissioner David O’Brien, Department of Public Service Pl. Ex. 5A</p>	<p>[Track 2 00:13:59] COMMISSIONER O’BRIEN: When it came to Vermont Yankee, that was the most significant generating asset that they held, and there was a further belief at the time that the benefit of them selling that plant was that we would remove the risk of ownership of that facility from those companies and also their share – their rate payers and Vermont rate payers.</p>
<p>February 23, 2005 Joint House Natural Resources and Senate Natural Resources Committee Hearing on H. 545 Testimony of Commissioner David O’Brien, Department of Public Service Pl. Ex. 5B</p>	<p>[Track 2 00:14:53] COMMISSIONER O’BRIEN: And one of the things that the Public Service Department pushed very hard for in that case was that there be a favorable power supply agreement between Entergy, the new owner, and the Vermont utilities.</p>
<p>February 23, 2005 Joint House Natural Resources and Senate Natural Resources Committee Hearing on H. 545</p>	<p>[Track 2 00:16:23] COMMISSIONER O’BRIEN: [W]e, as a state, I think both in the regulatory realm, and I think in the – here in the Legislature, saw a positive outcome of having this plant sold to an outside company that could come in and operate it and still have the benefit of the power supply flowing to Vermont rate payers at a</p>

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<p>Testimony of Commissioner David O'Brien, Department of Public Service Pl. Ex. 5C</p>	<p>favorable price; and the risks of ownership would be – would be borne by this separate party. A very good example of how that has played out is, if you look at the post-September 11th, you know, reality we're living in, in terms of security issues and worries about terrorism and that sort of thing, there's been a lot of things that have had to be done to the plant to prepare for it.</p> <p style="text-align: center;">***</p> <p>[Track 2 00:17:20] COMMISSIONER O'BRIEN: But that was all paid for by Entergy and not by Vermont rate payers.</p>
<p>February 23, 2005 Joint House Natural Resources and Senate Natural Resources Committee Hearing on H. 545 Testimony of Commissioner David O'Brien, Department of Public Service Pl. Ex. 5D</p>	<p>[Track 2 00:21:29] COMMISSIONER O'BRIEN: Vermont Yankee produces one-third of Vermont's electrical power. It is a reliable source of electricity. And two significant problem events in the past two years, first the August 14, 2003 blackout that affected millions of people in the middle and Northeast part of the country, and the January 14th to 16th of 2004 cold snap, where we were in a vulnerable state in New England and in northern Vermont, Vermont Yankee was running.</p>
<p>February 23, 2005 Joint House Natural Resources and Senate Natural Resources Committee Hearing on H. 545 Testimony of Commissioner David O'Brien, Department of Public Service Pl. Ex. 5E</p>	<p>[Track 2 00:35:59] COMMISSIONER O'BRIEN: Now, in Minnesota, there's a slight difference in that the utility that owned the facility was a fully regulated cost-of-service, rate-of-return regulated utility. In this case, with Entergy, it's an exempt wholesale generator or merchant power supplier. And we do not set their rates and review their, you know, financial results. And that's in the way it was done in Minnesota. So in point of fact, this was, at the end of the day, a rate payer funded program in Minnesota.</p>
<p>February 23, 2005 Joint House Natural Resources and Senate Natural Resources Committee Hearing on H. 545 Testimony of Commissioner David O'Brien, Department of Public Service</p>	<p>[Track 2 00:41:03] LEGISLATOR: [Y]ou seem to be saying that the Minnesota rate payers funded the entire fund in Minnesota. And it seems to me, in this instance, it might be exporting some of that cost to other people, in this case [unintelligible].</p> <p>COMMISSIONER O'BRIEN: Um –</p> <p>LEGISLATOR: If there were to be a fee or a tax, as you say.</p>

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Pl. Ex. 5F	<p>COMMISSIONER O'BRIEN: – no, I would not characterize it that way.</p> <p>LEGISLATOR: Why not?</p> <p>COMMISSIONER O'BRIEN: Because the – Entergy does not have anywhere to recover these costs. They're a competitive supplier of power in a competitive marketplace.</p>
<p>February 23, 2005 Joint House Natural Resources and Senate Natural Resources Committee Hearing on H. 545 Testimony of Commissioner David O'Brien, Department of Public Service Pl. Ex. 5G</p>	<p>[Track 2 00:52:11]</p> <p>LEGISLATOR: I either think or I hope that part of the role of the department is as, our advocate, is to deal with safety. And I haven't heard – I don't think I've heard you speak about the safety issues that may or may not be involved with either uprate or dry cask storage.</p> <p>COMMISSIONER O'BRIEN: Well, I spoke – first of all, you're correct that we are the public advocate when it comes to safety considerations. Oftentimes, that does also have to contend with the jurisdictional issues of where safety is federally preempted here and is under the NRC as opposed to the Public Service Board. And I did mention earlier that we are still engaged at the federal level on some safety considerations related to uprate. We care very much about that. And we can segregate what we see as the benefit to the state of the uprate on a financial, economic basis, power supply basis, and then also have to look at the safety issues. And safety issues trump all the other things. And the same would be with dry cask storage.</p>
<p>February 23, 2005 Joint House Natural Resources and Senate Natural Resources Committee Hearing on H. 545 Testimony of Jay Thayer, Entergy Nuclear Operations, Inc. Pl. Ex. 6A</p>	<p>[Track 1 00:30:17]</p> <p>JAY THAYER: I think you and I have had this conversation before. And I don't mean to be trite, but I haven't spent any time looking into federal preemption. When we came to the State as Entergy, when we worked through the Certificate of Public Good for the sale, we committed at that time, and it's been stated before, that we would continue to use state processes. And it's one of the reasons I'm here before you today. Is we are – we believe in pursuing state processes. And we will pursue the process with the Legislature to hopefully get this turned over to the Public Service Board where we can pursue the process of the Certificate of Public Good, and meet the test of the eleven criteria under Section 248. So it is my – I want to make sure everybody's clear that we intend to pursue state processes.</p>
<p>February 23, 2005 Joint House Natural</p>	<p>[Track 1 00:03:17]</p> <p>RAY SHADIS: And the reason that I want you to see this is</p>

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<p>Resources and Senate Natural Resources Committee Hearing on H. 545 Testimony of Ray Shadis, New England Coalition Pl. Ex. 7A</p>	<p>because dry cask storage, while environmentally it is, in many ways, safer than spent fuel storage, presents some unique risks. And the question that I think we want, as the New England Coalition, wants this committee to answer before going ahead is, is what is proposed by Vermont Yankee the very best that is available in order to protect the environment, the health, and the security of your people? Is this – is this going to be, you know, the upscale blue-ribbon version or is this going to be the cheap, cut corners, take a chance version of dry cask storage?</p>
<p>February 23, 2005 Joint House Natural Resources and Senate Natural Resources Committee Hearing on H. 545 Testimony of Raymond Shadis, New England Coalition Pl. Ex. 7B</p>	<p>[Track 1 00:04:42] RAY SHADIS: Let me add one more thing. This is not my favorite rocket, shoulder-launch missile. My favorite for reasons of inciting horror –</p> <p>LEGISLATOR: You have a collection?</p> <p>RAY SHADIS: -- and terror and fear is a thing called the Milan missile. It was produced by a combo European company, French-German. The French have sold it all over the world. The first edition of it, they sold more than 50,000 to about 16 different countries. And this was the missile that was described in State Department press conferences as being found in the caves of the Taliban in Afghanistan and this is the missile that was found in the safe houses – store houses – in Iraq. It's out there. It's available. The IRA had a few. And it'll punch a grapefruit-size hole in 40 inches of armor plate at a distance of a mile or about five feet of concrete. And again, the weight is only – less than 60 pounds on the Milan. So – given it's provenance with the terrorists, I – that's the horrible example we like to use.</p>
<p>March 23, 2005 House Natural Resources Committee Hearing on H. 545 Statement of Representative Errecart Pl. Ex. 15A</p>	<p>[Track 2 00:37:41] REPRESENTATIVE ERRECART: I was really surprised to hear you mention that in the 2003 legislative process that you discussed terrorism because I thought that safety was preempted, and terrorism sounds like safety to me.</p>
<p>April 7, 2005 House Natural Resources Committee Hearing on H. 545 Testimony of Bill Sherman, State Nuclear Engineer Pl. Ex. 24A</p>	<p>[Track 1 00:23:33] REPRESENTATIVE ERRECART: I thought that the federal law had preempted our consideration of safety issues. So why are we talking about – is homeland security considered within the purview of safety?</p> <p>BILL SHERMAN: Homeland security has very definite safety</p>

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	implications. However, homeland security is an emerging issue since September 11th and exactly where all of the jurisdictional abilities are, in my view, though I'm not an attorney...
April 7, 2005 House Natural Resources Committee Hearing on H. 545 Statement of Representative Errecart Pl. Ex. 25A	[Track 2 00:02:56] REPRESENTATIVE ERRECART: I've heard different things, that a berm could be adequate to shield the casks from possible rocket launchers, but it just seems to me, as a layperson, that a very thick structure that includes over the top would be safer than a berm.
April 7, 2005 House Natural Resources Committee Hearing on H. 545 Statement of the Representative Dostis Pl. Ex. 25B	[Track 2 00:04:11] REPRESENTATIVE DOSTIS: And we're – I mean, we're very cognizant that when it comes to issues of safety, we are preempted by the federal government. A lot of these questions have to do with just the aesthetics of these casks. You know, how will they be viewed by the public, you know, what impact would the presence of these casks have on tourism, for example, a very important economic driver for the State of Vermont.
April 7, 2005 House Natural Resources Committee Hearing on H. 545 Statement of Representative Errecart Pl. Ex. 25C	[Track 2 00:5:55] REPRESENTATIVE ERRECART: Yeah, because obviously I was trying to fit in what NRC was going to require for safety and how that fits into the aesthetics in Vermont.
April 7, 2005 House Natural Resources Committee Hearing on H. 545 Statement of Representative McCullough Pl. Ex. 25D	[Track 2 00:18:29] REPRESENTATIVE MCCULLOUGH: I guess, since I'm sort of – I guess I can – I can't question your – you know, your safety record, and nor would I want to. You guys, I know, are in a [indiscernible] are doing everything that's required – DAVID McELWEE: Thank you. REPRESENTATIVE MCCULLOUGH: – and more for safety. Perception being the reality, with all the press nationwide that this particular kind of problem is getting, it could have a major impact on Vermont's economy.
April 7, 2005 House Natural Resources Committee Hearing on H. 545	[Track 2 00:20:01] REPRESENTATIVE DARROW: What radiation dose would a person who was off site receive from an accidental release of radioactivity during an accidental release?

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<p>Testimony of David McElwee, Entergy Nuclear Vermont Yankee Pl. Ex. 25E</p>	<p>DAVID McELWEE: Are you talking from dry-fuel storage? REPRESENTATIVE DARROW: Yeah.</p>
<p>April 7, 2005 House Natural Resources Committee Hearing on H. 545 Testimony of John Hollar, lobbyist, Entergy Nuclear Vermont Yankee Pl. Ex. 25F</p>	<p>[Track 2 00:40:51] JOHN HOLLAR: For the record, John Hollar. We're being asked to agree, I think, not to seek preemption for some future unspecified condition that the Legislature might place, and I don't think that's going to be something we will be able to respond to. If there's a particular proposal or a condition that we're asked to accept, we'll give you a response in as open and honest way as we can. We've submitted to the committee a proposal for approval; it's, I think, pretty clear. And we understand that the committee's considering that and may have other alternative proposals for us to evaluate, and we'll do that and give a response. But I think what we can't do is say – is give a blanket assurance that we won't oppose certain conditions that some – that either individuals or the Legislature might – may impose on the request.</p>
<p>April 7, 2005 Joint House and Senate Natural Resources Committee Hearing on Dry Cask Storage Testimony of Maya Zelkin Pl. Ex. 27A</p>	<p>[Track 3 00:06:49] MAYA ZELKIN: Please deny Entergy's request to use dry cask storage, which will create only a bigger mess and a bigger safety threat to Vermont for Vermont to deal with.</p>
<p>April 7, 2005 Joint House and Senate Natural Resources Committee Hearing on Dry Cask Storage Testimony of Melinda Vasino Pl. Ex. 27B</p>	<p>[Track 3 00:12:26] MELINDA VASINO: And I am, and have been for a long time, in support of dry cask storage as what I feel – and I'm not a scientist – just from everything that I've studied, it seems to me that it is the safer option than any of the others.</p>
<p>April 7, 2005 Joint House and Senate Natural Resources Committee Hearing on Dry Cask Storage Testimony of William Sayer Pl. Ex. 27C</p>	<p>[Track 3 00:25:59] WILLIAM SAYER: In my view, the plant is safe. This kind of technology is used in France and in Japan. There's 24 other sites in America that have dry cask storage, some of them in highly populated metropolitan areas, and if safety were a question, that precedent would not have been established.</p>

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<p>April 7, 2005 Joint House and Senate Natural Resources Committee Hearing on Dry Cask Storage Testimony of Paul Wusket Pl. Ex. 27D</p>	<p>[Track 3 00:27:22] PAUL WUSKET: In the name of cheap electricity, we've created a monster. Today, we have the chance to start dismantling this monster and look for safer ways to live our lives.</p> <p style="text-align: center;">***</p> <p>[Track 3 00:27:41] PAUL WUSKET: We now know the extreme danger we are in. We can no longer hide the fact that the terrorists know it, too.</p> <p style="text-align: center;">***</p> <p>[Track 3 00:28:02] PAUL WUSKET: In the meantime, we hold our breath, and we pray that our leaders will at least start the process needed to secure our safety and the safety of future generations.</p>
<p>April 7, 2005 Joint House and Senate Natural Resources Committee Hearing on Dry Cask Storage Testimony of Peter Alexander, New England Coalition Pl. Ex. 27E</p>	<p>[Track 3 00:31:29] PETER ALEXANDER: [I]f you're living in St. Albans or Londonderry, you're not safe any more than the people living in Windham County are safe. We have the sirens, but radiation pays no attention to sirens or boundaries. If there's an accident down there, all of New England is at risk.</p>
<p>April 7, 2005 Joint House and Senate Natural Resources Committee Hearing on Dry Cask Storage Testimony of Bill McKim Pl. Ex. 27F</p>	<p>[Track 3 00:32:47] BILL MCKIM: [O]n the safety side of things, the State of Vermont has dropped the ball in terms of requiring the independent safety assessment, which many, many people have signed petitions to require. So I'd just like to bring that up and have that, again, on the floor that we would like to see an independent safety assessment because the engineering assessment only covered about a tenth of what we really need to.</p>
<p>April 7, 2005 Joint House and Senate Natural Resources Committee Hearing on Dry Cask Storage Testimony of Nicholas Neto Pl. Ex. 27G</p>	<p>[Track 3 00:49:52] NICHOLAS NETO: [Q]uality of life means a lot more than how much money you make is. We need to consider our health, we need to consider – we need to consider the health of our families and our neighborhood and communities long after we're gone.</p> <p style="text-align: center;">***</p> <p>[Track 3 00:50:35] NICHOLAS NETO: I don't think that it is possible for anybody to see that at this point, that nuclear waste cannot be – can be safe.</p>

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<p>April 7, 2005 Joint House and Senate Natural Resources Committee Hearing on Dry Cask Storage Testimony of Amy Schoellenberger Pl. Ex. 27H</p>	<p>[Track 3 01:01:43] AMY SCHOELLENBERGER: Spent nuclear fuel is the most toxic substance on earth. It remains radioactive for hundreds and thousands of years. It can catch on fire. A fire in the fuel pool at Yankee would devastate an area the size of Vermont, New Hampshire, and Massachusetts forever. You should not make this decision on Entergy's schedule. You should consider our safety, our needs, and our future.</p>
<p>April 7, 2005 Joint House and Senate Natural Resources Committee Hearing on Dry Cask Storage Testimony of Dexter Landers Pl. Ex. 28A</p>	<p>[Track 1 00:01:54] DEXTER LAUDERS: It's imperative that we keep this facility running. Safety is, of course, a major issue for all of us, and this is one of the safest nuclear plants in the United States.</p>
<p>April 7, 2005 Joint House and Senate Natural Resources Committee Hearing on Dry Cask Storage Testimony of Indra Tracy Pl. Ex. 28B</p>	<p>[TRACK 1 00:04:18] INDRA TRACY: The issue of safety should address the entire public, and it really concerns me that the safety assessment done this far on the Yankee plant was not performed by an independent company because what's to prevent from biased reporting?</p>
<p>April 7, 2005 Joint House and Senate Natural Resources Committee Hearing on Dry Cask Storage Testimony of Andrew Olson Pl. Ex. 28C</p>	<p>[Track 1 00:16:00] ANDREW OLSON: And while I have no memory of Three Mile Island, I met a lot of people who did. And the fact of the matter is, they still don't really know how much radiation was released. They still don't know what the long-term effects are.</p> <p style="text-align: center;">***</p> <p>[Track 1 00:16:26] ANDREW OLSON: The other thing that I do have memories of are the helicopter pilots that were fighting to contain the radiation release of Chernobyl.</p>
<p>April 12, 2005 House Natural Resources Committee Hearing on H. 545 Testimony of Richard Cowart, Regulatory Assistance Project</p>	<p>[Track 2 00:05:17] RICHARD COWART: [T]he truth of the matter is, this is an important issue and you have to understand what the scope of state authority is. And what the scope of federal authority is.</p> <p style="text-align: center;">***</p> <p>[Track 2 00:06:27] RICHARD COWART: I'm going to give you a suggested answer</p>

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<p>Pl. Ex. 30A</p>	<p>to question number one, what's the legislative purpose? And this is something that, of course, as someone who's just, you know, here to assist you, this is just a suggestion for you to discuss.</p> <p style="text-align: center;">***</p> <p>[Track 2 00:07:26] RICHARD COWART: That's really the issue here – the future. Will need someday to be replaced by sources that are diverse, reliable, economically sound, and environmentally sustainable. We know that ultimately, without even knowing the dates, that's what Vermont is going to need. Vermont needs to plan for that future and we need to start making investments as soon as possible in transitioning towards a power supply that is diverse, economically, and environmentally sound. And if the leg – if you agree with those propositions and conclude that the legislative purpose for addressing the storage question is to answer the question: “How can we create a pool of investment dollars that helps us to accelerate the transition to a more diverse, reliable, sound energy mix?” Just think about Vermont's energy future as the goal here.</p>
<p>April 12, 2005 House Natural Resources Committee Hearing on H. 545 Testimony of Richard Cowart, Regulatory Assistance Project Pl. Ex. 31A</p>	<p>[Track 1 00:09:00] REPRESENTATIVE: I guess I've been convinced, and maybe some people in this room haven't, but I guess we've heard that, you know, wet storage versus dry cask, dry cask is a very much more responsible way to store the spent fuel, so, therefore, in my mind it's a safety issue. What justifications could we use to tax or charge a fee for a safety improvement at a facility? I mean, I'm just – I'm having a hard time with that. I'm not going to last –</p> <p>RICHARD COWART: Right. Well, in fact, that's what I was suggesting a minute ago, that I don't think you want to address this from the point of view of safety at all. That isn't the purview of this body. And that's why I'm – that's why I'm sitting here pointing out that the real issue, and the issue upon which I think you should be focusing your attention, is the future power supply portfolio of the State of Vermont, and, for that reason, once you take – once you take that approach to the situation you can make – in assessing the fee – you can make a variety of judgment calls.</p>
<p>April 13, 2005 House Ways and Means Committee Hearing on H. 545 Testimony of Commissioner David</p>	<p>[Track 1 00:18:34] COMMISSIONER O'BRIEN: We supported the uprate based on the settlement we reached but we always reserved a right to look at safety and we've done that. If our safety answers... issues are resolved, you know, we can be comfortable with the uprate. You know, you don't... you don't bargain with safety and you know, it</p>

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<p>O'Brien, Department of Public Service Pl. Ex. 38A</p>	<p>actually reminds me to be careful when you look at things like our uprate settlement or taxing dry cask that, you know, if you're uncomfortable with nuclear power, you know, taxing it isn't going to make it safer. It doesn't change that dynamic.</p>
<p>April 14, 2005 House Natural Resources Committee Hearing on H. 545 Testimony of Bill Sherman, State Nuclear Engineer Pl. Ex. 43A</p>	<p>[Track 1 00:25:28] BILL SHERMAN: Also, even though there is no contract after 2012, the power purpose agreement ends in 2012, it's probably an expectation that were power uprate approved by the Public Service Board – I'm sorry were license renewal approved by the Public Service Board – the – Entergy Nuclear Vermont Yankee would have to demonstrate a significant benefit to the State of Vermont. That's one of the requirements in title 30. And that benefit might include the requirement to provide Vermont a favorable contract, a favorable purchase price.</p>
<p>April 14, 2005 Joint House Natural Resources and Senate Natural Resources Committee Hearing on Dry Cask Storage Testimony of Magadeline Volaitis Pl. Ex. 45A</p>	<p>[Track 1 01:03:29] MAGADELINE VOLAITIS: The type of casks chosen should also be a matter of legislative input based on technical expertise presented on all the available choices and the selection made based on safety and not who can give Entergy the best deal.</p>
<p>April 14, 2005 Joint House Natural Resources and Senate Natural Resources Committee Hearing on Dry Cask Storage Testimony of Sally Wise Pl. Ex. 46A</p>	<p>[Track 1 00:14:18] SALLY WISE: I really acknowledge in this room that everybody – I'm sure everybody at that plant, everyone that's designed anything, any place really thinks of safety as uppermost. I do not doubt this.</p>
<p>April 14, 2005 Joint House Natural Resources and Senate Natural Resources Committee Hearing on Dry Cask Storage Testimony of Howard Fairman Pl. Ex. 46B</p>	<p>[Track 1 00:28:25] HOWARD FAIRMAN: If you fail to authorize quickly ample dry cask storage at Yankee not as a new source of tax revenue, but as the safest alternative for the foreseeable future, you will have neglected your responsibility for our safety from both accidents and terrorism. Thank you.</p>

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<p>April 14, 2005 Joint House Natural Resources and Senate Natural Resources Committee Hearing on Dry Cask Storage Testimony of Alicia Moyer Pl. Ex. 46C</p>	<p>[Track 1 00:45:40] ALICIA MOYER: I would ask that after this issue has been addressed, that you insist on an independent safety assessment. Nobody has been able to make me understand why this is not an option.</p>
<p>April 14, 2005 Joint House Natural Resources and Senate Natural Resources Committee Hearing on Dry Cask Storage Testimony of Deb Katz Pl. Ex. 46D</p>	<p>[Track 1 00:56:27] DEB KATZ: I have material here for the committee, which includes the National Academy of Science executive study and a map, which gives the sense of what would happen if there was a terrorist attack on Vermont Yankee.</p>
<p>April 14, 2005 Joint House Natural Resources and Senate Natural Resources Committee Hearing on Dry Cask Storage Testimony of Judy Davidson, Nuclear Free Vermont Pl. Ex. 47A</p>	<p>[Track 1 00:10:45] JUDY DAVIDSON: My name is Judy Davidson, and I've lived in Dummerston for 33 years. Although I know that you as a legislature do not have jurisdiction over safety, the fact is, is that you do have jurisdiction over our health, economic issues, the environment. And safety and all these issues are directly correlated when it comes to nuclear power.</p> <p style="text-align: center;">***</p> <p>[Track 1 00:13:45] JUDY DAVIDSON: I ask you to consider that in having statutory authority over radioactive storage, you may also have the responsibility and the opportunity to address the catastrophic consequences to our health, environment, and economy from a spent fuel pool fire.</p>
<p>April 18, 2005 House Natural Resources Committee Hearing on H. 545 Pl. Ex. 50A</p>	<p>[Track 1 00:17:21] REPRESENTATIVE 1: There's a question I have, too, about the type that I'm not going to be able to feel good unless I know more about the Holtec 100. I don't know what to do about that but...</p> <p>REPRESENTATIVE 2: We charge the Public Service Board to...make the determination.</p> <p>REPRESENTATIVE 1: As long as we somehow get that in here...</p>

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	<p>REPRESENTATIVE : To make what determination?</p> <p>[OVERLAPPING] [0:17:40.4]</p> <p>REPRESENTATIVE ERRECART: Yeah, but we can't say that, anything about safety. It can only be about economics and aesthetics.</p> <p>REPRESENTATIVE 1: Well, okay, I'm not thinking safety. I'm just thinking definitely economics because if whatever happens there, it has a profound economic effect.</p> <p>REPRESENTATIVE ERRECART: On that county?</p> <p>REPRESENTATIVE 1: Yeah.</p>
<p>April 19, 2005 House Ways and Means Committee Hearing on H. 545 Testimony of Richard Cowart, Regulatory Assistance Project Pl. Ex. 57A</p>	<p>[Track 1 00:28:19]</p> <p>RICHARD COWART: The problem that we're dealing with here is that a lot of the concerns that citizens have are concerns that you can't address directly the way they want them to be addressed.</p>
<p>April 19, 2005 House Ways and Means Committee Hearing on H. 545 Testimony of Richard Cowart, Regulatory Assistance Project Pl. Ex. 57B</p>	<p>[Track 1 00:40:03]</p> <p>REPRESENTATIVE: But with regard to Minnesota in particular when it decided to assess a dry cask storage charge, did they have particular justifications?</p> <p>RICHARD COWART: Yeah, they were particularly concerned about accelerating the deployment of renewable resources.</p> <p>REPRESENTATIVE: And they felt that it was the responsibility of the nuclear facilities to fund that?</p> <p>RICHARD COWART: They – this is a very unique circumstance in Minnesota. They assessed this responsibility on one particular nuclear facility that, at the time, was also rate regulated. So then this cuts both ways, by the way, but at the time that company was rate regulated and it was understood that the fee would end up being collected back in rates. So they weren't assessing the fee on the shareholders of the nuclear facility, if you want to view it that way. I mean, at this point it's worth noting that Vermont Yankee, because it's an independent power producer, is a different kettle of fish.</p>

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<p>April 19, 2005 House Ways and Means Hearing on H. 545 Pl. Ex. 58A</p>	<p>[Track 1 00:04:39] REPRESENTATIVE 1: If the federal government owns it, the spent fuel rods, and Entergy closes, whether it's 212 or 225 or 292 [sic]. If it closes, and walks away and the government says, we don't have the money and we're not going to send anybody in there, who's going to protect that? Who's going to mend the fences? Who's going to look at the fuels? Who's going to monitor it? Who's going to see that nobody goes in and steals them?</p> <p>REPRESENTATIVE 2: Right.</p> <p>REPRESENTATIVE 1: This is one of my big problems and why I want some money from somebody that if the federal government or Entergy doesn't protect it, we're going to have to do it because we are not going to let our citizens blow – it wouldn't blow up. It would burn and then the stuff would float around and come down.</p> <p>REPRESENTATIVE 3: Thank you for the graphic. [Laugh]</p>
<p>April 21, 2005 House Natural Resources Committee Hearing on H. 545 Pl. Ex. 61A</p>	<p>[Track 1 00:41:56] REPRESENTATIVE: Al, it's my understanding that every time you handle this stuff, it's risk – it's high risk. So the idea in here of sort of casually saying well, we can just move it – that's huge.</p>
<p>April 27, 2005 House Natural Resources Committee Hearing on H. 545 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 65A</p>	<p>[Track 1 00:00:40] REPRESENTATIVE 1: One question. So, to go back to berms – which is one of the things that we had mentioned – so this one comes at a question of creative use of statute. I guess something – someone might have a safety issue in mind, but – their want to shield the physical impact – the visible impact of these casks from the river or something?</p> <p>SARAH HOFMANN: Certainly talking about aesthetics in terms of berms would be extre – it would be totally acceptable. And – and –</p> <p>REPRESENTATIVE 1: Totally acceptable, okay.</p> <p>SARAH HOFMANN – at the – at the Public Service Board.</p> <p>REPRESENTATIVE 1: Yeah.</p> <p>SARAH HOFMANN: I mean any kind of aesthetic issue can</p>

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	<p>come before the Board –</p> <p>REPRESENTATIVE 1: Yeah.</p> <p>SARAH HOFMANN: – under the 248 criteria.</p> <p>REPRESENTATIVE 1: Okay.</p> <p>REPRESENTATIVE 2: I mean, berms are ugly. [Laughter.]</p> <p>REPRESENTATIVE 1: But you could plant them.</p> <p>SARAH HOFMANN: That’s right.</p> <p>REPRESENTATIVE 3: Steve?</p> <p>REPRESENTATIVE DARROW: Could you update us on the radi – if the excess radiation limit to the perimeters – and might put the uprate and dry cask might – you have to require berms?</p> <p>SARAH HOFMANN: Yes – yes, I ca – I ...</p> <p>REPRESENTATIVE DARROW: Which may be required to keep the radiation levels down?</p> <p>SARAH HOFMANN: I can update you, which is that basically, the investigation with the Health Department and the Department of Public Service is ongoing. But Entergy has made a firm commitment under oath that should the uprate cause it to exceed the 20 milligram state standard that they will either shield the source or decrease the output from the plant. And so shielding the source – one possible shield method is use of earth and berms.</p>
<p>April 26, 2005 House Natural Resources Committee Hearing on H. 545 Pl. Ex. 66A</p>	<p>[Track 1 00:06:16] REPRESENTATIVE: I just – I got to reiterate, again, I think this waste is here whether we approve this dry cask or not and to me, even though we’re not supposed to concern ourselves with safety or we get preempted, I think we’ve heard, at least in my mind, conclusively that the dry cask is a better alternate than the wet pool.</p>
<p>April 26, 2005 House Natural Resources Committee Hearing on H. 545 Testimony of Kenneth</p>	<p>[Track 2 00:01:55] KENNETH THEOBALDS: [W]e derive no economic benefit from the proposals. So the idea that we should pay some penalty or make some additional contribution based on the fact that in order to honor the current license and the tending of PPAs, that we</p>

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<p>Theobalds, Entergy Nuclear Vermont Yankee Pl. Ex. 66B</p>	<p>need dry cask storage, we don't see it that way.</p> <p style="text-align: center;">***</p> <p>[Track 2 00:02:58] KENNETH THEOBALDS: But where we do object is to be singled out to attempt to balance a portfolio for the future as the sole generator responsible for funding that development.</p> <p style="text-align: center;">***</p> <p>[Track 2 00:25:17] KENNETH THEOBALDS: Policy for the state cannot be made on my back. It's just not – it's not fair. It's not appropriate, in my opinion. I believe there is opportunity for people of good will to use this as an opportunity and an opportunity that is a result of a few, I would say, fortunate turn of events for the State because, one, if your utilities still owned the plant we wouldn't be having this conversation.</p>
<p>April 26, 2005 House Natural Resources Committee Hearing on H. 545 Testimony of Commissioner David O'Brien, Department of Public Service Pl. Ex. 66C</p>	<p>[Track 2 00:45:01] COMMISSIONER O'BRIEN: [T]he benefit of selling the facility was that there was – we thought there would be cost savings by the Vermont utilities that they wouldn't have – bear these costs of doing business and wouldn't face the uncertainties of decommissioning.</p> <p style="text-align: center;">***</p> <p>[Track 2 00:45:31] COMMISSIONER O'BRIEN: So the track record on having decommissioning go according to schedule and plan is not good and there's a variety of reasons for that, I'm sure. But the risk of that is now not with our rate payers but with the private company.</p> <p style="text-align: center;">***</p> <p>[Track 2 00:46:16] COMMISSIONER O'BRIEN: And I know you've heard testimony on this, but it is not a small thing that since the time that Entergy acquired the plant we've gone through all of the things of adjusting to a post-9/11 world and they've spent considerable amounts of money on the facility to deal with security, and it's significant.</p>
<p>April 26, 2005 House Natural Resources Committee Hearing on H. 545 Testimony of Commissioner David</p>	<p>[Track 1 00:14:44] COMMISSIONER O'BRIEN: And I'm not presuming – and I want to be careful – I'm not – I'm not here to play the scare tactics sort of thing, the lights are going to go out. I want to be very clear about that. I'm just saying that I know what the downside risk is and I know that the company's business case doesn't get better by</p>

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<p>O'Brien, Department of Public Service Pl. Ex. 67A</p>	<p>having to (a) spend money on dry cask, (b) deal with security issues, and (c) potentially pay a charge in order to store the casks in Vermont. And I know how unhappy the company already is with us from a regulatory standpoint. We haven't made their lives easy in terms of the NRC process. And that's okay. I accept that, and they're going to have to live with that reality because we're not happy on safety; that's just the way it is. I'm not seeing the wisdom of pushing the envelope on this partic-- in this particular instance, especially recognizing not just the benefit of the power to our ratepayers, how important this power supply is in the jobs, but recognizing that, in fact, dry cask might be something we want, from a safety standpoint.</p>
<p>April 26, 2005 House Natural Resources Committee Hearing on H. 545 Continued Testimony of Commissioner David O'Brien, Department of Public Service Pl. Ex. 67B</p>	<p>[Track 1 00:20:38] COMMISSIONER O'BRIEN: Third, I'm wondering, Representative Dostis, if, in fact, there is that sort of concern about storing nuclear waste, and then for how long, I'm curious, how does a tax solve that problem? How does that -- if you're concerned about the safety of something, if you're uncomfortable with -- you know, one of the things I thought long and hard about in an uprate settlement is, if you're uncomfortable with something, a financial settlement is not going to make you feel better about it, or at least it shouldn't.</p>
<p>April 26, 2005 House Natural Resources Committee Hearing on H. 545 Testimony of Richard Cowart, Regulatory Assistance Project Pl. Ex. 67C</p>	<p>[Track 1 00:56:40] RICHARD COWART: Obviously, and from -- you've been told this many times -- that Entergy bought this plant with the expectation, the business expectation, that the license would be extended.</p>
<p>May 17, 2005 House Natural Resources Committee Hearing on H. 545 Pl. Ex. 70A</p>	<p>[Track 2 00:04:48] REPRESENTATIVE: You know, when you compare it to fossil fuel where the pollution is released all the time, so yes, it's released over a large time span, and it's dispersed, largely out of state. Here, we're talking about all of the waste has been concentrated for over 30 years and stored concentrated in one spot. And we don't know when that is going to hit. The problem is if it ever is dispersed to -- if it ever is let loose. We're living with that risk, with that danger.</p>
<p>May 17, 2005 House Natural Resources Committee Hearing on</p>	<p>[Track 2 00:30:55] REPRESENTATIVE ERRECART: I don't have criticism of the Public Service Department in terms of advocating for cheap,</p>

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<p>H. 545 Statement of Senator Errecart Pl. Ex. 70B</p>	<p>reliable power. However, I feel strongly that the public interest is much broader than that.</p> <p style="text-align: center;">***</p> <p>[Track 2 00:31:22] REPRESENTATIVE ERRECART: [W]e believe that the Public Service Department has inadvo – inadequately advocated for the other components of the public interest, like health, safety, and the environment.</p>
<p>May 17, 2005 House Natural Resources Committee Hearing on H. 545 Testimony of Representative Errecart Pl. Ex. 70C</p>	<p>[Track 2 00:33:51] REPRESENTATIVE ERRECART: Mr. Sherman, this is the problem with the Northwest Reliability Project is not a problem of Shelburne not getting what it wants. It's a problem with the Public Service Department advocating against evidence relating to the public health, safety, and the environment and with the Public Service Department treating knowledgeable and experienced Shelburne witnesses badly. So I need to make sure that that's not going to happen in the Vermont Yankee context.</p>
<p>May 18, 2005 House Ways and Means Committee Hearing on H. 545 Pl. Ex. 80A</p>	<p>[Track 1 00:55:14] REPRESENTATIVE: But they are making a profit and then they are going to store highly radioactive material on Vermont property. That is a risk to us. So, I mean, I just simply am saying that the math works out for our benefit with the charge and it really bothers me that a private company is going to be able to have an uprate, which was questionable a year ago and there were issues of safety around that, but that appears to be going to happen, and so why wouldn't we charge them for at least making money and planting again dangerous material on our soil?</p>
<p>May 18, 2005 House Ways and Means Committee Hearing on H. 545 Testimony of Kenneth Theobalds, Entergy Nuclear Vermont Yankee Pl. Ex. 81A</p>	<p>[Track 1 41:26] KENNETH THEOBALDS: So, again, I pointed out in the interest of sort of fairness and equity that these are important public policy considerations, but they can't be balanced on the back of one generating station. It's not fair. It's not equitable. It's not, uh, reasonable to expect.</p> <p>Much has been made about economic ability to, ability to pay. The fact is we're not a regulated utility. We're a merchant generator. We assume all the financial risk.</p>
<p>May 18, 2005 House Ways and Means Committee Hearing on H. 545</p>	<p>[Track 1 00:06:24] PETER ALEXANDER: New England Coalition actually prefers dry cask facility. It's a safer or, less dangerous I should say, option. However, what we're being offered is actually the worst</p>

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<p>Testimony of Peter Alexander, New England Coalition Pl. Ex. 82A</p>	<p>of both worlds, we're going to end up with full spent fuel pool and a big array of casks. So we'd like to see an incentive of some kind that as much fuel gets out of the spent fuel pool and into dry cask as possible to reduce the dangers that were outlined in a recent NAS, the National Academy of Sciences study, that got published a few weeks ago. It was in the front pages of many newspapers. So you may have read about it.</p>
<p>May 18, 2005 House Ways and Means Committee Hearing on H. 545 Testimony of Peter Alexander, New England Coalition Pl. Ex. 82B</p>	<p>[Track 1 00:08:18] PETER ALEXANDER: First time I saw it I thought our electric bills were going to go up. It's very confusing language but leave it to the NRC to come up with terms like that. They're very good at obfuscating. Anyway, I don't think Entergy has a sound argument that they should absolutely not be taxed or charged a fee or somehow pay for the privilege of storing this nuclear waste, which is the deadliest toxin known to mankind that will remain deadly for up to hundreds of thousands of years and must be isolated from the living environment. We don't know how good these casks are. They've been in use. The ones that they're planning to use have not been around that long. The dry cask concept has only been around for 19 years. It's not a tried and true technology. So the State of Vermont assumes significant risk in having these things put out there, not knowing if the Department of Energy will take them, if and when. If and when they're going to corrode and start leaking, some of the casks have had problems in the past. So it's not a rosy picture as much as they would like to give you the assurance that it's a rosy picture. The State has significant risks and it's not just the people in Windham county. If you go on the National Oceanic and Aeronautic Administration website, you can actually program what would happen in the event of a radiation release at Vermont Yankee on a particular day and you can track where the radiation would go over a 24-hour period and we've done hundreds of these things and, of course, depends on the severity of the release and so forth. But there's no place in Vermont or New England or even Eastern Canada that would be safe in the event of a severe accident. So, this is not something to be taken lightly.</p>
<p>May 19, 2005 House Natural Resources Committee Hearing on H. 545 Statement of Representative Errecart Pl. Ex. 85A</p>	<p>[Track 3 00:02:55] REPRESENTATIVE ERRECART: Yeah, because I'm real concerned about the preemption issues. I'm really worried about us endangering this entire bill with more stuff that's, I'm afraid, is preempted.</p>

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<p>May 19, 2005 House Natural Resources Committee Hearing on H. 545 Statement of Representative Dostis Pl. Ex. 85B</p>	<p>[Track 4 00:03:23] REPRESENTATIVE DOSTIS: So one of the first things that struck me, is – aside from the complexity of it – is we’re pretty careful in writing this in a way that would minimize the conversation around safety. And adding this, and then making a new paragraph out of it, does that, in any way, add to the other side?</p>
<p>May 20, 2005 House Ways and Means Committee Hearing on H. 545 Testimony of Brian Cosgrove, Entergy Nuclear Vermont Yankee Pl. Ex. 90A</p>	<p>[Track 2 00:39:58] BRIAN COSGROVE: In our opinion, it’s a unilateral retreat from the agreements we negotiated in good faith with the State in 2002. Therefore, we respectfully ask that your committee reconsider the appropriateness of this unfair financial penalty on Vermont Yankee in order to ensure the State’s future financial viability. Sincerely, Gary Taylor.</p>
<p>May 20, 2005 House Ways and Means Committee Hearing on H. 545 Testimony of Gerry Morris, lobbyist, Entergy Nuclear Vermont Yankee Pl. Ex. 90B</p>	<p>[Track 2 00:43:16] GERRY MORRIS: When we bought the plant we understood we had to get a Certificate of Public Good under section 248 before the Public Service Board and not permission from the Legislature; that was – just wasn’t in the cards. It was only when that one little word was discovered, which I think was – what year is this, 2005? I think it was 2003. Then it became a whole new ballgame. So we always knew and we volunteered in the contract to get a Certificate of Public Good, which takes more than a year as you know before the Board. But the Legislature, legislative role was never entertained by anybody, including previous owners.</p>
<p>May 24, 2005 House Ways and Means Hearing on H. 545 Testimony of Brian Cosgrove, Entergy Nuclear Vermont Yankee Pl. Ex. 95A</p>	<p>[Track 1 00:08:54] BRIAN COSGROVE: Their reading of it was that the exemption that was granted to Vermont Yankee was granted because of the fact that it was aimed at a big DOE waste site, not at an operating nuclear power plant. And their interpretation was that that exemption would accrue to the new owners after the plant was sold. The only countervailing opinion to that reading of the law, which we, by the way, believe is still valid, was an opinion by the Attorney General’s office about a year ago when this first really popped out into the middle of the debate and they did a very literal reading of the law and says... it says here corporation, therefore, we’re going to interpret that to mean corporation of.... We, Entergy still very strongly hold the belief that that is not a proper interpretation of the law and that, in fact, we believe that if this were tested, that we could prevail.</p>

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<p>May 27, 2005 House Natural Resources Committee Hearing on H. 545 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 100A</p>	<p>[Track 4 00:02:18] SARAH HOFMANN: Economics is a pretty big category.</p> <p>REPRESENTATIVE EDWARDS: I just want to make sure that everyone knows that.</p> <p>SARAH HOFMANN: If it was a pure safety issue, a pure safety issue –</p> <p>REPRESENTATIVE EDWARDS: Yeah.</p> <p>SARAH HOFMANN: – that we couldn’t figure out a way to tie it back to something in that economic/environmental – and, you know, I went through with you –</p> <p>REPRESENTATIVE EDWARDS: You did.</p> <p>SARAH HOFMANN: – early on in the daily list –</p> <p>REPRESENTATIVE EDWARDS: You did.</p> <p>SARAH HOFMANN: – of how you could – you can make arguments, that berms, yes, they maybe have a safety component, but there’s also an aesthetic component. So you could say berms are fair game.</p> <p>REPRESENTATIVE EDWARDS: Okay, it’s suddenly clear.</p>
<p>May 27, 2005 House Natural Resources Committee Hearing on H. 545 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 101A</p>	<p>[Track 1 00:08:53] SARAH HOFMANN: I think we have the same interest. We would like to have the pool itself be as safe as it could be with the fuel in it. And it is about density but it’s also about place – I understand your semantic argument but it’s –</p> <p>REPRESENTATIVE EDWARDS: Well –</p> <p>SARAH HOFMANN: – it’s about placement of – what’s the safest way to have that fuel in the pool. I don’t know what else to say.</p> <p>REPRESENTATIVE EDWARDS: The safest is to have it out of the pool, you know.</p> <p>SARAH HOFMANN: Well, we’d like to encourage that.</p>

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	<p>CHAIRPERSON: Joyce and then Steve, because I think –</p> <p>REPRESENTATIVE ERRECART: I mean, this – I think this is only about semantics. And the way I looked at it, I thought that this is relating to the density of the more recent – the hotter material, that we want the hotter material to be less dense, with the checkerboard. So with that respect, this does relate to density.</p> <p>SARAH HOFMANN: That is a good analysis, because that’s what we were trying to get to is a safer fuel pool, at least until the NRC does act on the National Academy of Science. We don’t know – we can’t tell you right now that we, as a State, know what the optimal density of that fuel pool is. We do know, based on science and the National Academy of Science study, that we want the high density surrounded by low density.</p>
<p>May 27, 2005 House Natural Resources Committee Hearing on H. 545 Statement of Representative Darrow Pl. Ex. 101B</p>	<p>[Track 2 00:16:29]</p> <p>REPRESENTATIVE DARROW: Well, I feel we passed a really good bill out of this committee, this 545. But instead of going through the rest of the legislative process, it went into closed-door negotiations, you know, just what Entergy prefers. And first it was negotiating with three members of this committee, which I was ready to go along with but had some reservations about it, but final negotiations were directly with leadership, who hadn’t heard the testimony that we’ve heard. And what we got back as strike-all language has been emasculated and – well, first of all, the findings have been emasculated and sanitized. Look at the difference between what we had in the original bill and what we have now. No mention of high-level nuclear waste. No mention of the fact that it lasts, it’s dangerous for 100,000 years. No mention of the fact that it’s likely to be here for the foreseeable future.</p>
<p>June 1, 2005 Senate Finance Committee Hearing on H. 545 Testimony of Richard Cowart, Regulatory Assistance Project Pl. Ex. 103A</p>	<p>[Track 1 00:43:10]</p> <p>RICHARD COWART: We had leverage to negotiate that arrangement because regulatory approval was required for the transaction. And I think that’s sort of an obvious observation but, in the absence of that regulatory approval, it’s anybody’s guess what terms the Vermont utilities would have been able to reach with Entergy.</p> <p style="text-align: center;">***</p> <p>[Track 1 00:45:05]</p> <p>RICHARD COWART: So the leverage that would exist in the future for the Vermont utilities to exercise a favorable contract exists because of the PSB review and the General Assembly’s</p>

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	<p>review. Otherwise, I think Vermont utilities are just like any other buyer and they're just – they're negotiating with Entergy on equal terms with every other utility in the region, every other buyer in the region.</p>
<p>June 1, 2005 Senate Natural Resources Committee Hearing on H. 545 Testimony of Al Boright, Legislative Council Pl. Ex. 105A</p>	<p>[Track 3 00:01:55] AL BORIGHT: [T]here was a laundry list that was initially mentioned in the laundry list of perhaps cask-related issues that were alluded to in the complete bill and are – are now covered by the MOU.</p>
<p>June 1, 2005 Senate Natural Resources Committee Hearing on H. 545 Testimony of Richard Cowart, Regulatory Assistance Project Pl. Ex. 105B</p>	<p>[Track 4 00:24:26] RICHARD COWART: [A]nother important point for you to understand, the power output of Vermont – this plant owned by Entergy, is what's called an exempt wholesale generator. It is not rate regulated by the State of Vermont and it is not rate regulated by FERC. It's important for you to understand this. This is a merchant plant operating as a business like other businesses. We tend to think of these things as, well, it's a power plant so we have a way that we think about power plants that comes from our traditions of utility control but Vermont's utilities who used to own and control 55 percent of the plant don't anymore. And that was sold to Entergy operating as an exempt wholesale generator. So, in some of the normal means that historically Vermont had a pretty good handle on what happened to Vermont Yankee because we regulated the utilities that owned a majority of the plant and we also rate regulated those utilities. That's just no longer the case.</p>
<p>June 1, 2005 Senate Natural Resources Committee Hearing on H. 545 Testimony of Richard Cowart, Regulatory Assistance Project Pl. Ex. 105C</p>	<p>[Track 4 00:28:31] RICHARD COWART: After 2012, by the way, all bets are off. We have no contract after 2012 which is the decommissioning – the planned decommissioning date. And the plant's either going to shut down, in which case we lose the power, or it's going to be relicensed, in which case we have to renegotiate in tougher market conditions. Or we choose not to buy from them and buy from somewhere else but again in generally tougher market conditions.</p>
<p>June 1, 2005 Senate Natural Resources Committee Hearing on H. 545 Testimony of Richard Cowart, Regulatory</p>	<p>[Track 1 00:01:28] RICHARD COWART: Now, it's important, in fairness to Entergy, to point out that they did that because, first of all, they thought that it was a fair rate – they weren't selling power below cost. But they also expected, as a matter of the profitability of the plant, that they would be able to pursue an uprate and that, if the</p>

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<p>Assistance Project Pl. Ex. 106A</p>	<p>plant continued to operate well until 2012, they could perhaps relicense it and, after 2012, they'd be able to go to market on all their power output.</p>
<p>June 2, 2005 Senate Finance Committee Hearing on H. 545 Testimony of Arnie Gundersen, Fairewinds Associates Pl. Ex. 109A</p>	<p>[Track 1 00:46:03] ARNIE GUNDERSEN: I guess the other two things I'd like to mention is that dry casks are safer than the fuel pool, there's no doubt about it, but that assumes that the fuel pool is empty.</p> <p style="text-align: center;">***</p> <p>[Track 1 00:46:42] ARNIE GUNDERSEN: And, I, by moving old fuel out into the yard, only to put more new fuel into the fuel pool, we haven't made the plant any safer, in fact we still have the big target, which is the fuel pool, and now we've got six additional targets in the, uh, in the yard.</p> <p>SENATOR CUMMINGS: Targets of what? You're talking about targets. What are they targets of?</p> <p>ARNIE GUNDERSEN: Well, you know, it's hard. I guess my biggest concern, I'm a proponent of dry cask storage compared to fuel pools. However, both can be attacked with, there's a, there's a 50-caliber rifle on the market. You can buy it on the internet.</p> <p>SENATOR CUMMINGS: Okay, so you're looking for, you're talking about they would be targets for a terrorist attack.</p> <p>ARNIE GUNDERSEN: Yes, yes.</p>
<p>June 2, 2005 Senate Finance Committee Hearing on H. 545 Testimony of Arnie Gundersen, Fairewinds Associates Pl. Ex. 109B</p>	<p>[Track 1 00:48:21] ARNIE GUNDERSEN: To me it's really not about the three million or two million or whatever. It's about what makes a plant safer.</p>
<p>June 2, 2005 Senate Finance Committee Hearing on H. 545 Testimony of Commissioner O'Brien, Department of Public Service Pl. Ex. 110A</p>	<p>[Track 1 00:09:28] COMMISSIONER O'BRIEN: [T]he sale of this facility to Entergy was something that was a desired outcome by policymakers and regulators in Vermont at the time that the transaction occurred. And so it allowed us to remove a significant amount of risk from the ratepayers. And now, we're largely in a position of benefitting from the upside, which is a fixed-price contract but not having to deal with issues such as security</p>

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	<p>modifications post-September 11th, etcetera.</p> <p>SENATOR: Not having what?</p> <p>COMMISSIONER O'BRIEN: Having to pay for the costs of security modifications at the facility post-September 11th.</p> <p>SENATOR: You meant the State not having to pay, when you say –</p> <p>COMMISSIONER O'BRIEN: The ratepayers. Those are costs that would have showed up in rates to retail customers if CV and GMP still owned the plant. But the fact that this is now a merchant plant whose costs are really borne by the private owner and not by the rate base, those downside risks – those incremental costs that they may see due to unforeseen circumstances, that's carried by the company's – that's at the company's burden not the ratepayer.</p>
<p>June 2, 2005 Senate Finance Committee Hearing on H. 545 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 110B</p>	<p>[Track 1 00:45:38] SARAH HOFMANN: Sarah Hofmann from the Department of Public Service.</p> <p style="text-align: center;">***</p> <p>[Track 1 00:45:41] SARAH HOFMANN: I was on the team that negotiated the Memorandum of Understanding on the conditions list.</p> <p>SENATOR AYER: Ah. Okay. My question, Ms. Hofmann, is as advocate for the public, how you advocated for the public safety in this document and what you intend to do to follow that process through as we go through the certificate of –</p> <p>SARAH HOFMANN: Certificate of Public Good.</p>
<p>June 2, 2005 Senate Finance Committee Hearing on H. 545 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 110C</p>	<p>[Track 1 00:47:52] SARAH HOFMANN: As you all know, the federal government takes jurisdiction over any radiological safety and health. And so anything that touched on that, it's better to have in an agreed upon MOU than to have in the bill itself. So, I believe that that was a benefit to the State of Vermont. And we did that at the request of House Natural Resources.</p>
<p>June 2, 2005 Senate Finance Committee Hearing on H. 545</p>	<p>[Track 1 00:51:08] SENATOR MACDONALD: If the Legislature had a safety concern today –</p>

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<p>Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 110D</p>	<p>SARAH HOFMANN: Right.</p> <p>SENATOR MACDONALD: – how could the Legislature act on that concern today?</p> <p>SARAH HOFMANN: Well, I think – it would depend on what it was but, if it’s a safety concern, it goes to NRC.</p> <p>SENATOR MACDONALD: It was a safety concern that the Legislature believed was a safety concern.</p> <p>SARAH HOFMANN: There’s a way to petition the NRC with a safety concern. Also, obviously, we have a liaison to NRC –</p> <p>SENATOR MACDONALD: Anyway – [indiscernible] to petition the NRC. What control does the Legislature have over safety concerns today?</p> <p>SARAH HOFMANN: The Legislature cannot – the Legislature cannot control radiological safety.</p> <p style="text-align: center;">***</p> <p>[Track 1 00:52:06]</p> <p>SENATOR MACDONALD: Let me rephrase the question. The Legislature believed that there was a safety concern. Could this Legislature withhold dry cask storage?</p> <p>SARAH HOFMANN: You are the Legislature and you could certainly deny this bill. You could vote this bill down.</p> <p>SENATOR MACDONALD: Okay.</p> <p>SARAH HOFMANN: Yes.</p>
<p>June 2, 2005 Senate Finance Committee Hearing on H. 545 Statement of Senator Cummings Pl. Ex. 111A</p>	<p>[Track 1 00:00:04]</p> <p>SENATOR CUMMINGS: The benefit is that in the agreement we have dealt with some health and safety issues, which we would be preempted from doing by legislation.</p>
<p>June 2, 2005 Senate Finance Committee Hearing on H. 545 Testimony of Peter</p>	<p>[Track 1 00:32:56]</p> <p>PETER ALEXANDER: We end up with dry casks, which Arnie Gunderson called targets, and you also have a spent-fuel pool, which is an immensely dangerous item in a terrorist scenario or in</p>

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Alexander, New England Coalition Pl. Ex. 111B	an earthquake scenario.
June 2, 2005 Senate Finance Committee Hearing on H. 545 Statement of Senator White Pl. Ex. 111C	[Track 1 01:04:18] SENATOR WHITE: [O]ne senator made a comment to me that he thought that this agreement guaranteed our favorable rate. This has nothing to do with our favorable rate, and I told him that and he said, "Well, so then change it. Put it in the bill. But we have to get that favorable rate."
June 2, 2005 Senate Natural Resources Committee Hearing on H. 545 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 112A	[Track 2 00:22:06] SARAH HOFMANN: The other thing is, I would just piggy-back on what he said, which is that it was very beneficial to the State to have this in an MOU instead of in the legislation because some of the things that are in the MOU could very easily be preempted if Enenergy wanted to play that card.
June 2, 2005 Senate Natural Resources Committee Hearing on H. 545 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 112B	[Track 2 00:25:42] SARAH HOFMANN: There's something called the National Academy of Science report that we relied on heavily in justifying why we're asking for the things we're asking for.
June 2, 2005 Senate Natural Resources Committee Hearing on H. 545 Testimony of Bill Sherman, State Nuclear Engineer Pl. Ex. 112C	[Track 2 00:26:03] BILL SHERMAN: National Academy of Science report that Ms. Hofmann mentioned was a report that was requested by Congress about the safety of spent fuel pools.
June 2, 2005 Senate Natural Resources Committee Hearing on H. 545 Pl. Ex. 114A	[Track 1 00:28:07] SENATOR 1: You looked at where that cloud goes? SENATOR 2: The what? SENATOR 1: The cloud goes if there's some kind of malfunction there? It just goes out like this and it covers every little bit of the state except for Bennington. Just with the ordinary prevailing winds. All year round. It's not a Windham – it's not just a

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	<p>Windham thing.</p> <p>SENATOR 3: No, we know that.</p> <p>SENATOR 2: I worked for agencies – human services. I was involved in planning the evacuation and where everyone went to the school and...</p> <p>SENATOR 1: Sure.</p>
<p>June 2, 2005 Senate Natural Resources Committee Hearing on H. 545 Statement of Senator White Pl. Ex. 114B</p>	<p>[Track 3 00:16:50] SENATOR WHITE: You know, the NRC has, in my opinion, not been the best friend of the population in this whole issue of nuclear power. So I, as a matter of fact, trust the 180 people up here with their limited knowledge a lot more than I trust the NRC in terms of their ability to act as an advocate for the population.</p>
<p>June 2, 2005 Senate Natural Resources Committee Hearing on H. 545 Pl. Ex. 114C</p>	<p>[Track 3 00:26:11] SENATOR: So I will not accept responsibility for 10,000 years worth of waste. I will accept the responsibility, as best I can, for being certain that whatever we allow is the safest for our citizens even though I don't have the right to regulate safety in the State.</p>
<p>June 3, 2005 Senate Finance Committee Hearing on H. 545 Statement of Representative Dostis Pl. Ex. 117A</p>	<p>[Track 1 00:30:59] REPRESENTATIVE DOSTIS: I see this being a bill as a way of getting dry cask storage under our terms, the terms that we negotiated in the MOU, both in terms of financial contribution and the safety issues. Now, mind you, the safety issues which we otherwise would be preempted from.</p>
<p>June 3, 2005 Senate Finance Committee Hearing on H. 545 Statement of Representative Dostis Pl. Ex. 117B</p>	<p>[Track 1 00:32:20] REPRESENTATIVE DOSTIS: As we started to work on a bill, it became very clear that there were a number of entities that were very concerned about the direction we were going, particularly around how much we were looking at charging them, and also how little there was in that bill regarding safety issues. Now, mind you, though, we had to be very careful not to talk about safety, because we don't want to preempt it – we don't want to be preempted.</p>
<p>June 3, 2005 Senate Finance Committee Hearing on H. 545 Testimony of Commissioner O'Brien, Department of Public</p>	<p>[Track 1 00:27:09] SENATOR CUMMINGS: [P]eople are not quite so sure that you're that focused on the safety and the environment. *** [Track 1 00:27:50]</p>

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<p>Service Pl. Ex. 118A</p>	<p>COMMISSIONER O'BRIEN: I appreciate where you're – what you're talking about, Senator. I – it's a hard thing to hear in the sense that some sort of perception is out there that we're – that we're laser-focused on rates and these other things take a second or third seat. I could cite plenty of different examples, whether it's transmission projects or anything else, and specifically with Vermont Yankee, where we have been entirely focused on safety considerations.</p> <p style="text-align: center;">***</p> <p>[Track 1 00:31:33] COMMISSIONER O'BRIEN: I don't – I'm concerned if there is a sense that somehow we're not looking at safety.</p>
<p>June 3, 2005 Senate Finance Committee Hearing on H. 545 Testimony of Richard Cowart, Regulatory Assistance Project Pl. Ex. 119A</p>	<p>[Track 1 00:13:25] RICHARD COWART: I mean, if your reason for waiting till next year is, in the meantime you want to get better conditions, the question is through what mechanism are you going to get those conditions? You can attempt to get them by enacting legislation that commands them. And my concern, and I'm sure the concern that the Legislative Council would put to you, is that you're highly likely to be preempted if you do that.</p> <p>SENATOR AYER: If there's safety cond –</p> <p>RICHARD COWART: If there's safe –</p> <p>SENATOR AYER: Assuming there's safety –</p> <p>RICHARD COWART: I'm assuming the conditions you care about are safety conditions. So, the choice of waiting till next year and writing legislation to command them is likely to yield a ruling that you're preempted.</p>
<p>June 3, 2005 Senate Finance Committee Hearing on H. 545 Testimony of Richard Cowart, Regulatory Assistance Project Pl. Ex. 119B</p>	<p>[Track 1 00:21:14] RICHARD COWART: So, again, I think the House committee was quite conscious of wanting to be pro-safety in all of the – all of these ways that I'm setting out here.</p> <p>SENATOR CUMMINGS: There's been testimony in here about the potential – and actually we had testimony, I think, from Entergy several months ago, about the potential for in-ground – it was from Entergy – in-ground cask storage. And some people in the advocacy world think that sounds like it might be safer; you couldn't shoot rockets at it or rifles or whatever. In doing this now, are we precluding the ability to require in-ground storage in</p>

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	<p>the future when it's approved? I mean, if they put in three casks in '07 and by the time it comes to doing the next three there is a better technology, maybe a more expensive but a better technology, are we precluding our ability at this point to do that?</p>
<p>June 3, 2005 Senate Floor Debate on H. 545 Statement of Senator Lyons Pl. Ex. 124A</p>	<p>[Track 1 00:20:30] SENATOR LYONS: Our goal in Natural Resources and Energy was to review and provide the safest possible storage for spent fuel rods while they're in Vermont. The National Academy of Sciences' recent article indicates, as do others, that dry cask is the safest. Oh yes, dry cask may well have its defects but the alternatives are worse, Mr. President. As I said in the beginning, no one wants to have spent fuel – nuclear fuel waste – in the State of Vermont. But we have protected ourselves as best we can as Entergy goes forward and we will have dry cask in the State as you have heard. Mr. President, I encourage this body to vote favorably on this bill. Thank you very much.</p>
<p>June 3, 2005 Senate Floor Debate on H. 545 Statement of Senator from Windsor Pl. Ex. 124B</p>	<p>[Track 1 00:25:18] SENATOR FROM WINDSOR: And since this is so important and there is this question of consideration, I'm going to read the witnesses who did appear and were given as much time as they needed and all of whom were subject to whatever questioning any member of the Finance Committee wanted to ask. From Entergy Nuclear, Brian Cosgrove and David McElwee; from the State of Vermont, David O'Brien, the commissioner of the Department of Public Service, testified several times; Bill Sherman, our nuclear engineer, who has a reputation as being just a vigorous and unrelenting advocate on behalf of public safety in nuclear issues.</p>
<p>June 3, 2005 Senate Floor Debate on H. 545 Statement of Senator from Windsor Pl. Ex. 124C</p>	<p>[Track 1 00:28:17] SENATOR FROM WINDSOR: In January when we began talking about this, it was quite obvious that the issue of public safety was going to be of paramount concern. We couldn't compromise cash for safety, permits for safety, or any of the apprehensions people have. Safety is not, was not, is not for sale under no conditions. And when we were talking this – about this among some of the senators who were going to have to be directly involved in the committee's jurisdiction, the question was, how do we get the kind of expertise that this Senate needs and we need to have available to us before we make such a momentous decision? And we decided to hire, through Legislative Council, a person who had significant background in regulatory matters involving all our utilities, including Vermont Yankee. And the person that we chose to hire was Mr. Cowart who, as many of you know, has extensive experience, first in the Public Service Department and</p>

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	<p>then as chair of the Public Service Board. And his advice, I think, was immensely helpful to the House committees and then to us over here in the Senate as we tried to figure out what's the right thing to do when obviously none of us are knowledgeable in matters of nuclear regulation in nuclear plant safety.</p>
<p>June 3, 2005 Senate Floor Debate on H. 545 Statement of Senator from Windsor Pl. Ex. 124D</p>	<p>[Track 1 00:30:11] SENATOR FROM WINDSOR: One thing I want to say, too, on a personal level, I feel this is an extremely difficult issue and the reason it's very difficult is because whatever the odds are that there may be an event at a nuclear reactor, however long those odds may be, the consequences of something going wrong are immense. So I know that as I sat through the hearings in the Senate Finance Committee and I know I observed this in some of my colleagues in the Senate Finance Committee, we took very, very seriously this question of safety and the burden of responsibility on us, what was the right decision or what was the right recommendation to make to this General Assembly. And let me just go through the reasoning that led me to believe that the recommendation we're making is the one to follow. But let me just pause for one second, a little bit of background history. This question involving Vermont Yankee, or the questions involving Vermont Yankee, have come up many times in this General Assembly, some of that time I have been a member, others not. But every time there has been a question about whether we could do anything that would increase the role of our safety oversight, I favored it. There was a resolution by Senator MacDonald sponsored by him and several others of us that petitioned to have a upgraded safety assessment of the plant similar to what was done in Maine.</p>
<p>June 3, 2005 Senate Floor Debate on H. 545 Statement of Senator from Windsor Pl. Ex. 124E</p>	<p>[Track 1 00:40:41] SENATOR FROM WINDSOR: And all of us will have to make that independent judgment about what's in the best interest of the State. But I, for one, want to state categorically and explicitly that safety is the prime concern, safety is not for sale, no amount of money is worth it to increase any risk of danger to Vermonters. Thank you, Mr. President.</p>
<p>June 3, 2005 Senate Floor Debate on H. 545 Statement of Senator Ayer Pl. Ex. 124F</p>	<p>[Track 1 01:06:24] SENATOR: Thank you, Senator. Senator from Addison. SENATOR AYER: Thank you, Mr. President. I do not support nuclear power and I don't think I ever will until we find a way to take care of waste that remains lethal for generations and have nowhere to put it. But I find myself in the very painful position of</p>

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	<p>supporting this bill for a couple of reasons. And one is that I don't see that we have little – or I don't think we have anything to gain by waiting until next January to take up the bill. My main concern is with the safety and safety issues depend on the feds – it's up to the feds to make conditions for Entergy in terms of safety or Entergy's own goodwill to enter into a Memorandum of Understanding, and I have no faith in the federal government and I don't have any reason to believe that Entergy wants to be – wants to do any more than it's doing.</p>
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<p>February 1, 2006 Senate Finance Committee Hearing on S. 124 Testimony of Gerry Morris, lobbyist, Entergy Nuclear Vermont Yankee Pl. Ex. 126A</p>	<p>[Track 1 00:21:35] GERRY MORRIS: Thank you. For the record, my name is Gerry Morris and I'm a contract lobbyist here in Vermont today representing Entergy Vermont Yankee. I am sitting in the chair and not a member of our senior management team because they're all over at the Public Service Board because our Certificate of Public Good hearing started a couple of days ago. And they send their apologies but of course they're willing and able to come as you please, Madam Chair, in the future on this.</p> <p>SENATOR CUMMINGS: Okay.</p> <p>GERRY MORRIS: Entergy Vermont Yankee does not support S. 124. We are committed to pursuing a Certificate of Public Good before the Public Service Board. We have every confidence that that process achieves the intent that the Legislature wished it to do when it created the PSB some decades ago. That's the end of my testimony.</p>
<p>February 1, 2006 Senate Finance Committee Hearing on S. 124 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 126B</p>	<p>[Track 1 00:24:23] SARAH HOFMANN: The other – the more – the bigger thrust of this is that I don't think the legislation is needed. As you know from the 6545 MOU, the docket that was the sale case of Vermont Yankee, they have to come back to the Public Service Board. That was in an agreement with Entergy and Entergy agreed to waive any possible preemption claims, which was very important to us at the time to make sure they could not try and go to federal court and get around us. But the Board also memorialized that in their order. So they're coming to the Board. You have another place though, they have to come to the Legislature as well because of the way you wrote the dry cask legislation, which says that any fuel derived from the operation of Vermont Yankee after March 21, 2012, you have to come back to the Legislature to get approval. So there's no way that you can – there are two provisions in your dry cask bill. One is cumulative total, which of course if other fuel was shipped off, that would take care of that. But this language where you say it can't be derived from the operation of Vermont Yankee beyond March 21, 2012, they really have to come here because they eventually have to take that fuel out of the reactor and put it into spent fuel and that can't be shipped away right away. It has to sit in a fuel pool for five years at least before it can put into a dry cask. So you really did nail down them coming back to the Legislature for the dry cask approval and also for relicensing really. I mean, you're doing it in terms of dry cask, but you really have done it for the relicensing.</p>

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<p>February 1, 2006 Senate Finance Committee Hearing on S. 124 Testimony of James Moore, Vermont Public Interest Research Group Pl. Ex. 126C LA 37</p>	<p>[Track 1 00:43:33] JAMES MOORE: Basically, we're going to have a facility in Vermont that was designed to run for 40 years. And we're going to look at running that facility for longer than that period of time. I would hope that a full safety checkup would be done on that facility and that that information would be available to legislators so that they knew what kind of facility they were approving or not approving, uh, to run in the State of Vermont.</p> <p>MADAM CHAIR: James, what did they call that thing that they did for Maine, the Maine nuclear plant? Is that called a full safety ...</p> <p>JAMES MOORE: Yeah. It was an independent – I think more than what it's called, there are a couple of key elements. One is that it's independent. I think it was an independent safety review, and my understanding is that the Public Service Board has asked for a review that the Legislature has, through resolutions, said that they would like.</p>
<p>February 1, 2006 Senate Finance Committee Hearing on S. 124 Testimony of James Moore, Vermont Public Interest Research Group Pl. Ex. 126D</p>	<p>[Track 1 00:49:55] JAMES MOORE: A couple other questions to throw out there for thought. One is what would the potential impact of an accident at Vermont Yankee – economic impact of an accident be in the State of Vermont? What is the condition of the physical structure and how would that impact the reliability of the facility and the plant safety and the communities, surrounding communities, economic viability? What is the potential economic impact on the State of Vermont in terms of property values, in terms of businesses locating here? What is the potential economic impact of Vermont playing host to high-level nuclear waste? And for what period of time would Vermont play host to high-level nuclear waste? Asking Entergy to come up with scenarios and what kind of guarantees could the State of Vermont secure that we wouldn't play host to high-level nuclear waste, seeing that the guarantees that we've gotten from the federal government so far haven't panned out.</p>
<p>February 1, 2006 Senate Finance Committee Hearing on S. 124 Testimony of Arnie Gundersen, Fairewinds Associates Pl. Ex. 126E</p>	<p>[Track 1 01:01:47] ARNIE GUNDERSEN: The uh, um, there's a shell game going on. The uprate has increased the amount of radiation that, in the event of an accident, that would be released from Vermont Yankee by 40 percent. The 20 percent uprate will increase the amount of radiation by 40 percent.</p>

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<p>February 1, 2006 Senate Finance Committee Hearing on S. 124 Testimony of Arnie Gundersen, Fairewinds Associates Pl. Ex. 126F</p>	<p>[Track 1 01:04:25] ARNIE GUNDERSEN: Vermont is a brand and on a brand theme is purity and if this thing were popped, and I think, you know, we talked about likelihood earlier, the industry will say it's one in a million. I think it's maybe one in a hundred thousand or one in ten thousand. It's a good tenfold or a hundredfold lower reliability than the industry will propose. And, but the net effect is that we've got a brand here of purity and if the money we're saving on electricity, which is a real tangible asset, could get just wiped off the map if it were to blow....</p>
<p>February 1, 2006 Senate Finance Committee Hearing on S. 124 Testimony of Tim Nulty, Vermont State Nuclear Advisory Panel Pl. Ex. 127A</p>	<p>[Track 1 00:10:25] TIM NULTY: And then so I – the question of the dry cask storage is related to the commissioning. It's related to the uprate because the uprate dramatically increases the amount of spent fuel they're going to generate. SENATOR CUMMINGS: Right. TIM NULTY: And these are not – this range of issues is not – the PSB is not institutionally equipped to think of them altogether. It's not allowed to think about safety, as you know. SENATOR CUMMINGS: Right. TIM NULTY: It's – there are some questions about the jurisdiction of the Legislature. But at the very least the Legislature would have jurisdiction to think about compensation. I mean, let's suppose that the NRC says that something is safe. We've established in VSNAP hearings, from out of the mouths of the NRC itself, that their view of safety is an on/off situation. So they look at everything and they decide that it has passed the threshold. The degree of safety, the degree of risk has reached the point or has fallen to a point where they say, okay, that's the cutoff. That's the threshold. The on/off switch and we deem it safe. They've admitted that that doesn't mean it is utterly safe. Even below that threshold there are degrees of risk. Now – SENATOR CUMMINGS: Un-safe. TIM NULTY: Yeah, and now they don't deal with that. And they've said that. We don't deal with that. That's not our problem. But there is at the very least the question that Vermont would want to say if a plant – even if a plant is deemed to be safe, that doesn't mean it's absolutely safe. And if there are measurable additional risks associated with, let's say, an uprate,</p>

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	<p>even though it was deemed to be safe, should some compensation be arranged for this?</p> <p>SENATOR CUMMINGS: For these risks.</p> <p>TIM NULTY: Because there is –</p> <p>SENATOR CUMMINGS: Economic risks.</p> <p>TIM NULTY: Economic or – and – I mean economic and safety are related obviously. Uhm, the uh, yeah, I mean it’s something that – a safety problem has economic implications, also.</p> <p>SENATOR CUMMINGS: Oh, yes.</p> <p>TIM NULTY: Um, yeah.</p> <p>SENATOR 1: One of the, if I may, try and understand. One of the reasons that the NRC says that a plant is safe is because the NRC is convinced that if something appears to be going wrong that the plant can be shut down and the electricity turned off and prevent anyone from being injured or hurt or radioactivized.</p> <p>TIM NULTY: With a certain degree of confidence.</p> <p>SENATOR 1: With confidence. But once that happens, the electricity is gone.</p> <p>TIM NULTY: Right.</p> <p>SENATOR 2: If that happens, what?</p> <p>SENATOR 1: If you shut the plant down and keep anyone from being hurt by radioactive fallout and there’s no explosion, you have a plant that is safe. Shutdown. But from that day on, a huge economic problem occurs to Vermont.</p> <p>SENATOR 2: Uh-hmm.</p> <p>SENATOR 1: Because a third of our electricity is gone.</p> <p>TIM NULTY: Not only is it gone, I mean our electricity is the cheapest in New England and Vermont Yankee and the buyback arrangement is a big part of that.</p>
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<p>February 22, 2006 Senate Finance Committee Hearing on S. 124 Testimony of Gerry Morris, lobbyist, Entergy Nuclear Vermont Yankee Pl. Ex. 128A</p>	<p>[Track 2 00:04:23] GERRY MORRIS: Madam Chair, in the interest of time, I was testifying two weeks ago and our position on S. 124 is that we still do not support it.</p>
<p>February 22, 2006 Senate Finance Committee Hearing on S. 124 Testimony of Ed Anthes, Nuclear Free Vermont Pl. Ex. 128B</p>	<p>[Track 2 00:06:55] ED ANTHES: I'm pleased to be able to address some of the aspects that need to be considered in the relicensing decision. An informed assessment about the wisdom of operating Entergy Nuclear Vermont Yankee reactor beyond 2012 must include a thorough examination of those aspects of normal operation, early shutdown, and catastrophic shutdown, which could impact the general welfare of the people of Vermont.</p> <p style="text-align: center;">***</p> <p>[Track 2 00:07:46] ED ANTHES: Vermont's reputation, our branding as a clean, wholesome place to live, to vacation, to do business, all of these are severely impacted by an accident or by a significant publicity about radiation releases at the Vernon reactor, at other Entergy reactors, or at other reactors of similar age, design, or uprate status.</p>
<p>February 28, 2006 Senate Finance Committee Hearing on S. 124 Pl. Ex. 130A</p>	<p>[Track 1 00:25:35] SENATOR: We're asking that studies be provided to legislators on health and safety and economics.</p>
<p>February 28, 2006 Senate Finance Committee Hearing on S. 124 Pl. Ex. 130B</p>	<p>[Track 1 00:27:28] SENATOR: And there's a couple of issues. There's the question of whether we believe the General Assembly should have some right to participate in looking at the evidence about health and safety, and economics, and energy policy, and there's a second question, which is the same as you and dry cask, whether, on behalf of the people of the State, there's some desire to have some bargaining leverage, frankly. Because what's going to happen here is that Vermont Yankee gets relicensed and they have no obligation whatsoever to sell us a kilowatt of power.</p>
<p>February 28, 2006 Senate Finance Committee Hearing on S. 124 Testimony of Michael</p>	<p>[Track 2 04:15] MICHAEL DWORKIN: There is one area that the State cannot rely upon. It's been the law for several decades that the State is preempted in its concerns about radiological safety. So the State</p>

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<p>Dworkin, Vermont Law School Pl. Ex. 130C</p>	<p>has to make its decision on other grounds, which would include anything from aesthetics to the obvious ones about financial implication to such things as reliability of the electric grid. All of those are legitimate reasons.</p>
<p>February 28, 2006 Senate Finance Committee Hearing on S. 124 Testimony of Michael Dworkin, Vermont Law School Pl. Ex. 130D</p>	<p>[Track 2 00:12:22] REPRESENTATIVE AYER: How – I understand – this is Claire Ayer again. I understand that only the feds are allowed to think of safety issues, and we carefully don't use that word here. But is this –</p> <p>MICHAEL DWORKIN: [Interposing] – although I think I saw it somewhere in the draft, but go ahead.</p> <p>REPRESENTATIVE AYER: But, even though these really are about safety issues, in a lot of cases. That won't sort of mess things up that we're asking the board to deal with those kinds of issues? Do you know what I'm – do you understand what I'm asking?</p> <p>MICHAEL DWORKIN: Well, I can tell you the way it's traditionally been interpreted is this, that the federal authority has the right to say what the safety standards should be, and to define the actions that need to be taken immediate, and the States have to conclude or accept the federal definition of how safe it has to be and what has to be done.</p> <p>REPRESENTATIVE AYER: Mm-hmm.</p> <p>MICHAEL DWORKIN: The Supreme Court decided that in a case involving a California nuclear power plant in the late 1970s. However, it also said that if the State was acting on grounds that were not safety, but were financial or environmental beyond safety –</p> <p>REPRESENTATIVE AYER: Mm-hmm.</p> <p>MICHAEL DWORKIN: -- that the State had the authority to consider those issues. So the way it works in practice is you do something like, say, let's assume that they are going to have to meet the federal standard, and that meeting the federal standard will cost X zillion dollars, whatever it is, now we feed that number into the analysis and whether it makes economic sense for the people of Vermont to buy it from a unit that's going to cost that much.</p>

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	<p>REPRESENTATIVE AYER: Mmm.</p> <p>MICHAEL DWORKIN: The other thing that we can consider, and have – is reliability.</p>
<p>March 2, 2006 Senate Finance Committee Hearing on S. 124 Testimony of James Volz, Public Service Board Pl. Ex. 134A</p>	<p>[Track 1 00:06:51]</p> <p>CHAIRMAN VOLZ: On the next page, under the public engagement objectives, I'll just point out, I'm not asking, suggesting, for you to make a change, but on the fourth line you mention safety, safety issues and...</p> <p>SENATOR CUMMINGS: Yes.</p> <p>CHAIRMAN VOLZ: -- you know, technically the State is preempted from engaging in those. Now, this is under the public engagement section and I guess the way we would handle this is, we would be clear on our report that we'd make a distinction between the safety issues that we are preempted from and the other topics that we're allowed to talk about.</p> <p>SENATOR CUMMINGS: Are you allowed to talk about environmental safety?</p> <p>JIM VOLZ: We're allowed to talk about effect on the environment. Yes.</p> <p>SENATOR 1: Evacuations and things like that.</p> <p>CHAIRMAN VOLZ: And then safety that affects people in other areas. You can ask the department about this. I think they're more –</p> <p>SENATOR CUMMINGS: Okay, we might be able to get a better term than safety or modify safety so it –</p> <p>SENATOR 2: Safety implies people, right?</p> <p>CHAIRMAN VOLZ: If you ask me, in my view, it did. It does.</p> <p>SENATOR CUMMINGS: We can't talk about whether or not they're going to get radiation poisoning, but if something happens, we can talk about if we can get them out of there fast enough.</p> <p>CHAIRMAN VOLZ: I think so. If it's evacuation related, safety issues relating to evacuation, I think that might be okay, but, like I said, I think the department knows where the lines are – the</p>

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	<p>jurisdiction lines better than I do.</p> <p>SENATOR CUMMINGS: Okay. [Indiscernible]</p> <p>CHAIRMAN VOLZ: My concern is simply that if we introduced –</p> <p>SENATOR CUMMINGS: Yeah.</p> <p>CHAIRMAN VOLZ: – an inappropriate safety discussion into this report and then the Legislature took up the report, it could end up causing – creating the possibility for preemption later on.</p> <p>SENATOR CUMMINGS: Yes.</p> <p>CHAIRMAN VOLZ: If somebody suggested that the Legislature’s decision was really based on that safety discussion that’s in this report and it’s not really based on other factors that are probably as well so.</p> <p>SENATOR CUMMINGS: Okay, let’s find another word for safety.</p> <p>CHAIRMAN VOLZ: And the same things happens at the bottom of the page where you reference public health issues. That’s another –</p> <p>SENATOR CUMMINGS: Yes.</p> <p>CHAIRMAN VOLZ: – potential problem.</p> <p>SENATOR 3: We’re not supposed to talk about public health?</p> <p>CHAIRMAN VOLZ: Excuse me?</p> <p>SENATOR 3: We’re not supposed to talk about public health?</p> <p>CHAIRMAN VOLZ: Well, it depends on if it relates to, you know –</p> <p>SENATOR 3: Safety?</p> <p>CHAIRMAN VOLZ: – it depends on how broad it is. All right. If it’s radiological...</p> <p>SENATOR CUMMINGS: If it’s the kind of thing that could red</p>
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	<p>flag a preemption...</p> <p>CHAIRMAN VOLZ: Yes.</p> <p>SENATOR 3: That means our decision being preempted by the feds?</p> <p>CHAIRMAN VOLZ: Right.</p> <p>SENATOR 3: Okay.</p> <p>CHAIRMAN VOLZ: Your issue is – you’re going to approve this enact – a legislative enactment so it’s a statute. Somebody could go to federal court and say this statute’s invalid, it’s preempted by federal law, because it’s based on radiological safety. So I just – I want to – I don’t want – I just want to alert you to that potential. Maybe you want to take some testimony from the other witnesses about it.</p> <p>SENATOR 1: I understand what the concern the witness is bringing to our attention. And in a, I would expect that we would write this, modify it in a way, to say that the board may come back and say these areas of safety are the prerogative of the NRC and they are not –</p> <p>CHAIRMAN VOLZ: Right.</p> <p>SENATOR 1: – and these areas of how to do emergency evaluations are the State’s prerogative and this is what we have to tell you.</p> <p>CHAIRMAN VOLZ: If you don’t make a change to this, there’s no problem. When we do our report, we will keep everything clear.</p> <p>SENATOR 1: Okay.</p> <p>CHAIRMAN VOLZ: But I just wanted to just make you aware of this issue. That’s all.</p> <p>SENATOR CUMMINGS: Okay.</p> <p>CHAIRMAN VOLZ: But if you did make a change, that might be okay. It might be wise to make a change, but if you don’t, we’ll be sure that we keep it all straight.</p>
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<p>March 2, 2006 Senate Finance Committee Hearing on S. 124 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 134B</p>	<p>[Track 1 00:17:48] SARAH HOFMANN: Um, I had similar issues on page three with the bill, which is the – both the ones that Chairman Volz just pointed out. The safety in the first paragraph and in the bottom public health issues. As he indicated, of course, you can write what you want. You’re the Legislature, but your chances of being preempted increase with the use of that kind of language. And we would suggest that we find some alternative language to be placed into the bill if this continues in its present form.</p>
<p>March 2, 2006 Senate Finance Committee Hearing on S. 124 Testimony of Gerry Morris, lobbyist, Entergy Nuclear Vermont Yankee Pl. Ex. 134C</p>	<p>[Track 1 00:19:50] GERRY MORRIS: Thank you, Madam Chair, members of the committee. For the record, my name is Gerry Morris. I am a contract lobbyist here today representing Entergy Vermont Yankee. This is my third time that I’m testifying on this issue and we still feel that we oppose this bill. As you know, you passed the dry cask storage bill last year, which requires us to come back before the Legislature. And we feel this is redundant. We oppose the bill as introduced. We oppose this draft and I would like to see the final draft though before you vote on it so I can send it back to Entergy for their review, if that’s okay.</p>
<p>March 2, 2006 Senate Finance Committee Hearing on S. 124 Testimony of Bill Russell, Chief Legislative Counsel Pl. Ex. 134D</p>	<p>[Track 1 00:41:42] SENATOR CUMMINGS: This section 102 or 231, those I think – I haven’t and I’m assuming, committee, that these are all – the question we haven’t asked as the committee is, do we want to strike references to safety? BILL RUSSELL: I have done that. SENATOR CUMMINGS: You have? BILL RUSSELL: Well, if we don’t want to we can – MALE SPEAKER 3: We – MADAM CHAIR: You have struck? BILL RUSSELL: Some of them.</p>
<p>March 2, 2006 Senate Finance Committee Hearing on S. 124 Pl. Ex. 134E</p>	<p>[Track 1 00:54:28] SENATOR: Okay. So we want the General Assembly to have the information as developed through the process at the PSB because it’s relevant to their consideration, cost/benefit, their studies, and safety questions. We want to give latitude to the General Assembly.</p>

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<p>March 2, 2006 Senate Finance Committee Hearing on S. 124 Pl. Ex. 134F</p>	<p>[Track 1 01:03:55] SENATOR 1: When the General Assembly – SENATOR 2: I don't know any legislators that are going to sit down and negotiate the price of electricity as a long-term contract. Uh, I mean there are, you know, it's beyond our expertise, but – SENATOR 1: Well that's why – that's one of the reasons we, I don't think, can be saying that we will amend or direct the PSB to amend its order because they'll have gone through a whole evidentiary process and we won't. Or you know, who knows what we'll do. SENATOR CUMMINGS: We can say contingent upon, uh, Entergy entering into a contract that is beneficial to the ratepayers of Vermont, you know, under the supervision of the Department of Public Service and the Public Service Board. You know – SENATOR 1: But that's us saying, it's not telling them. SENATOR 2: What do we accomplish with this? I mean, I'm serious. I'm trying to get a grasp to what we're – SENATOR 1: Here's what we accomplish, alright? Here's the bottom line. 2012 comes. They seek relicensing. They get relicensing. Alright? Through the certificate process. There is absolutely no requirement that VY sell us a kilowatt of power. SENATOR 2: But can the board ask them to do that? SENATOR 1: No, it can – SENATOR 2: I mean, can that be part of something that we put in the statute that we looked at? SENATOR 3: The board could ask for that, couldn't they, as part of the relicensing. It's a Certificate of Public Good. How good is it for us if we can't buy any electricity?</p>
<p>March 2, 2006 Senate Finance Committee Hearing on S. 124 Pl. Ex. 135A</p>	<p>[Track 1 00:12:50] SENATOR 1: Well and then I also think that if we base our legislation on what we learn from our constituents most of that is going to be about safety. That's what most of the arguments are about. So does all of our work get overturned because – SENATOR 2: No. SENATOR 1: – by the feds because it's based on safety? That's all it's going to be based on.</p>
<p>March 2, 2006 Senate Finance Committee Hearing on S. 124 Statement of Senator</p>	<p>SENATOR CUMMINGS: Well there's all these things out here that they don't know because we can't afford, you know, to hire experts and get stuff in evidentiary place and we can sit here and listen to three-headed turtles and sterile sheep and whatever we</p>

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<p>Cummings Pl. Ex. 135B</p>	<p>want to listen to and we can make our own decision. And we can have a much broader range of ability to hear and to, you know, than the Board does. The board for good reasons has much more constraint. We may need more constraint, but we don't have it. So this gives the folks that think perhaps they don't get heard at the board level, the ability to be heard by their elected representatives.</p>
<p>March 2, 2006 Senate Finance Committee Hearing on S. 124 Testimony of Bill Russell, Chief Legislative Counsel Pl. Ex. 136A</p>	<p>[Track 1 00:40:54] BILL RUSSELL: Public health issues, are they safety issues? SENATOR 1: That's pretty close. BILL RUSSELL: Yeah. I'm... SENATOR CUMMINGS: Is that going to give us a preemption issue? BILL RUSSELL: I don't know why you... SENATOR 2: Would it be the public health responsible – the State's public health responsibilities or emergency preparedness or ... ? BILL RUSSELL: You know, I think you can examine these issues as long as you don't base your... SENATOR CUMMINGS: Okay. BILL RUSSELL: ...and you'd base the economics of the thing on... So, um, let's – maybe I could phrase that better. Then...</p>
<p>March 22, 2006 Senate Finance Committee Hearing on S. 124 Statement of Senator Cummings Pl. Ex. 140A</p>	<p>[Track 1 00:47:27] SENATOR CUMMINGS: There are issues that we have learned in 40 years. When we licensed this, we took it face value that the federal government was going to take all those spent fuel rods and they were going away. They aren't going away. And they probably aren't going to go away in the next 40 years. So we need, as a Legislature, to say, okay, do we want another 40 years worth of radioactive materials sitting somewhere in this State? I think the people down in Windham County are getting a little concerned and obviously the closer you live to that radioactivity, the more concerned you are.</p>
<p>March 22, 2006 House Natural Resources Committee Hearing on S. 124 Statement of Senator Cummings Pl. Ex. 140B</p>	<p>[Track 2 00:01:39] SENATOR CUMMINGS: What we tried to focus on was the – what would be responsible behavior on the part of the Legislature for what was, you know, a very important process. We only have one nuclear power plant. I have family that lives near Three Mile Island. I have a son who's visited a Chernobyl-style reactor with a picture window. When something goes wrong with a nuclear power plant, the possible negative results are a lot worse than if a windmill breaks a blade or kills some birds or throws some ice.</p>

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	You know, it's just that there is a potential here, enough potential that the Legislature felt that it was a public policy decision that they needed to make.
March 22, 2006 House Natural Resources Committee Hearing on S. 124 Statement of Senator Cummings Pl. Ex. 140C	[Track 2 00:05:35] SENATOR CUMMINGS: I don't think we want to make a premature decision at this point, driven either by the fact that we need this electric power to keep our rates reasonable or in five years we may find out we don't need that power. I mean, if we get up enough wind farms or somebody discovers a new source of power. We don't know that yet, but I think, but I think we'd like to be able to negotiate and negotiate with some bargaining leverage in there.
March 29, 2006 House Natural Resources Committee Hearing on S. 124 Pl. Ex. 144A	[Track 1 00:10:40] REPRESENTATIVE KLEIN: In the 248 process and the CPG process, when you're weighing out the – for the public good, do you take into consideration whether or not there is an agreement in place that Vermonters will get kilowatt hours from this plant and at a preferable – for a lack of a better term – price? If the CPG process can't – if they were going to the CPG process and there was no – and they're a merchant plant and there is no agreement on where this electricity is going to be sold to, is that taken into consideration?
March 29, 2006 House Natural Resources Committee Hearing on S. 124 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 144B	[Track 2 00:01:05] SARAH HOFMANN: First of all, in the preamble of the bill, we think that the stating the policy and the purpose, that's on page 2, we think we can help you with some language to prevent preemption problems. There are some things the State can look at, like need and alternatives, and we probably, as the department, can help you come up with some language that you could put at the top to hopefully prevent preemption problems. It's not going to tell you that you're not going to – you're never going to have a preemption challenge, but we can help you do another way that will minimize those risks.
March 29, 2006 House Natural Resources Committee Hearing on S. 124 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 144C	[Track 2 00:13:46] SARAH HOFMANN: There are a few things in the public engagement section process that could court preemption challenges. We can get that. We can help you clean that up.

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<p>March 29, 2006 House Natural Resources Committee Hearing on S. 124 Statement of Representative Klein Pl. Ex. 144D</p>	<p>[Track 2 00:44:26] REPRESENTATIVE KLEIN: Here's the difference for me. I think it's appropriate and I think it brings finality to a situation if you let the people decide on the policy of whether or not we want to continue forward with this type of fuel, it's settled once and for all. If you just have the dry cask storage issue as the safety gap, as the only stopgap measure that you have –</p> <p>REPRESENTATIVE ERRECART: OK 'cause we don't say safety when we're talking Vermont Yankee in this room.</p>
<p>March 29, 2006 House Natural Resources Committee Hearing on S. 124 Pl. Ex. 146A</p>	<p>[Track 1 00:47:18] REPRESENTATIVE: Could I ask Joe a question? Joe?</p> <p>SPEAKER: Mm-hmm.</p> <p>REPRESENTATIVE: First I need to know if you feel that nuclear power –</p> <p>SPEAKER: [Interposing] Mm-hmm.</p> <p>REPRESENTATIVE: – is the same as wind power in terms, in terms of the level of questioning that you have to ask? One, one is potentially low probability, high impact in terms of risk to the public. You have to guard it. You have to insure it from terrorist attacks. You have to – you have to manage it very differently in all aspects. And if you – you – I don't see this as – I do see it all as energy but I think, given the nature of the energy, that the – you don't ask the same questions about it because they're different. Wind power is low impact, low probability, low risk. In terms of it – you can't ask the same questions of nuclear power that you're asking about wind. They're different things.</p>
<p>April 4, 2006 House Natural Resources Committee Hearing on S. 124 Statement of Representative Klein Pl. Ex. 146B</p>	<p>[Track 1 00:39:41] REPRESENTATIVE KLEIN: When we talk about fact finding process, I don't see that as being Entergy convincing us to OK it. That's what happened last year. We never really took a look at the long-term economics of how long this stuff is going to probably be sitting in Vermont. That's something that we may know in the next couple of years. It's something that Entergy – we didn't even establish the fact of how long this stuff with nuclear waste lasted. Everyone said over a hundred thousand years except for Entergy, that said between a few hundred and a few thousand years. I mean, when we talk about fact finding, that's something we have to look at and go OK, is it true that Entergy, what Entergy is saying, that it's going to be here a few</p>

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	hundred or a thousand years, or is it true that it's going to be dangerous for a hundred thousand years?
April 19, 2006 House Natural Resources Committee Hearing on S. 124 Statement of Representative Darrow Pl. Ex. 149A	[Track 1 00:37:34] REPRESENTATIVE DARROW: I mean, we live – you know, for those of us who live in the proximity of the plant tend to be much more aware of the risks and the dangers of the possibility that the dry casks, with the high-level nuclear waste, may be there forever.
April 19, 2006 House Natural Resources Committee Hearing on S. 124 Testimony of Deputy Commissioner Rich Smith, Department of Public Service Pl. Ex. 151A	[Track 1 00:09:32] RICH SMITH: I'm sorry I didn't mean to. But sort of looking at it from and it's obviously a couple times in the bill where it says an economic analysis based on – or new – I'm forgetting the exact words, new economic analysis, safety concerns – no safety concerns, right, because that would be – environmental health. Those are, I think, the three.
April 19, 2006 House Natural Resources Committee Hearing on S. 124 Testimony of Deputy Commissioner Rich Smith, Department of Public Service Pl. Ex. 151B	[Track 1 00:11:10] RICH SMITH: The other issue is, I guess one concern I have with that is there is a history of how the plant is operated and I think that we would want to take that into consideration as we went forward in terms of that. And we're worried that this language may say, you can't look at that. It's almost like saying you can't look that this plant was operated safely or unsafely, depending on your point of view, but you can't look at the history of this plant going forward and I want to make sure that the board does – is able to look at that.
April 19, 2006 House Natural Resources Committee Hearing on S. 124 Pl. Ex. 151C	[Track 1 00:16:01] REPRESENTATIVE: Why was that? I understand what you're saying but I'm just kind of interested if we go back in history. Why wasn't that issue raised when we passed Act 74? Everybody knew that Yankee was going to go for relicensing. That's why they went for – they made no bones about. RICH SMITH: Made no bones about? The time frame? REPRESENTATIVE: They had a three-legged stool here. They were going to get dry cask storage, uprate, and license extension, that was their business plan. So it wasn't like anybody didn't think last year when we were dealing with permission for dry cask storage that they weren't going to be coming for relicensing. And

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	the way that Act 74 is written and passed and is statutorily required, they need the permission of the Legislature to store any spent fuel after March of 2012 and there's nothing in that act that requires the Legislature to act.
April 20, 2006 House Natural Resources Committee Hearings on S. 124 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 154A	[Track 1 00:01:38] SARAH HOFMANN: Later on you have issues relating to the long-term storage of nuclear waste. I'm going to tell you, you may end up with a preemption problem. Uh, that is a gray area. There are some states, such as California, who have done some things with that. I'm not going to tell you to take it out, but I want you to know it is a gray area and you may end up being preempted.
April 20, 2006 House Natural Resources Committee Hearings on S. 124 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 154B	[Track 1 00:02:42] SARAH HOFMANN: Can you actually say they can't have a dry fuel storage facility? That's probably where you're stepping over the line.
April 20, 2006 House Natural Resources Committee Hearings on S. 124 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 154C	[Track 1 00:04:55] SARAH HOFMANN: Economics are usually a safe place for the State to reside.
April 20, 2006 House Natural Resources Committee Hearings on S. 124 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 154D	[Track 1 00:05:45] SARAH HOFMANN: You have a number of things listed in Section 1(A), (B), (C), (D), and (E) and (F) and (C) and (D) are more substantive than the other things you have. And so you may want to put them in some place where it's actually going to be in the statute books.

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<p>April 20, 2006 House Natural Resources Committee Hearing on S. 124 Testimony of Kerrick Johnson, Central Vermont Public Service Pl. Ex. 155A</p>	<p>[Track 1 00:19:21] KERRICK JOHNSON: I do have concerns with regards to the dual, or dueling, public processes, because if we have one for Vermont Yankee and, yes, there are some very specific safety con – situations. No question. Or, excuse me, economics, storage – things that don't, cannot be preempted, excuse me, that are associated with nuclear power.</p>
<p>April 20, 2006 House Natural Resources Committee Hearing on S. 124 Testimony of Kerrick Johnson, Central Vermont Public Service Pl. Ex. 155B</p>	<p>[Track 1 00:24:23] REPRESENTATIVE: [T]here's going to have to be a deal in place that the Public Service Board is, is going to be able to have to, is going to be looking at, that's going to be part of whether they decide a CPG is proper to go forward with. Because if the people of Vermont are not going to benefit from a sufficient amount of power at a good enough price or a long enough contract...</p> <p>KERRICK JOHNSON: Mm-hmm.</p> <p>MALE SPEAKER: ... there's no reason to have this plant operate in our, in our region.</p> <p>KERRICK JOHNSON: I think, I think that point is arguable.</p> <p>MALE SPEAKER: It's arguable but it's pretty strong point.</p>
<p>April 20, 2006 House Natural Resources Committee Hearing on S. 124 Testimony of Brian Cosgrove, Entergy Nuclear Vermont Yankee Pl. Ex. 155C</p>	<p>[Track 2 00:02:40] BRIAN COSGROVE: Thank you Mr. Chairman. For the record my name is Brain Cosgrove. I'm Director of Government Affairs for Entergy Nuclear Vermont Yankee. I appreciate the opportunity to be here today and I would just like to begin by thanking Representative Darrow for trying to give us a little opening with, uh, CVPS in our negotiation, we appreciate it.</p> <p>Just about a year ago, in May 2005, we felt that Vermont Yankee, that we had found a clear way forward to license renewal and that sort of thing, as a result of the work that we have done in this committee on dry fuel storage and a lot of hard work by a lot of people and a lot of good faith work and we certainly appreciated that. Also, understand that I'm here today because you guys again are doing a very good faith effort to try to grapple and approve a Senate bill that came out earlier this year and that's really the genesis of the reason we're here today. And I appreciate all the efforts. I think that there has been a really, obviously, a lot of hard work that's gone into it. As promised, we have given</p>

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	<p>Representative Klein a couple of suggestions for changes in the language of this bill in accordance with some of the things that had been said earlier. We certainly, in view of the Senate bill, appreciate what you've done to try to reduce the one bite of the apple, as other people have said also. We would like to say that we appreciate also the comments that were made earlier today that we could be included to the degree possible in VESRA and not be treated as a standalone of sorts.</p> <p>However, all that being said, we still feel that we're going to stay with our original position on this bill when it was in the Senate, is that it is not necessary. And we thought after last year we had a, as I said a, a clear way through. Think that the Public Service Board 248 process is adequate. We felt that the language in the dry fuel storage legislation last year provided an up-and-down vote, a policy vote, if you will, in the Legislature. And, obviously, in the process of considering the dry fuel storage issue, there was room there probably to explore other issues at the will of the Legislature and we understood that to be true as well. So, all those things being said it, it seems to us that we continue to believe that this bill is not necessary and that we're not able to support it. But, again, I thank everybody for their hard work and, and I believe good faith efforts to do the right thing.</p>
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<p>January 29, 2008 Senate Finance Committee Hearing on S. 364 Statement of Senator Shumlin Pl. Ex. 164A</p>	<p>[Track 1 00:01:26] SENATOR SHUMLIN: [W]hen I was a private citizen and you all were talking about the uprate, there was general agreement among the governor, the Legislature, the department, that there should be an independent safety inspection before an uprate was approved.</p>
<p>January 29, 2008 Senate Finance Committee Hearing on S. 364 Statement of Senator Shumlin Pl. Ex. 164B</p>	<p>[Track 1 00:03:32] SENATOR SHUMLIN: I personally do not have confidence that the NRC has the will or the ability to do the job that needs to be done.</p>
<p>January 29, 2008 Senate Finance Committee Hearing on S. 364 Testimony of Commissioner David O'Brien, Department of Public Service Pl. Ex. 165A</p>	<p>[Track 14 00:02:07] COMMISSIONER O'BRIEN: The bill, um, for example does acknowledge, and this is one of the sticky things here, is that the whole issue of jurisdiction, and, you know, can a bill be passed by this Legislature that requires a review where the NRC has a pretty clear line of jurisdiction, and may very well be preemptive, but at least this bill acknowledges that, that possibility and lays out a path for that. I think that some of the things to think about is that, certainly the jurisdictional question there and also that, I'm of two minds on the Public Service Board role here. In the first instance, I like the role of the Public Service Board because that allows it to be deliberative and thorough, but I think the Public Service Board, if they were here, would say, "Well, nuclear safety is not our purview and our background." So they're going to be, I guess challenged in that, in that sense and we'd have to figure out a way for them to be able to make these sorts of determinations that this bill talks about.</p>
<p>January 30, 2008 Senate Finance Committee Hearing on S. 364 Testimony of Ray Shadis, New England Coalition Pl. Ex. 168A</p>	<p>[Track 1 00:22:33] RAY SHADIS: In a period of about 20 years ago, the U.S. Nuclear Regulatory Commission was still reeling from the bad publicity of the bad day of Three Mile Island. And as a result, they began to try to tighten up their inspection program, revamp their analysis. I mean, you can inspect forever, but then what did the results mean in terms of whether you have a plant that is acceptably safe or is over the line and is not safe enough and so on.</p>
<p>January 30, 2008 Senate Finance Committee Hearing on S. 364</p>	<p>[Track 00:23:53] RAY SHADIS: We've been 50 years in the business without something like Chernobyl happening here and... you know, that,</p>

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<p>Testimony of Ray Shadis, New England Coalition Pl. Ex. 168B</p>	<p>to me that's a miracle, and I'd rather not depend on miracles given my lack of state of grace.</p>
<p>January 30, 2008 Senate Finance Committee Hearing on S. 364 Testimony of Ray Shadis, New England Coalition Pl. Ex. 168C</p>	<p>[Track 1 00:30:11] RAY SHADIS: At the same time as it happened, the citizens of Maine had harassed the governor into asking for a safety inspection. In fact, they called it a safety assessment that would show the people of Maine that this was a good plant.</p> <p style="text-align: center;">***</p> <p>[Track 1 00:33:22] RAY SHADIS: We put it in terms of, is the plant safe or not safe, is it reliable or not reliable? But the NRC traditionally puts it in terms of, is this plant in conformance with its design basis? More importantly, I guess, even preceding that, is the design basis of the plant correct and has it been applied directly and is it maintained?</p> <p style="text-align: center;">***</p> <p>[Track 1 00:34:32] RAY SHADIS: Maybe a pump will indeed put out X number of gallons per second on demand, but in a certain emergency situation, maybe that's not what you want, and so that has to be analyzed.</p>
<p>January 30, 2008 Senate Finance Committee Hearing on S. 364 Testimony of David Lochbaum, Union of Concerned Scientists Pl. Ex. 168D</p>	<p>[Track 1 00:46:46] DAVID LOCHBAUM: The factors that triggered the 1996 Independent Safety Assessment at Maine Yankee are present today at Vermont Yankee.</p> <p style="text-align: center;">***</p> <p>[Track 1 00:48:02] DAVID LOCHBAUM: In April of 2002, the Reactor Oversight Process told the NRC that the Davis-Besse Plant in Ohio was among the best, if not the best, safety performer in the Midwest. Nothing could have been further from the truth. Davis-Besse operated closer to nuclear disaster than any other U.S. reactor since Three Mile Island's meltdown in 1979.</p> <p style="text-align: center;">***</p> <p>[Track 1 00:48:32] DAVID LOCHBAUM: From a safety advocate's perspective, it is impossible to oppose an Independent Safety Assessment. An ISA cannot reduce safety levels, and it actually can restore safety levels through the identification and resolution of those problems. For that reason alone, S. 269 has merit.</p>

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	<p style="text-align: center;">***</p> <p>[Track 1 00:53:04] DAVID LOCHBAUM: An ISA focuses more strobe lights on the issue than the regulatory oversight process does. As a result, more ground is covered, and, if they exist, more safety problems are exposed. When safety problems are properly handled – when those findings on safety are properly handled – the ISA results in fewer and smaller holes in the three levels of quality defense. The ISA thus provides greater short-term and long-term safety benefits. It identifies more safety problems now for greater short-term benefit and it fixes more holes in the three levels of quality defense for greater long-term benefit. The ISA is therefore a win-win proposition. For those reasons, UCS supports S. 269. The ISA it seeks would benefit the people of Vermont.</p> <p style="text-align: center;">***</p> <p>[Track 1 00:54:24] SENATOR CUMMINGS: Okay. Thank you. That was very clear and very helpful.</p>
<p>January 30, 2008 Senate Finance Committee Hearing on S. 364 Testimony of Ray Shadis, New England Coalition Pl. Ex. 168E</p>	<p>[Track 1 01:04:12] RAY SHADIS: Well, okay. It would take more than 30 years of inspection before they got around to equaling the 1996 Independent Safety Assessment. I mean, you can juggle the numbers all kinds of ways, but it would be an intergenerational phenomenon. And, in the meantime, the design basis issues continue to emerge, they continue to grow, things continue to fail, modifications continue to be made, programs adjusted. So the, you know, the NRC will say that they have an ongoing program, that a new ISA would be a snapshot. But really that's turning – turning it on its head. If anyone is doing snapshots, it's them – they're doing it every three years. And it will take 30 years before it adds up to the family photo album that the ISA represents. It's... it's a... a bigger, larger picture and all of the relatives are included. I'm going to end with this. It is... If one wants the very best examination that would give the people of the area assurance about the plant, then one wants the best thing in NRC's toolbox, which is the diagnostic evaluation team inspection that was called an ISA at Maine Yankee.</p>
<p>January 30, 2008 Senate Finance Committee Hearing on S. 364 Testimony of Ray Shadis, New England Collation Pl. Ex. 168F</p>	<p>[Track 1 01:06:14] RAY SHADIS: We want it to have that vertical component going down through a system and then you also want to check on plant performance, operations management, so when an issue is found, whether they term it safety significant or not, you want an extended lateral or horizontal look at plant operations to find out</p>

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	why – why that is there.
January 30, 2008 Senate Finance Committee Hearing on S. 364 Testimony of Ed Anthes, Nuclear Free Vermont Pl. Ex. 169A	<p>[Track 1 00:00:05] ED ANTHES: The NRC and ENVY think everything is just swell in Vernon and no further oversight is needed. The Douglas administration can be expected to accept a minor review as the Public Service Board did before the 20 percent power boost began; maybe 1,000 hour document review.</p> <p style="text-align: center;">***</p> <p>[Track 1 00:01:25] ED ANTHES: A CVA would thoroughly examine specific safety and reliability systems to certify that each one of those systems is able to perform its critical safety function as designed.</p> <p style="text-align: center;">***</p> <p>[Track 1 00:03:43] ED ANTHES: I believe that only through a thorough comprehensive vertical audit, by whatever name, can we be assured, and the Legislature and the regulators be assured, that Entergy Nuclear can be operated safely and reliably for 20 more years.</p> <p style="text-align: center;">***</p> <p>[Track 1 00:06:05] ED ANTHES: What the – this audit can look at is the systems that run – the systems, the people, the procedures that run that reactor, is that a safe component, is that a safe thing?</p> <p style="text-align: center;">***</p> <p>[Track 1 00:06:55] ED ANTHES: But going back to your question about the audit itself. That answers the question – really it answers the question, is it safe for the next three or four years?</p>
January 30, 2008 Senate Finance Committee Hearing on S. 364 Testimony of James Moore, Vermont Public Interest Research Group Pl. Ex. 170A	<p>[Track 1 00:02:11] JAMES MOORE: Second point is that, as Vermont Yankee ages, it should undergo continual independent review until the Legislature determines that safety inspections done by the NRC satisfy Vermont's desire to ensure the facility can be deemed adequately reliable. Until something changes and we have a greater level of confidence in the NRC, reliability is an issue that the State has purview.</p>
February 21, 2008 Senate Finance Committee Hearing on S. 364	<p>[Track 7 00:03:48] SENATOR CUMMINGS: There's a big difference between 10 and 60 years, and I think that's where the concern of this</p>

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Statement of Senator Cummings Pl. Ex. 172A	committee – there’s no feeling that the Legislature ever bought into 60 years of safe storage waiting for a fund to mature. And it looks that if, for whatever reason somebody defaults on that guarantee, what kind of recourse we have if Vermont Yankee, LLC has gone away, it’s belly up, it’s got no assets to attach.
February 21, 2008 Senate Finance Committee Hearing on S. 364 Testimony of Bill Russell, Chief Legislative Counsel Pl. Ex. 173A	[Track 4 00:00:53] BILL RUSSELL: As I say, there is some disagreement in what it should be called. This is deliberately called a vertical assess – audit that it is not to be confused with ISA NRC assessment practices.
February 21, 2008 Senate Finance Committee Hearing on S. 364 Statement of Senator Cummings Pl. Ex. 173B	[Track 6 00:00:08] SENATOR CUMMINGS: Right now we’ve been asked by leadership to get this piece of the bill out, and it will be a committee bill when it comes out because we are going to deal with safety.
February 21, 2008 Senate Finance Committee Hearing on S. 364 Statement of Senator Cummings Pl. Ex. 173C	[Track 8 00:04:53] SENATOR CUMMINGS: [T]hat kind of, people with information but no dog in this fight, that would just make sure that the information is gathered, it is not cut and paste from corporate safety reports, which was the complaint that came in about the NRC that they were just cutting and pasting.
February 26, 2008 Senate Finance Committee Hearing on S. 364 Testimony of James Volz, Public Service Board Pl. Ex. 175A	[Track 14 00:03:30] CHAIRMAN VOLZ: I’m Jim Volz with – I’m the Chairman of the Vermont Public Service Board. I’ve looked over S. 269 draft number three and I just have a few sort of big picture comments about it. Certainly the board is very concerned about safety and about the same concern that you have here and why you want to do this bill. I don’t think anybody has any disagreement that we want the, the plant to be safe. We also want it to be reliable and I think that’s the issue that’s really within the purview of the board, the safety is more the NRC and we’re preempted. We can look at safety in the context of its effect on reliability or its effect on economic benefit. But we can’t actually make it – pass judgment on whether something is or isn’t safe, that’s really the NRC’s area. So, I would just caution you on that and suggest that you make sure the bill is properly focused on reliability and economic impacts and not so much on safety.

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<p>February 26, 2008 Senate Finance Committee Hearing on S. 364 Testimony of Ray Shadis, New England Coalition Pl. Ex. 176A</p>	<p>[Track 8 00:01:50] RAY SHADIS: In the first place, both the Vermont Public Service Board in the uprate docket and the NRC commissioners wrote that the issues of safety and reliability are intertwined. In fact, Chairman Dworkin of the Vermont Public Service Board said they were inextricably intertwined. And if you find, if you find when you examine this plant that there are issues that are going to lead to breakdowns, that are going to lead to sudden power shifts, you know, it is on the border of safety related, you know. We've had a fire. We had the cooling tower collapse, and they were right on the fringe of being safety related issues. So you know, what you would want is for the company to address these issues in a real professional, satisfactory way, a thorough way. And, you know, the one agency that really has the authority to make certain that these things are properly addressed is the NRC, and I think, you know, from that level, you want them on board all the way along the line. Now the other thing is that I think part of what Mr. Gundersen wanted in his version of this bill and part of what was in the original ISA, is the horizontal component. When you find a problem, then you begin to look sideways and find out why that problem exists and what departments were involved and so on. And that almost automatically leads to issues that have some safety relevance.</p>
<p>February 26, 2008 Senate Finance Committee Hearing on S. 364 Testimony of Ray Shadis, New England Coalition Pl. Ex. 176B</p>	<p>[Track 9 00:00:42] RAY SHADIS: I think at the bottom line is that the Senate of the Vermont Legislature, the New Hampshire Legislature, the congressional team, congressmen from New Hampshire and Massachusetts, plus about 10,000 signatories have all called for an independent safety assessment.</p>
<p>February 27, 2008 Senate Finance Committee Hearing on S. 364 Testimony of Bill Russell, Chief Legislative Counsel Pl. Ex. 177A</p>	<p>[Track 10 00:00:57] BILL RUSSELL: The very last page will show you that we also intend to change the title, an act relating to an independent audit rather than a safety assessment. The first several pages, which describe the comprehensive vertical audit, have really not been changed. They've just been some editorial changes in a few places and they're marked in bold so you can see what they are. They're deleting the word safety and putting the word emergency, things like that.</p>
<p>March 12, 2008 Senate Floor Debate on S. 364 Statement of Senator</p>	<p>[Track 4 00:04:14] SENATOR CUMMINGS: The other thing that has hit the news in the last few weeks are, probably the last year, is that the general – Federal General Accounting Office, not a particularly radical</p>

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Cummings Pl. Ex. 180A	group, has expressed concern about the NRC's tendency to, kind of, rubber stamp reports that come from the nuclear energy industry. There's been concerns that they are not doing adequate follow-up, they're not double-checking these things. So the result has been that there is a fair amount of public concern about the adequacy of the NRC's inspection process.
March 12, 2008 Senate Floor Debate on S. 364 Statement of Senator Cummings Pl. Ex. 180B	[Track 5 00:01:34] SENATOR CUMMINGS: The second set of the bill directs the Department of Public Safety [sic] to empanel a group of experts. They can be from the NRC, they can be – it is possible that some pieces or all of the NRC's recent safety can be adequate for this, but that as part of their preparation to report to us for our licensing that they empanel a group of experts to conduct this comprehensive vertical analysis and this can also be used as part of their public engagement process for Act 160.
March 12, 2008 Senate Floor Debate on S. 364 Statement of Senator Miller Pl. Ex. 180C	[Track 5 00:03:54] SENATOR MILLER: I was just curious, um, have other states not trusted, totally trusted, the Nuclear Regulatory Commission and have they embarked on similar state proscribed audits?
March 12, 2008 Senate Floor Debate on S. 364 Statement of Senator Cummings Pl. Ex. 180D	[Track 6 00:04:28] SENATOR CUMMINGS: A large number of this may well be able to be taken from the NRC safety study that they just did with the oversight and check that. We're trying to deal with two things here. One is the concern that the NRC is too quick to rubber stamp and the public, kind of, distrust, you know, well this is a safe plant but the cooling tower is falling down, calls into question the whole, kind of, culture of safety that might be going on.
March 12, 2008 Senate Floor Debate on S. 364 Statement of Senator Starr Pl. Ex. 180E	[Track 7 00:03:37] SENATOR STARR: Secondly, I'm wondering if this is really a study to determine the safety of Entergy and Vermont Yankee or is it a way to maybe chase them out of the State because it's going to be so costly that maybe it would be cheaper just to mothball the place and not operate.
March 12, 2008 Senate Floor Debate on S. 364 Statement of Senator Starr Pl. Ex. 180F	[Track 8 00:01:51] SENATOR STARR: And it's, you know, the folks here that support wind power, I mean, they're dreaming. And it's nice to have dreams and think that everything is going to be sunshine and rosy when the turbines turn and we're going to get our power from there, but it's not going to happen. It's either going to come from a fossil fuel plant, nuclear, hydro, wood chips, things of that

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	nature and I really question – I, I know we want to make sure that this plant is safe and, but I – the process that we’re going through to get there is very cumbersome and I really question whether we need a process that cumbersome.
March 12, 2008 Senate Floor Debate on S. 364 Statement of Senator Cummings Pl. Ex. 180G	[Track 8 00:04:32] SENATOR CUMMINGS: Well, having a nuclear incident will severely tarnish that public image and we’re also cognizant of that.
March 12, 2008 Senate Floor Debate on S. 364 Statement of Senator Cummings Pl. Ex. 180H	[Track 9 00:02:59] SENATOR CUMMINGS: And, you know, the real issue we’re dealing with is the public credibility. The NRC’s credibility has really been called into question.
March 12, 2008 Senate Floor Debate on S. 364 Testimony of Senator Choate Pl. Ex. 180I	[Track 9 00:03:36] SENATOR CHOATE: Thank you. Mr. President, I have another question. I have no qualms with making sure that the plant is safe for the – all of our plants in the state are safe.
March 12, 2008 Senate Floor Debate on S. 364 Statement of Senator Cummings Pl. Ex. 180J	[Track 11 00:03:30] SENATOR CUMMINGS: Yes, this could be a crisis. But again, if we license it and it’s not reliable, and something happens in two years and it has to shut down, we are in the same place. And if something really bad happens, the economic impact on Vermont – Pure Vermont Green and all the rest of it – could also be dramatic.
March 12, 2008 Senate Floor Debate on S. 364 Testimony of Senator McDonald Pl. Ex. 180K	[Track 12 00:02:22] SENATOR MCDONALD: There are a couple things that this plant has going for it that are commendable. It has a... It operates 99 percent of the time it’s supposed to, which means it only calls in sick once out of every 100 days, and that’s an enviable record for any nuclear plant, and certainly is a – is high marks to the one that we’re seeking to have reviewed.
March 12, 2008 Senate Floor Debate on S. 364 Statement of Senator Coppentrath	[Track 15 00:02:03] SENATOR COPPENRATH: Yes, thank you, Mr. President. I support the review of the safety of Vermont Yankee. I believe there are errors of fact in the bill that I would like to offer an amendment for a third reading.

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Pl. Ex. 180L	
March 20, 2008 House Natural Resources Committee Hearing on S. 364 Statement of Senator Cummings Pl. Ex. 183A	[Track 1 00:00:24] SENATOR CUMMINGS: It's actually a pretty simple little bill. Okay, what this bill does, in essence, is the governor has called for an independent safety assessment, the congressional delegation has called for an independent safety assessment, the Legislature has talked about the need to do something. What this bill does is define what we mean by an assessment. And we talk about a reliability assessment because safety is not within our purview.
March 20, 2008 House Natural Resources Committee Hearing on S. 364 Statement of Senator Cummings Pl. Ex. 183B	[Track 1 00:02:57] SENATOR CUMMINGS: All of that has led, you know, to some discomfort here with just taking their word that, that this plant is safe. When you add to that the fact that this plant is now asking to be licensed for 50 percent beyond its original life, and it is operating at 20 percent of its – 120 percent of its design capacity, the concern gets stronger.
March 20, 2008 House Natural Resources Committee Hearing on S. 364 Statement of Senator Cummings Pl. Ex. 183C	[Track 1 00:04:33] SENATOR CUMMINGS: But – so what we did is, we took all the advocates and sat them down with our drafting people and said – because there seems to be... Everybody has a different name for the same thing, and we seem to, you know, we're all talking about roughly the same kind of inspection, but the terminology is different. And so we settled upon what's called a comprehensive vertical analysis.
March 20, 2008 House Natural Resources Committee Hearing on S. 364 Statement of Senator Cummings Pl. Ex. 183D	[Track 1 00:06:14] SENATOR CUMMINGS: There's a very good chance that a lot of this work has already been done by the NRC.
March 20, 2008 House Natural Resources Committee Hearing on S. 364 Statement of Senator Cummings Pl. Ex. 183E	[Track 1 00:09:25] SENATOR CUMMINGS: And I believe it requires the department to be in charge of doing this. They have also said they want to have a safety inspection, so we're saying, okay, this can be your safety inspection, both for Act 160, but, you know, if you're doing a – you know, everyone wants a safety inspection.
March 20, 2008 House Natural Resources	[Track 1 00:10:57] REPRESENTATIVE: Madame Chair, I'm a little confused. You

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<p>Committee Hearing on S. 364 Statement of Senator Cummings Pl. Ex. 183F</p>	<p>started off your presentation stating that we don't have oversight for safety of the nuclear plant.</p> <p>SENATOR CUMMINGS: Right.</p> <p>REPRESENTATIVE: And I thought I just heard you say that the department wants a safety inspection and we want it. I mean, are we, are we saying we're going to forget that we do not have oversight for safety, the NRC does, and we're going to take and forget all that and we're going to do a safety, or is this an independent reliability inspection?</p> <p>SENATOR CUMMINGS: No. This, this bill speaks exclusively of reliability. And the governor keeps talking about safety. Our issue has been that we don't have jurisdiction there.</p>
<p>March 20, 2008 House Natural Resources Committee Hearing on S. 364 Statement of Senator Cummings Pl. Ex. 183G</p>	<p>[Track 1 00:11:45]</p> <p>SENATOR CUMMINGS: Now, there's some interconnection between reliability and safety. If it's not reliable, it may not be safe. It may be reliable and emitting too many things into the air it's not supposed to, but – and be unsafe.</p>
<p>March 20, 2008 House Natural Resources Committee Hearing on S. 364 Pl. Ex. 183H</p>	<p>[Track 1 00:29:35]</p> <p>REPRESENTATIVE: But we're finding that, that there's a lack of confidence in the NRC in the public's eyes.</p>
<p>March 20, 2008 House Natural Resources Committee Hearing on S. 364 Statement of Senator Cummings Pl. Ex. 183I</p>	<p>[Track 1 00:31:02]</p> <p>SENATOR CUMMINGS: But that cooling tower ran in every paper. That was aft – you know, who missed what? At the very least it, it speaks to the culture of safety at the plant.</p>
<p>March 20, 2008 House Natural Resources Committee Hearing on S. 364 Statement of Senator Cummings Pl. Ex. 183J</p>	<p>[Track 1 00:32:42]</p> <p>REPRESENTATIVE: I guess there's overlap between safety and reliability—</p> <p>SENATOR CUMMINGS: Yes.</p> <p>REPRESENTATIVE: -- because you're talking about the cooling towers as being a safety issue, and yet this study is a reliability</p>

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	<p>study.</p> <p>SENATOR CUMMINGS: Right. The cooling towers were not. NRC told us, well, that wasn't their fault because the cooling towers are not in their domain because they don't have to do with safety. They had to do with, they're part of the plant, and somebody didn't keep them up. So if the plant is not reliable, it's probably not safe, and if it's not safe, it's probably not reliable.</p>
<p>March 25, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Bill Russell, Chief Legislative Counsel Pl. Ex. 185A</p>	<p>[Track 1 00:06:25]</p> <p>BILL RUSSELL: One of the issues of which I think you're getting to Joe, is that there is a major cleavage around the issue of terminology. There is one group of witnesses that wanted the terminology to be that of the Nuclear Regulatory Commission and if we use their terminology, cite the specific sections of the Code of Federal Regulations, which set out what the NRC would do if they were going to do this kind of an audit. And some of the witnesses were even explaining that unless we did it through the NRC and with NRC terminology it wouldn't work. The other side of that was that the other group of witnesses, which the committee eventually sided with, was that, that was the problem. If you use NRC terminology it would just be then the NRC might be inclined to say, "Oh, sure, we've done that before, we have recipe for an ISA, or a DET" or whatever and pull it off the shelf and that was not satisfactory to those who ultimately voted on this bill.</p>
<p>March 25, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Bill Russell, Chief Legislative Counsel Pl. Ex. 185B</p>	<p>[Track 1 00:13:01]</p> <p>BILL RUSSELL: I think you may have to check with them. But the discussion centered around, we don't want an ISA, which is a Independent Safety Assessment, which is what the NRC would normally do in this situation and maybe even doing. We want the design and methodology for inspecting this plant that answers the questions that we're interested in doing and, as I'll get to the section, but it includes possibly the department would empanel a team to do it and they're directed to invite the NRC to participate and use them as we can if they wish to, if they choose to participate. Otherwise, what we're doing here is setting out what we think is the methodology, what we think is the questions they need to answer, in terms that are developed for the Vermont Yankee plant.</p>
<p>March 25, 2008 House Natural Resources Hearing on S. 364 Testimony of Bill Russell, Chief Legislative Counsel Pl. Ex. 185C</p>	<p>[Track 1 00:20:18]</p> <p>BILL RUSSELL: We're intending this to be a reliability and, uh, assessment. I think that if there's safety risks or emergency risks, they should be identified and they should be discussed and they should be part of the audit.</p>

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<p>March 25, 2008 House Natural Resources Committee Hearing on S. 364 Pl. Ex. 185D</p>	<p>[Track 1 00:26:02] REPRESENTATIVE ERRECART: You know, I think we're getting in the shaky ground already, because as I remember, Sarah, who has looked into this more than I have, is concerned about us using the language relicensing and tells us we should use the language continue operations, so yeah.</p> <p>BILL RUSSELL: I think the governor himself uses the term relicensing. He has requested the NRC to do an investigation.</p> <p>REPRESENTATIVE ERRECART: When he talks to federal contractors, relicensing.</p> <p>BILL RUSSELL: Yeah, right, and so I think that if that term is improper, we're all using it.</p> <p>REPRESENTATIVE 1: I guess, maybe I have to back track, and I apologize because I may be a little bit thick on this, but, this is looking for an evaluation of the systems of operations of the plant, independent of the NRC.</p> <p>BILL RUSSELL: Let me turn you to the section.</p> <p>REPRESENTATIVE 2: Maybe we should go over, just have Bill go through, the whole thing.</p> <p>REPRESENTATIVE 1: I can't – Unfortunately, I can't get beyond these rules, because what I can't do, as an operations person, I'm looking at this thinking, well, yeah, it makes sense that if you've got a regulatory body like the NRC and they're doing an evaluation, why aren't they doing this stuff? What is it about the NRC evaluation that it makes it so different that we want to create a whole new evaluation process and not even use the terminology.</p> <p>BILL RUSSELL: Well ...</p> <p>REPRESENTATIVE 1: For somebody who is not familiar with the NRC process and if they're supposed to be looking holistically at this plant and making a determination of its safety and otherwise, why wouldn't you be assessing the facility's operational performance in giving risk perspectives and appropriate – that are appropriate? You see what I'm saying? I can't get beyond – it's not my concern of NRC doing it or with them preempting any other decisions or anything like that. I can't move beyond what these words say and wonder if we're trying to</p>
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	<p>say that these things wouldn't necessarily be looked at by the NRC in one of their ISA evaluations. Are we saying that?</p> <p>BILL RUSSELL: We're saying that this is what we want in our evaluation. There are people who will tell you that the NRC will not do it this way. I am not expert enough to do that and you need to hear from some of these people.</p> <p>REPRESENTATIVE 1: Okay.</p> <p>BILL RUSSELL: Some of them are very critical of the NRC. Some of them strongly support the NRC.</p> <p>REPRESENTATIVE 1: Okay. I guess that's what I need to know.</p> <p>BILL RUSSELL: Yeah</p> <p>REPRESENTATIVE 1: So that is, we are necessarily saying, or at least somebody is saying, that the type of audit that should have the same outcome, which is a risk assessment, would not necessarily take these same type of steps to reveal, and coming to that conclusion, and that's what our concern is, which is why we're doing an independent one using specific steps that would be taken in an evaluation.</p> <p>BILL RUSSELL: That's right.</p>
<p>March 25, 2008 House Natural Resources Committee Hearing on S. 364 Pl. Ex. 185E</p>	<p>[Track 2 00:38:19] REPRESENTATIVE: Because, this is my concern, you know, I didn't get involved at all with 160. I haven't gotten involved at all with any politics around the nuclear energy thing – any of that – but this is my concern. If the elephant in the room is that we don't trust the NRC to do the type of audit that would assess whether or not Vermont Yankee is a risk, is putting us at undue risk, then should we be concerned about whatever they're doing all over the nation? I mean, I guess I don't understand this. I don't understand why we are completely re-evaluating a process that not only Vermont should be concerned about, but what about the rest of the nation. Are we really that concerned? And if that is the case, then what are we doing about – you know, fine so we worry about Vermont Yankee. What about — what else is there out there?</p>
<p>March 25, 2008 House Natural Resources</p>	<p>[Track 1 00:40:11] BILL RUSSELL: There, they heard testimony and you can hear</p>

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<p>Committee Hearing on S. 364 Testimony of Bill Russell, Chief Legislative Counsel Pl. Ex. 185F</p>	<p>testimony, about the adequacy or the ability of the NRC's typical investigations in ISA or DET to actually come up with this depth of an investigation. I'm not going to be able to evaluate that, but there are others who will do that and who will say that the NRC has not met expectations in a lot of ways. There are obviously many defenders of the NRC.</p>
<p>March 25, 2008 House Natural Resources Committee Hearing on S. 364 Pl. Ex. 185G</p>	<p>[Track 1 00:51:33] REPRESENTATIVE: I would ask the same question that Cathy has asked about the NRC, but I would ask it from a different angle and that angle would be, I scratch my head when I have an oversight authority that has never, ever in the history of their entire being, has it ever said no to a plant. That would bother me. I hope that would bother you too. And I would like to maybe have some different viewpoints or more independence when it talks about going forward with the plant.</p>
<p>March 25, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 186A</p>	<p>[Track 1 00:00:01] SARAH HOFMANN: Welcome. Thank you very much for having me. It's nice to be back in here. I'm Sarah Hofmann. I'm the director for Public Advocacy for the Department of Public Service and I'm actually here today to kind of give an overview of preemption. And so I have a handout. It's called Preemption from 50,000 Feet but I did think about calling it Everything You Wanted to Ask about Preemption but Shouldn't.</p> <p style="text-align: center;">***</p> <p>[Track 1 00:01:39] SARAH HOFMANN: The other thing that I wanted to just kind of – I don't want to scare people that they can't talk about things, but I want to make you aware that actually what you talk about, you are making a record and I know that we have something called the state liaison with the NRC. And that person is usually finding me documents or things that I need and she called up in the middle of Senate Finance hearings and asked that I send CDs of the recordings from that committee. Now, the only reason I can think that she would want to do that is the NRC was also wondering about preemption. So, just know that what you do – and this isn't to scare you, this is to just say, be careful with what you're talking about in this room. Be careful about the record you're making and later on you'll see why I think that's actually important.</p>

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<p>March 25, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 186B</p>	<p>[Track 1 00:05:20] SARAH HOFMANN: I'm not trying to scare you today. What I'm trying to say is, it's still good to be careful about what your language is and the example I gave is that we have a state liaison with NRC and that state liaison usually is getting me information. I need this document or I need that and I call this person and she gets it for me. But while this was in Senate Finance, she called me and said I want the tapes from two specific days where the ISA bill was being looked at and I – just like she gets me everything, I got them for her and the only thing — reason I can come up with that she would like to see those is a possible preemption claim. So it's not to say you can't talk about things, just be aware of language, that reliability is something to talk about where maybe safety is not. So we'll talk about why that is in a minute.</p> <p>REPRESENTATIVE 1: I want it to be clear. You said the tapes of a Senate Finance?</p> <p>SARAH HOFMANN: Yes, out of two days where testimony was being taken on the ISA bill.</p> <p>REPRESENTATIVE 2: And they complained? One of those days, the NRC itself testified.</p> <p>SARAH HOFMANN: That wasn't one of the days they wanted.</p> <p>MALE SPEAKER 1: It wasn't, huh? [Laughter]</p> <p>SARAH HOFMANN: I actually – when I got the tapes for them, I did make a copy and play it for myself as well. There's nothing wrong with that.</p> <p>REPRESENTATIVE 1: So you're saying ISA bill, you're referring to –</p> <p>SARAH HOFMANN: I think you're now calling it the —</p> <p>REPRESENTATIVE 1: S. 364.</p> <p>SARAH HOFMANN: -- S. 364.</p>
<p>March 25, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Sarah</p>	<p>[Track 1 00:10:09] REPRESENTATIVE: Is there a path that if there is a safety issue — the hypothetical, if there is a safety issue that clearly the federal government is not paying attention to and yet the State is not allowed. Is there a path to redress on that? I mean...</p>

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<p>Hofmann, Department of Public Service Pl. Ex. 186C</p>	<p>SARAH HOFMANN: The best thing I can tell you, Representative, is that the path is that obviously you are concerned about the reliability of the plant and often times reliability and safety go hand in hand. If that plant can't be run safely, it might mean that it's down because of maintenance or something else and in that instance, you are worried about the economics because Vermont may have a very good stake in the economics of that plant in terms of reliability, so you're talking about reliability. The court would say, and I'm all speculating, remember this, that it is a safety issue, if we aren't talking about reliability, that a safety issue is clearly within the purview of the Nuclear Regulatory Commission and would preempt a State law. But you could also have a state law that's hinged on reliability.</p> <p>REPRESENTATIVE: OK.</p>
<p>March 25, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 186D</p>	<p>[Track 1 00:12:30] SARAH HOFMANN: In terms of the bill itself, you know there are things that are very – when I look at it –</p> <p>REPRESENTATIVE: Suspect?</p> <p>SARAH HOFMANN: Well, that are very obviously, when you say emergency core cooling pumps, that's a safety part of the plant and so you know, that kind of specificity might get you a preemption claim. But beyond that, I don't have a detailed analysis for you of this particular bill. That would come at a later time.</p>
<p>March 25, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 186E</p>	<p>[Track 1 00:22:05] REPRESENTATIVE: You mentioned a cooling system. Is that what you just said earlier that would be considered – possibly could be considered safety?</p> <p>SARAH HOFMANN: It's called the emergency core cooling system and that is definitely a safe — in the NRC world, that would definitely be a safety component of the plant.</p> <p>REPRESENTATIVE: Because it is an action that takes place after the production of the nuclear power?</p> <p>SARAH HOFMANN: And if there were an accident, these emergency core cooling pumps are critical in any kind of radiological event.</p>

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<p>March 25, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 186F</p>	<p>[Track 1 00:24:20] REPRESENTATIVE: This is real rough logic but are you saying in your last paragraph about emergency planning and management that if there was an inadequate plan, that would be irrelevant to the continued operation of it? SARAH HOFMANN: Actually, just to be clear, these are now the board's words on this last page. These are the board's words and – I'm trying to think about any – I'm pretty good at tying almost everything to reliability.</p>
<p>March 25, 2008 House Natural Resources Committee Hearing on S. 364 Testimony Sarah Hofmann, Department of Public Service Pl. Ex. 186G</p>	<p>[Track 2 00:07:40] REPRESENTATIVE: What if down the line the Legislature doesn't act, an unlikely but, just didn't act at all, what would happen with that CPG would it – SARAH HOFMANN: The board can never issue a CPG. REPRESENTATIVE: The default would be no continuation? SARAH HOFMANN: I've said it's kind of like a pocket veto. If you don't act, then the plant cannot continue running beyond March 21, 2012.</p>
<p>March 25, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 186H</p>	<p>[Track 2 00:08:20] SARAH HOFMANN: Just so you know what the federal process is, if you turn the page... This process the, the NRC process, has been going on for quite some time. In January 2006, Entergy actually filed with the NRC for their license extension. And both the Department of Public Service and the New England Coalition got contentions into that process, it's called the Atomic Safety and Licensing Board, it's like a judicial panel, of things that we were concerned about in terms of license renewal. The department actually settled it's particular contention out but we had adopted the New England Coalition's and they had adopted our contentions, so we're all still parties to the case. The most significant action that's happened recently is in February, at the end of February, the final safety evaluation report was issued. That's from the NRC staff and it's a 800-page report about the plant and they found that they thought it should be relicensed. And the most recent action is the Advisory Committee on Reactors Safeguards, that also has to sign off on this, actually did find that, that the plant could be operated during the license extension period.</p>

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<p>March 25, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 186I</p>	<p>[Track 2 00:14:41] REPRESENTATIVE: Because I would think that the corporation very well could say no, we're talking about a court case, it's going to be resolved in court, not by the Legislature. If, if we're preempt – basically we're preempted when they get that license but no matter what we do, I mean, unless I'm seeing something wrong.</p> <p>SARAH HOFMANN: Actually, you are not preempted. You still have those traditional state roles that you've always had, which is you could say on economic reasons, environmental reasons that are not related to radiological health or safety, need for the power, alternatives, those are all traditional state – economics, I sorry, the big one I was forgetting, you could actually still make the decision based on those traditional state roles in regulation and not be preempted by the NRC. You just can't have it be on radiological health and safety or anything connected to it.</p>
<p>March 25, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 186J</p>	<p>[Track 2 00:15:53] SARAH HOFMANN: If we were actually preempted, that would be the absolute worst case scenario. It would be sitting in our State, running, and we would not get the benefit from it.</p> <p>REPRESENTATIVE 1: And Vermont Yankee would be getting a lot richer than they are if they contract with us, well, theoretically if we could negotiate a good contract.</p> <p>REPRESENTATIVE 2: Can this find its way into the court systems if we say no as a Legislature?</p> <p>SARAH HOFMANN: Yes.</p>
<p>March 25, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 186K</p>	<p>[Track 2 00:19:20] SARAH HOFMANN: [L]et's say there was evidence next year at the Legislature – this is not the case, this is not the case – that there's something wrong with the steam dryer. We've had many cases over the steam dryer. But let's say it really looked like you had lots of evidence indicating the steam dryer, which is not a safety component, had real problems and it looked like it was going to die, it was going to fail, and that unless they change that steam dryer, we had no, even with a favorable power purchase agreement, we had no reason to believe that the plant would run for us to take advantage of it, the plant was not reliable enough. So you could do it – that would be within the traditional rate-making regulation – regulatory authority of a State to do</p>

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	<p>something like that. It could be something though, it could be like, it could be an environmental thing that has nothing to do with radiological health and safety. It could be that cooling towers are killing birds and bats and, you know, I know you know something about that. So, you know, but would it be the continued operation that is killing those birds and bats? You know, it could be something that's nothing to do with radiological health or safety but it is an environmental impact.</p>
<p>March 25, 2008 House Natural Resources Hearing on S. 364 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 186L</p>	<p>[Track 2 00:21:17] SARAH HOFMANN: [T]he interesting thing is Pacific Gas and Light [sic] is about California not wanting to have anymore new nuclear power plants. There's always a debate as to whether building one or relicensing one is under the same standard.</p>
<p>March 25, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 186M</p>	<p>[Track 2 00:23:34] SARAH HOFMANN: But in terms of that law, the Act 160, Entergy to my knowledge has never entered into a Memorandum of Understanding. What they have entered into Memorandum of Understanding on is that they have to come back to the Public Service Board for a CPG to operate after March 21, 2012.</p>
<p>March 26, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Uldis Vanags, State Nuclear Engineer Pl. Ex. 187A</p>	<p>[TRACK 1 00:11:01] REPRESENTATIVE: What you're talking about was, though, after what takes place in the reactor. You're talking about the ability to produce power and I'm trying to get the reliability, and even though we're not supposed to talk about safety, but you've got the reactor over here is generating the power.</p> <p>ULDIS VANAGS: Right.</p> <p>REPRESENTATIVE: And then it goes through these steam things you're talking about.</p> <p>ULDIS VANAGS: Yeah.</p> <p>REPRESENTATIVE: And after that when these cracks occurred, is shooting into where it turned the turbines?</p> <p>ULDIS VANAGS: Yeah, I think, I think what you're getting at is, you're right, what this.... The steam generators are a nuclear safety component.</p>

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	<p>REPRESENTATIVE: Okay.</p> <p>ULDIS VANAGS: They're not a non-nuclear safety component, they're a nuclear safety component because they isolate the nuclear side of the reactor to the secondary side, the non-nuclear. So you have leaks in your steam generator, you will be releasing radioactive isotopes.</p>
<p>March 26, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Uldis Vanags, State Nuclear Engineer Pl. Ex. 187B</p>	<p>[Track 1 00:14:48] ULDIS VANAGS: [W]ith regard to Maine Yankee, you can pretty much, when I talk about Maine Yankee, you can accept that everything is nuclear safety. Everything about what happened at Maine Yankee was a nuclear safety issue and that's what made it so serious. In fact, there was nothing that wasn't nuclear safety. It was entirely. They didn't have any – there wasn't an issue with Maine Yankee with regards to the reliability of their plant and so forth when they were operating, but they ran into some problems that were nuclear safety-related problems that, you know, caused us to have great concern in Maine, so.</p>
<p>March 26, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Uldis Vanags, State Nuclear Engineer Pl. Ex. 187C</p>	<p>[Track 1 00:21:50] REPRESENTATIVE: I'll ask the question because you've already answered later but as I go through S. 364, I'm under the impression that much of the ISA that we see in here was based on the ISA that was done at Maine Yankee. Is that true or not? ULDIS VANAGS: From my opinion, it is.</p>
<p>March 26, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Uldis Vanags, State Nuclear Engineer Pl. Ex. 187D</p>	<p>[Track 1 00:46:38] REPRESENTATIVE: So how do we even get here if the NRC can be the only one that does this? ULDIS VANAGS: Well, that's why you have to work with the NRC.</p>
<p>March 26, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Uldis Vanags, State Nuclear Engineer</p>	<p>[TRACK 1 00:51:45] REPRESENTATIVE: During a vertical, I'm going to look at looking each component, top to bottom, whether it's safety, whether it's operational or what, whatever – ULDIS VANAGS: Yeah.</p>

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<p>Pl. Ex. 187E</p>	<p>REPRESENTATIVE: Compare it to the original design, the original concept of how it was started.</p> <p>ULDIS VANAGS: Yeah.</p> <p>REPRESENTATIVE: And then I would look for any waivers, any deviations that have occurred since operation, correct?</p> <p>ULDIS VANAGS: Right.</p> <p>REPRESENTATIVE: And then I would see how did they affect where I am today. We are following this, right?</p> <p>ULDIS VANAGS: Yeah, you're absolutely right. You're making sure that any changes you made were incorporated into the safety analysis and the design.</p>
<p>March 26, 2008 House Natural Resources Committee Hearing on S. 364 Pl. Ex. 188A</p>	<p>[Track 1 00:03:17]</p> <p>REPRESENTATIVE: The question is about, on the last page, it's the last bullet point, about the cable separation, and if it's a safety system, I don't understand why the NRC missed it. I'm sure... I don't know the history of the plant, but that would be a question that I want to know, especially since it's, according to Uldis, a safety situation – safety consideration.</p>
<p>March 26, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Uldis Vanags, State Nuclear Engineer Pl. Ex. 188B</p>	<p>[Track 1 00:08:50]</p> <p>ULDIS VANAGS: You know, the relevance of what happened at Main Yankee, with regard to this ISA and here today is because people are asking for an ISA, something that extensive, and what I wanted to bring to the committee is the very serious nature of the safety problems that Maine Yankee was experiencing and why that really happened, how that came to be. Vermont Yankee is experiencing a very different situation than Maine – what happened at Maine Yankee, very different. And, at the same time, there are calls for an ISA.</p>
<p>March 27, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Jay Thayer, Entergy Nuclear Operations, Inc. Pl. Ex. 189A</p>	<p>[Track 1 00:27:21]</p> <p>JAY THAYER: [S]ince we've owned those plants, the plants have operated very well. The forced outage rate has gone from 25 percent which... let me just put it simply. Roughly 25 percent of the time, those plants were not generating electricity. That forced outage rate now has gone down to less than two percent, which is among the top performers in the U.S. The plants, their equipment problems, have gone down.</p>

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<p>March 27, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Jay Thayer, Entergy Nuclear Operations, Inc. Pl. Ex. 189B</p>	<p>[Track 1 00:47:12] JAY THAYER: Yes. In fact, we have, I have. And one of the things I believe... Did you get... we performed a side by side comparison of the bill.</p> <p>REPRESENTATIVE 1: We have not received it. Did you receive it?</p> <p>JAY THAYER: Do you have that?</p> <p>REPRESENTATIVE 2: Did you get it? No.</p> <p>JAY THAYER: One of the things that our engineering staff did, and we will get this to you, is we said, a lot of what's in the bill is being performed on a regular basis over the course of the NRC's inspection, regular inspection and oversight program. We wanted you to see that. Okay, has this been looked at? Yes, it has.</p>
<p>March 27, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Jay Thayer, Entergy Nuclear Operations, Inc. Pl. Ex. 189C</p>	<p>[Track 1 00:49:38] JAY THAYER: I think from the standpoint of the scope of the audit and that's the reason – we made this point with Senate Finance and actually they asked us to do this comparison – and I think from the standpoint of scope, without any disrespect intended, I think it's plowing old ground. I don't think it's really asking new questions. I think it's asking questions that the NRC asks on a routine basis.</p>
<p>March 27, 2008 House Natural Resources Committee Hearing on S. 364 Pl. Ex. 189D</p>	<p>[Track 1 00:01:10] REPRESENTATIVE: Well, but that wasn't my real question. My question was, if they could miss something so big as that, there might be other kinds of things in different reactor plants that also could have the same problem. And how do... If NRC missed that one on this issue, and now they have taken care of that issue, what about this issue over here that they haven't taken care about that could also lead to some problems. And I'm worried that, you know, we have all these wonderful inspection things. But this one's missing, as it was in that case.</p>
<p>April 3, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Richard Saudek, attorney and consultant to the Vermont</p>	<p>[Track 1 00:00:55] RICHARD SAUDEK: My name is Richard Saudek, I'm a lawyer here in Montpelier, and I was asked by the president pro tem and the Finance Committee to look into the reorganization of Entergy and make any recommendations for legislation that I might.</p> <p style="text-align: center;">***</p>

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<p>Legislature Pl. Ex. 193A</p>	<p>[Track 1 00:12:31] RICHARD SAUDEK: I think it's fair to say in today's market with Yankee running the way is running, which is at, last year, 99 percent capacity factor, which is just incredible. And I might say parenthetically that Entergy has – appears to have run that plant very well and its other plants very well. I mean I think they run from 90 to 99 percent capacity on all of these merchant plants.</p>
<p>April 3, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Ray Shadis, New England Coalition Pl. Ex. 194A</p>	<p>[Track 1 00:00:00] RAY SHADIS: And the purpose of my testimony today is to offer some encouragement that the Legislature put forward a requirement for an extraordinary inspection of the Vermont Yankee Nuclear Station. Let me preface this by stating that, where I'm coming from it really doesn't matter whether one believes the plant is safe or not, whether one supports nuclear power or Vermont Yankee or not. The fact I think everyone is aware of is that public assurance is shaken in the safety of the plant and also shaken in terms of the oversight of the plant – both State oversight and NRC oversight. And I believe that the question at hand is whether it is worth it to engage in any extraordinary effort to be restore that assurance. Certainly, if – whether we believe the plant is safe or not, I don't think anyone of us would want to go forward with the suspicion that it may be unsafe.</p>
<p>April 3, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Ray Shadis, New England Coalition Pl. Ex. 194B</p>	<p>[Track 1 00:18:32] RAY SHADIS: I have... I have one comment with respect to the bill in hand. And it has to do with the difficulty in getting the Nuclear Regulatory Commission to make any substantial changes or moves. They have the philosophy right now, their approach right now, is that the reactor oversight process that is in place is self-checking, is self-determining, and if there were any problems, that that they would emerge. Therefore, they do not want to conduct any kind of extraordinary examination. They think that, you know, that it's not justified, for one thing. And secondly they don't see the need to put a check on their own work. I will tell you that right now, that the Joint Committee on Commerce and Energy of the U.S. Congress is investigating NRC for their oversight failures.</p>
<p>April 3, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Ray Shadis, New England Coalition</p>	<p>[Track 1 00:20:31] RAY SHADIS: And I would recommend the addition of language that reflects the bill that was introduced by Senator Sanders in the spring of 2007, the bill that was introduced by the New York Congressional delegation, including Hilary Clinton, also in 2007, and the bill that was introduced by Representative</p>

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Pl. Ex. 194C	Hinchey of New York in 2006. And all of those Congressional bills call for an examination on the scale and scope of the 1996 Maine Yankee Independent Safety Assessment. While your bill may not use the word “safety” in a sense that we want a safety inspection, the key words here are in terms of scale and scope.
April 3, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Ray Shadis, New England Coalition Pl. Ex. 194D	[Track 1 00:27:19] RAY SHADIS: I guess what I’m suggesting is that, that if you want to try to involve NRC, which I think is an excellent idea because they are the only people that can enforce any remedies for any defects that may be found.
April 3, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Ray Shadis, New England Coalition Pl. Ex. 194E	[Track 1 00:29:30] RAY SHADIS: And so if there’s some language that would say that the – the department shall seek, you know, that NRC perform this and failing that, then, you know, the department will conduct itself and/or assess, you know, Vermont Yankee – however you would approach that conditional language, I think it’s essential. If you... I mean, if you go to the trouble of putting together a team and you have the cooperation of Entergy and you have private contractors and so on, and you do an extraordinary examination at great cost and NRC then proceeds to ignore the findings of your examination and does not enforce the remedies, federal preemption will put you out of the ballpark. You are specifically prohibited from regulating a nuclear power station. REPRESENTATIVE: Now Ray, what happens – so in this process, let’s say the scenario you just said comes to fruition, we – the Legislature then next year gets a report back from this – I don’t know what we are calling it – this group of three independent folks. RAY SHADIS: Right. REPRESENTATIVE: And they report back that, in fact, the scenario you presented happened. And then the Legislature decides then it doesn’t support the continued operation based on this feedback. What happens then? RAY SHADIS: Well, I think it would be, my own guess, is at that point you would be into a, you know, face-to-face confrontation over the question of federal preemption.

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<p>April 3, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Ray Shadis, New England Coalition Pl. Ex. 194F</p>	<p>[TRACK 1 00:32:37] RAY SHADIS: So, for example, in the bill there's talk about an examination of the emergency core cooling system, high-pressure injection, low-pressure injection. It would be remarkable to have findings come out of that inspection that wouldn't bear the tag "safety." So, you know, I think that, as a hedge, certainly, and in order to strengthen the possibility here for enforcement, it would be much preferred if NRC could be the inspecting agency.</p>
<p>April 3, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Ray Shadis, New England Coalition Pl. Ex. 194G</p>	<p>[Track 1 00:42:00] RAY SHADIS: But NRC, the key point here, is NRC... they need watching and they need oversight and they need to be brought to these issues by citizen action, by legislative action, or state action. Otherwise, it will be business as usual. The... I mean, if we had confidence that NRC was doing the deep, thorough kind of inspection that Vermont Yankee needs and that they were solidly enforcing their regulations, then there really would be no need to ask for this examination.</p>
<p>April 3, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Peter Bradford, Vermont Law School Pl. Ex. 195A</p>	<p>[TRACK 1 00:13:54] REPRESENTATIVE EDWARDS: Okay, Mr. Bradford, I think I have permission now. My name is Sarah Edwards. I'm on the committee and I serve the district, the district of Brattleboro. And I want to switch back to the other bill that this committee is looking at and that is S. 364, which deals with the comprehensive vertical audit, it's called. PETER BRADFORD: Yes. REPRESENTATIVE EDWARDS: I think we were doing that in an effort to avoid safety language. Perhaps you've seen the bill.</p>
<p>April 3, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Peter Bradford, Vermont Law School Pl. Ex. 195B</p>	<p>[Track 1 00:16:11] PETER BRADFORD: The other thing that it addresses is the really dismaying, but I think justified, lack of confidence that the public has in today's Nuclear Regulatory Commission. And I want to be fairly precise in what I'm saying about that. There are a lot of capable, honest people working at the NRC and on the staff of the NRC. But the leadership of the Commission in recent years and the oversight that the Congress has imposed on the NRC has been entirely in one direction and that is in the direction of taking the economic interest of the nuclear industry into account to a much higher degree than I think was the case when I was there, and to an extent that at the very least public confidence is compromised, and it's certainly possible that safety is, too. The</p>

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	<p>Commission has become much too caught up in the exuberance of the so-called nuclear renaissance and what it can do to promote it at the expense of its basic job, which is concerned with the public health and safety. There's just no end of troublesome events and episodes that substantiate that over the last five to 10 years. So, given that background, I do think it's important that the state stand its ground on insisting that there be a separate assessment done and an assessment that really has some independence from both the NRC and the plant operators.</p>
<p>April 3, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Peter Bradford, Vermont Law School Pl. Ex. 195C</p>	<p>[Track 100:20:37] REPRESENTATIVE ERRECART: We've heard a lot about how the NRC, you know, finds defects, says it's okay, and that's normal course of operations there at NRC. Can you talk a little bit more about what you understand of what's happening at NRC now? I mean, we're really caught here that we're preempted on safety so we can't do that.</p> <p style="text-align: center;">***</p> <p>[Track 1 00:21:22] PETER BRADFORD: Well, you know, the NRC's preemptive jurisdiction is an unusual one, that is, no other major industrial facility has that status. Oil refineries don't have it. Paper mills don't have it. Other types of power plants don't have it. It dates back to 1957 when Congress provided that the States should have no power to set radiation health and safety standards and of course that was a very different era as far as whether the expertise existed it in the States. It was a very different era in the sense that nuclear secrets were much more closely held in Washington. There was a lot concern about the interplay of all nuclear matters, nuclear weapons, and those just aren't factors today, but we still have this hangover legislation from that era. It wouldn't hurt, in my view, for Congress to take a look again at whether there's still a justification to have that preemptive status. But right now, I agree that it is the world you have to work with.</p>
<p>April 3, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Peter Bradford, Vermont Law School Pl. Ex. 195D</p>	<p>[Track 1 00:24:31] PETER BRADFORD: The chairman of the Senate committee with jurisdiction over the NRC writes quite openly in a book that came out about six years ago about his role at a time when he felt the NRC was being too strict toward the nuclear industry, calling in the chairman and saying that he was going to cut the agency's budget by a third if it didn't relax the level of surveillance that it was imposing on nuclear power plants and he quite happily...</p> <p>REPRESENTATIVE EDWARDS: What's the name of the book?</p>

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	<p>PETER BRADFORD: ...recounts that indeed the NRC heeded his admonition and did relax and he didn't have to cut its budget by a third. But that kind of oversight sends a pretty clear message to the staff about what's expected and what kind of behavior will improve their careers and what kind of behavior will set their careers back. And when it happens over and over and is reflected also in the choices the president makes about who gets to go on the commission and what kinds of backgrounds they have, you wind up with a culture and a tone that are not the one that certainly that I'd like to see there and not the one that, it seems to me, is supportive either of public confidence or of a strong safety culture in the agency. So that leaves entities like yours trying to decide on the future of a plant like this with a real dilemma and, it seems to me, getting an independent take on the status of the plant is important in two respects. One, just as straightforward information to you and the other as a message to the NRC that you really want something better from them than what they've been showing.</p>
<p>April 3, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Peter Bradford, Vermont Law School Pl. Ex. 195E</p>	<p>[Track 1 00:36:07] REPRESENTATIVE MITCHELL: Mark Mitchell here. Simplistic question, you think an independent assessment is necessary at this time and would have value? PETER BRADFORD: Well, yes. If I were sitting where you folks are, I would want an independent assessment because I think the NRC has done so much in the last decade to forfeit its credibility.</p>
<p>April 4, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Arnie Gundersen, Fairewinds Associates Pl. Ex. 196A</p>	<p>[Track 1 00:51:35] REPRESENTATIVE ERRECART: You caught my attention with the turbine blowing up. So you said, if this turbine were to really, basically, fall apart... ARNIE GUNDERSEN: Break. Yeah, blow up, yeah. REPRESENTATIVE ERRECART: ...then the pieces would go into the control room, which could endanger the lives of the operators and thereby not be able to operate the plant. ARNIE GUNDERSEN: Well, that's the least of your worries REPRESENTATIVE ERRECART: Okay. Tell me what your worries are. ARNIE GUNDERSEN: The pieces could hit the electric wires that run the plant. And I mean, the plant should shutdown</p>

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	<p>without the operators. But if this thing blows and the pieces go into the control room, it would disable the safety systems. And even if the operators were alive, they couldn't get in to shut it down and essentially, it would have a lobotomy.</p> <p>REPRESENTATIVE ERRECART: And I assume that a turbine is a very expensive thing. Is that one of the systems that is included in this bill and in the vertical audit to review whether this turbine might...</p> <p>ARNIE GUNDERSEN: To get back to... that was the next tier of things to look at, is the low pressure turbine.</p>
<p>April 8, 2008 House Natural Resources Committee Hearing on S. 364 Pl. Ex. 197A</p>	<p>[Track 2 00:15:59] REPRESENTATIVE: I don't have a lot of confidence in previous tests from the NRC. That's the issue. I think we've heard testimony to that end, that the NRC is not in the greatest of favor throughout the country, and so if we are trying – and also the issue about safety. Administration is calling it a safety assessment. We're trying to avoid that word.</p>
<p>April 9, 2008 House Natural Resources Committee Hearing on S. 364 Statement of Representative Klein Pl. Ex. 199A</p>	<p>[Track 2 00:35:36] REPRESENTATIVE KLEIN: I don't—I don't know why we're having this particular discussion, because I don't think there's any disagreement. There's certainly not a disagreement amongst many of us in the Legislature, Senator Sanders, Peter Welch, Senator Leahy, and the governor, that Vermonters' confidence in that plant and in the NRC has been shaken, and they want some sort of analysis that will provide that confidence back. I would, for example, disagree with Uldis's last statement about that that's — that may have been the original written mission of the NRC, but I think we've even heard testimony in this room that that mission has been questioned, that they are more interested in making sure that plants operate on an economic level. I don't think that when an independent oversight agency is supposedly — has the sole responsibility for the safety of an operation, I don't think anybody bats a thousand forever, and that's what the NRC seems to be doing. So, I have questions about it, and I have problems with it, and that's why we have a bill in front of us, and we're supposedly, hopefully, creating a bill that's going to create some sort of independent assessment.</p>
<p>April 9, 2008 House Natural Resources Committee Hearing on S. 364</p>	<p>[Track 2 00:42:30] ED ANTHES: Do we have a right to ask for a decent audit? Yes. In other areas, the Legislature has, at times, determined that federal regulations are inadequate to protect Vermonters, and has</p>

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<p>Testimony of Mr. Ed Anthes, Nuclear Free Vermont Pl. Ex. 199B</p>	<p>implemented stronger safeguards.</p>
<p>April 9, 2008 House Natural Resources Committee Hearing on S. 364 Pl. Ex. 200A</p>	<p>[Track 2 00:25:42] REPRESENTATIVE ERRECART: I'm surprised to read this, this excerpt, because it sounds stronger than I had remembered and I'm very worried here, because I've heard the word safety used in this room today, even, and absent a waiver, I'm very concerned that that's something that is preemptive, and I'm so worried about the stakes if we're wrong, because if we're wrong, and we do something that is preemptive, it's possible that what we do is just thrown out. And I'm very concerned about – you know, I'm just worried that the stakes are so high that being bold and saying we have jurisdiction over any safety thing in the whole world, that the stakes are so high, it would just not be smart to do that.</p>
<p>April 9, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Christopher Kilian, Conservation Law Foundation Pl. Ex. 200B</p>	<p>[Track 2 00:28:30] CHRISTOPHER KILIAN: And I guess the first point I would make is that FERC and the NRC don't really have constitutional authority to issue proclamations with regard to the scope and application of the United States Constitution. They are not Article III courts under the federal Constitution, and only the courts have the authority to issue those kinds of rulings. So to the extent the NRC said anything about this? It wouldn't have any force in effect.</p> <p style="text-align: center;">***</p> <p>[Track 2 00:30:06] CHRISTOPHER KILIAN: But I do think that's important to remember. That the NRC does not, from our perspective anyway, have constitutional authority to issue any proclamations with regard to the supremacy clause.</p>
<p>April 09, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of James Moore, Vermont Public Interest Research Group Pl. Ex. 201A</p>	<p>[TRACK 1 00:26:42] JAMES MOORE: I think that there are probably a lot of similarities because my guess would be that confidence in the FAA and the public is tanked because the FAA was cited for being too cozy with the industry and for allowing problems to go unaddressed.</p> <p>REPRESENTATIVE: So without saying that, that's exactly what some people in this body and this state are saying about the NRC. They're too cozy with the nuclear power plants so we're going to</p>

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	<p>break this up and we're going to go and find out and get to the bottom of it. Is that what we're doing? And I haven't heard anybody say that yet, but you can sure draw that conclusion, listen to all the testimony we've been hearing. They're more concerned with putting out the megawatts assumption, the NRC is, that the plants puts out megawatts, than it is for the safe operation of that power plant.</p> <p>JAMES MOORE: I don't want to speak for or pretend to, you know, speak for the general public here...</p> <p>REPRESENTATIVE: No. Speak for VPIRG.</p> <p>JAMES MOORE: But for VPIRG, we absolutely lack that confidence in the NRC and absolutely would like the state to step in.</p>
<p>April 18, 2008 House Natural Resources Committee Hearing on S. 364 Pl. Ex. 211A</p>	<p>[Track 5 00:13:57]</p> <p>REPRESENTATIVE 1: And maybe I'll ask Uldis. This is the question about the NRC coming and saying, "We do safety. That's what we do. That's what we're... that's all we do." What we see is... if I could have Uldis come in and sit. You know, the systems you have listed here that you're looking for reliability are all overlapped by safety. And that these are the folks who go in and they're looking at the system and it's... there's the... unless... correct me if I'm wrong. There's no difference. There's no...</p> <p>REPRESENTATIVE 2: Let's see.</p> <p>REPRESENTATIVE 3: It's an easy fix. You just say if necessary.</p> <p>REPRESENTATIVE 1: Okay. I'm just... but I'm just getting... but it is ...it...</p> <p>REPRESENTATIVE 2: Tell me where we exactly are on the bill?</p> <p>REPRESENTATIVE 1: Sorry.</p> <p>REPRESENTATIVE 2: If you can point...</p> <p>REPRESENTATIVE 1: Okay. I'll...</p> <p>REPRESENTATIVE 2: You've got to tell...</p>

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	<p>REPRESENTATIVE 2: Well, I know, but this... I think this is an important point and it's... if...</p> <p>ULDIS VANAGS: But maybe hold as you could...</p> <p>REPRESENTATIVE 1: Maybe not. Maybe Uldis.</p> <p>ULDIS VANAGS: If this is something, like, for the record, Uldis Vanags, Department of Public Service, division of engineers. I just... from last week's conversation, when I went home, I really was thinking about what I heard here and I think there is a lot of confusion about safety and reliability and David Lew was talking about it. And I thought to myself 'cause I heard... I heard, you know, the thought that... that a team could be put together that we're just going to look at reliability. And that... the areas of the plant that are just reliability are very few at Vermont Yankee. Anytime you go in to the plant, you're looking at the system that that has reliability function or you know, area... area that you're judging, like the generator or the turbine, which is not a nuclear safety item, but a reliability item, but it has a direct relationship to the plant, to the reactor. It'll shut down the plant if something goes wrong. So that's what David Lew was trying to explain, is that, they don't go looking at the generator, or anything like this, but there's a direct relationship between that reactor and that generator. And so, if you go in and look at the generator, you will be going into the reactor building looking at – going though nuclear safety systems, the reactor protective system, which is connected to the generator. So, you ... they're not isolated systems. They're intertwined, just about – there's very few that are not. So, if you, you, well, so, to look at reliability, you will be looking at nuclear safety also in most cases and certainly what's listed in here are mostly nuclear safety systems.</p>
<p>April 18, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 212A</p>	<p>[Track 1 00:01:48] SARAH HOFMANN: And so, all three of these I'm suggesting are inserted into the draft five that you have in front of you to just make it clear to everyone that we care about reliability, reliability, reliability. So that's the point of these. I've actually been talking with Rebecca Ellis at the Attorney General's office who's helped me with these insertions.</p>

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<p>April 18, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 212B</p>	<p>[Track 1 00:02:27] SARAH HOFMANN: And it does say some things that I know sometimes are difficult to say, which are that, you know, it's been a reliable source of generation. But it has been for the most part.</p>
<p>April 18, 2008 House Natural Resources Committee Hearing on S. 364 Testimony of Deputy Commissioner Rich Smith, Department of Public Service Pl. Ex. 213A</p>	<p>[Track 1 00:13:16] REPRESENTATIVE 1: I have always wanted, and I always read this, as an independent inspection team that did not include one inch of any nuclear NRC member. RICH SMITH: I understand that. REPRESENTATIVE 1: Okay? And I think from my feelings of safety and for my constituents' feeling of safety. RICH SMITH: Reliability. REPRESENTATIVE 2: We're not doing safety. REPRESENTATIVE 1: Reliability. I feel that needs to be done.</p>
<p>April 30, 2008 Comm. of Conference Pl. Ex. 219A</p>	<p>[Track 2 00:29:16] LEGISLATOR 1: I think our concern was, our testimony is that, the NRC does a lot of things but it has a different terminology than the terminology used by some of the other folks, that in fact a lot of this might have been done and just called a different thing, and we were really looking at the panel to be able to say, "Okay, this is avoid cost and duplication of effort." We didn't want to reinvent the wheel. We just want to make sure this, you know, the spokes had all been checked. LEGISLATOR 2: I think that was our same concern and I think by not having specific language of the NRC, it gave the panel, you know, a pretty broad stroke to evaluate whether they were going to accept whatever parts or all of the NRC report and whether it was necessary to add to it or not add to it and if it was going to truly be an independent panel, then they would make that decision.</p>

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<p>February 11, 2009 House Natural Resources Committee Hearing on H. 436 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 226A</p>	<p>[Track 1 00:26:50] SARAH HOFMANN: So, when it comes right down to it, what I told you last year and what I will tell you again today, is that there are traditional state functions that you can regulate without fear of preemption. They are things that deal with economics and that's why we talk about reliability so much when we're here in front of you because reliability is an economic issue and it's a traditional state role, and I think if you stay with something on the basis of economics or reliability, you're very well within your rights as a State. What is clearly preempted is any issues of radiological health and safety. So then you come down to, let's say you didn't like the idea of SAFSTOR. NRC says it's OK, right? They say SAFSTOR is a perfectly acceptable form of decommissioning. And let's say you, as a Legislature, say no, no SAFSTOR. Is that preempted? I can't tell you that here today. This is much broader view. It depends a lot on your reason, you know? Is it an economic decision? What is your decision based on? I can tell you that Mr. Adler is pretty sharp on this stuff as well, as well as Rebecca Ellis from the Attorney General's Office.</p>
<p>February 11, 2009 House Natural Resources Committee Hearing on H. 436 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 226B</p>	<p>[Track 1 00:29:29] SARAH HOFMANN: Courts are doing a number of things. Sometimes they're looking at motive for the legislation and sometimes they're not. They're actually looking at what the effect is. And then, I also include a piece on just what the Public Service Board has said so far on preemption and it's not a lot but it gives you a little bit of flavor of what Public Service Board has already dealt with. And with that, I'll just open it up to questions.</p> <p>REPRESENTATIVE: It could be in the real world?</p> <p>SARAH HOFMANN: Yes.</p> <p>REPRESENTATIVE: In the situation we're in right now.</p> <p>SARAH HOFMANN: Uh-huh.</p> <p>REPRESENTATIVE: NRC fears that like the idea we'll continue the operation of the Vermont Yankee...</p> <p>SARAH HOFMANN: Uh-huh.</p> <p>REPRESENTATIVE: Maybe we say no on our continued operation. NRC is the big guy on the block. Are they going to take a look at those gray areas we talked about that could go either</p>

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	<p>reliability or safety and tell us if, you know, you're intent was wrong on this and we've got to preempt you?</p> <p>SARAH HOFMANN: They could look on the intent. They could look at the effect on the operation and I can't tell you they're not going to. I have to say that I know NRC calls me and is very nervous about this whole process, truthfully. So I don't know. I just don't know and I know that's not a really great answer but there's a lot in preemption that's a gray area that I can't tell you. I mean, I think people in this building have become very sensitized to remembering what they're talking about. They're talking about reliability. They're talking about need for the power, alternatives for the power and that kind of thing. But, you know, there's a lot of gray area that's not settled and I think though that you have a lot of people around you who can help you with that.</p> <p>REPRESENTATIVE 1: When we went through this with you last year...</p> <p>SARAH HOFMANN: Yes.</p> <p>REPRESENTATIVE 1: You know how careful we were...</p> <p>SARAH HOFMANN: Very.</p> <p>REPRESENTATIVE 1: [Indiscernible] We want to make sure we didn't cross that line.</p> <p>SARAH HOFMANN: Yes.</p> <p>REPRESENTATIVE 1: You know, I'm clear on what my intent was and I think the committee's intent was. But, you know, I've been the big guy in the block before and I know how I get mad. I've been the little guy in the block before and I know how I get mad, okay?</p> <p>SARAH HOFMANN: Yes.</p> <p>REPRESENTATIVE 1: And...so I...yeah, we're talking the real world here. We're getting close to the cut-off time.</p> <p>SARAH HOFMANN: I mean, I just tell you, real-world experienced, which is the comprehensive reliability assessment that we've done based on the legislation that you guys passed. NRC has called me innumerable times to talk about that and I</p>
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	<p>think right now they're calm but, you know, I don't know.</p> <p>REPRESENTATIVE 2: If you know the answer to this, what do you think makes them nervous? Is it that we're stepping into their area of authority or is it that they're also nervous, I know that obviously, but are they also nervous that – about having the plant shut down?</p> <p>SARAH HOFMANN: I think it's more nervous that we're stepping in their territory. The perfect example is something I've actually used in this, one of the things out of the Act 189, is that one of the things to be looked at in the vertical side is the emergency core cooling pumps. So they get on the phone with me and say, how could...because they're...it's a safety item. OK? It is a safety item. But they say, "How could that be reliability?" And I said, "Well if you say that those can't run, the plant can't run then," and you know, they think I'm a little bit caught in my own little wheel, but that's basically what I tell them. [Laughing]</p> <p>SARAH HOFMANN: But it's a kind of question I get and I think it's a...we're stepping on their jurisdictional toes. Is really what I think it is.</p> <p>REPRESENTATIVE 3: Is this is a whole new situation for them. Is this really unprecedented?</p> <p>SARAH HOFMANN: This is very unprecedented in terms of what kind of state action we have taken. Minnesota's done a little, Wisconsin's done a little, but nobody has gone as far as we have. Most of the time it is done at the federal level and, you know, we do the federal level, too, but it's not... It's OK if we do the federal level. It's when we're trying to do this at the State level that makes them very nervous.</p>
<p>February 18, 2009 House Natural Resources Committee Hearing on H. 436 Testimony of John Warshow, Vermont Independent Power Producers Association Pl. Ex. 231A</p>	<p>[Track 5 00:07:58] JOHN WARSHOW: Why should Vermonters be forced to play Russian roulette while the president of Entergy is, by his own words, having fun, earning \$26 million a year? It's outrageous. We should be fully insured by Entergy against damage from an accident if they wish to have continued operation after 2012. Additionally, Entergy's officers and directors should be incentivized towards additional nuclear safety by assuming some personal liability in the event of a catastrophic accident.</p>
<p>February 24, 2009 House Natural Resources</p>	<p>[Track 1 00:13:45] SARAH HOFMANN: The second one is something I don't think</p>

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<p>Committee Hearing on H. 436 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 237A</p>	<p>the Chairman wants to hear, but I'm going to do it anyway. And that is – it's important to me because I believe that Vermont should honor its MOUs undertaken by state agencies on behalf of the State and approved by the Public Service Board.</p>
<p>February 24, 2009 House Natural Resources Committee Hearing on H. 436 Testimony of Sarah Hofmann, Department of Public Service Pl. Ex. 237B</p>	<p>[Track 1 00:15:06] SARAH HOFMANN: There is a good argument, that I thought Entergy would make today but didn't, that this bill would abrogate contractual agreements that were approved by a Vermont court and could expose us to Vermont lawsuits. They didn't go there even though the chairman did press a little bit. But I'm making the policy argument today.</p>
<p>March 19, 2009 House Natural Resources Committee Hearing on H. 436 Testimony of Peter Bradford, Public Oversight Panel Pl. Ex. 251A</p>	<p>[Track 1 00:06:43] PETER BRADFORD: After performing the reliability assessment, the NSA team's overall conclusion was that Vermont Yankee has operated reliably and that the current level of reliability can be maintained through an extended operating period provided that the areas identified by the NSA report are effectively addressed. The panel agrees with the audit team's principal conclusions.</p>
<p>March 19, 2009 House Natural Resources Committee Hearing on H. 436 Testimony of Bill Sherman, Public Oversight Panel Pl. Ex. 251B</p>	<p>[Track 1 00:14: 34] BILL SHERMAN: Thank you, Mr. Chair and Committee. I'm Bill Sherman, panel member. Our basic finding is that Vermont Yankee can be operated reliably in the future, but there must be some verification process to determine that our recommendations and that NSA's recommendations are correctly incorporated. We found that historically Vermont Yankee is a top operator from the reliability standpoint. This is true even with the high-visibility events of the transformer fire and the cooling tower collapse. For that reason, we asked the question, are these high-profile events indications that Vermont Yankee's good past performance is about to degrade into unacceptable performance? Our answer is no.</p>
<p>March 19, 2009 House Natural Resources Committee Hearing on H. 436 Testimony of Bill Sherman, Public Oversight Panel Pl. Ex. 251C</p>	<p>[Track 1 00:47:08] BILL SHERMAN: [H]aving worked with Vermont Yankee for many years, Vermont Yankee has really operated well. And they have the ability to do the right things and to operate well. So on the one hand, the things that are identified in the NSA report are things that Vermont Yankee would find its way to in order to continue it's good operation. On the other hand, the involvement</p>

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of NSA, a team of the magnitude of NSA, is something that I, we, whatever that means, would have supported, and I believe it has definitely added value by, first, making it all more visible and getting perhaps more than Vermont Yankee would've found its way to, getting it faster than Vermont Yankee would've found its way to, so I think in that respect very beneficial.

REPRESENTATIVE KLEIN: Okay. It's – I need to continue. As long as I have you on the stage, I also wanted to ask you about that second-to-last paragraph in your statement because I found it to be quite a powerful statement. And what struck me was that, "Part of the problem was Entergy's own creation. However, by its failure to provide a power purchase agreement that reasonably balances its operating cost, expectation of some profit, and the risks incurred by Vermonters by the location of the plant within its borders." Can you describe for me what you mean by the risks?

BILL SHERMAN: Yes, I can, Chairman.

REPRESENTATIVE KLEIN: Thank you.

BILL SHERMAN: I believe that Vermont Yankee as a nuclear plant within our borders poses certain risks and demands on Vermonters. The plant is – just by virtue of the fact that the plant gets itself in the news and often on the front page of the news all the time, it – it's an impact to Vermont. But not only that. It has other risks associated with that. It – there is an obligation by the State of Vermont to provide support, police support and other homeland security support related to plant activities. There's always the area within the federal domain of nuclear accidents and the possibility of that. So whether they are small risks, which – and reasonably assured risks, they're still risks, so that's what I mean by that.

REPRESENTATIVE KLEIN: Okay. I've got one more. The problem that I have and I'm glad to hear you say that. I'd actually – you don't have to do it now – but I'd actually like those risks spelled out in further detail because I believe that's what the people of Vermont need to know about in order for the tradeoff for reasonably priced electricity that is abundantly available in other locations. So that's the balance that we're trying to assess. And we can't assess that balance unless the risks themselves are made hugely aware to the people of Vermont. One of the risks that I've been focusing on that – and I don't mean to pick on you, Bill – that I've been focusing on is, my concern is that – I'm not really concerned about a Chernobyl-like occurrence at this plant

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	<p>or a big boom, okay, although it's possible, okay. My concern is that there is an incident and with the rise of the visibility of the past incidents of the leaks and the collapsed towers, that there is a perception that is being created. It may not be valid, but perception doesn't need to be verified, okay. Once it takes hold, it's poison. And the poison for me is this. I understand that Three Mile Island, for example, if you asked anybody in this country about Three Mile Island, everybody would know what it was. Everybody considered it to be a wow event, okay, and I'm sure it was.</p>
<p>March 19, 2009 House Natural Resources Committee Hearing on H. 436 Statement of Representative Klein Pl. Ex. 251D</p>	<p>[Track 1 00:52:41] REPRESENTATIVE KLEIN: And what I'm concerned about is that the brand that we have in Vermont of green, of natural, of maple syrup, of skiing, of these types of things that our tradition is built upon, that that will be poisoned by some further event that in itself may not be dangerous unto itself, but has added to that environment and basically economically we'd be done.</p>
<p>March 19, 2009 House Natural Resources Committee Hearing on H. 436 Testimony of Bill Sherman, Public Oversight Panel Pl. Ex. 251E</p>	<p>[Track 1 00:53:30] BILL SHERMAN: There are risks or perceived risks from the plant. Those risks are evaluated. The Nuclear Regulatory Commission requires evaluation and they – and quantified to be low risks. But I'm not here to defend those risks.</p>
<p>March 20, 2009 House Natural Resources Committee Hearing on H. 436 Testimony of Deputy Commissioner Rich Smith, Department of Public Service Pl. Ex. 256A</p>	<p>[Track 3 00:02:30] RICH SMITH: There's an agreement that was agreed to that a board put within its order that provides for the use of SAFSTOR and in the decommissioning for Vermont Yankee. I know you've heard it before but we are really concerned about the Legislature taking an agreement between the State and another party and then saying, "Well, we don't agree with that agreement going forward." We think that is bad policy.</p>
<p>March 20, 2009 House Natural Resources Committee Hearing on H. 436 Statement of Representative Klein Pl. Ex. 256B</p>	<p>[Track 3 00:06:58] REPRESENTATIVE KLEIN: Okay, I will remind you that in 1997 the department actively, actively, tried to find every which way possible to break a contract with the independent power producers of the State because they felt it was costing the State too much money. RICH SMITH: Was that contract broken, Mr. Chairman?</p>

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	<p>REPRESENTATIVE KLEIN: It was not broken because it was, indeed, a contract that couldn't be broken, okay. A board order is not a contract.</p>
<p>April 9, 2009 Senate Finance Committee Hearing on H. 436 Testimony of Steve Kimbell, lobbyist, Green Mountain Power Corp. Pl. Ex. 261A</p>	<p>[Track 1 00:27:34] STEVE KIMBELL: [I]f you start tinkering with the rule of law around an emotional issue where a lot of money's on the table, you're going to screw up our society. *** [Track 1 00:28:34] STEVE KIMBELL: The board approved SAFSTOR as an option for Entergy during the term of the contract, up through 2012. There have been claims that we didn't know about that, that we wouldn't have – “we,” the Legislature – you wouldn't have approved it if you'd known about it. And I just say they're bogus. It was a public process. This order was a public document. All the MOU that led up to it was a public document.</p>

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<p>February 2010 Senate Finance Committee Hearing on S. 289 Testimony of Kenneth Theobalds, Entergy Nuclear Vermont Yankee Pl. Ex. 273A</p>	<p>[Track 2 00:03:22] KENNETH THEOBALDS: For example, the Comprehensive Reliability Assessment, required by Act 189, was reopened to conduct a review of the advanced off-gas system and a review of the buried pipe program at Vermont Yankee. Any vote now would take place without your knowledge of those reviews. As we speak, your joint Fiscal Committee experts are studying the effect of any Vermont Yankee decision on electric rates and jobs. You're also awaiting the results of Entergy and other investigations into tritium and groundwater at the plant, as well as progress of negotiations for a purchased power agreement. For something this important, you want information and we agree with you. And it's clear that a hasty vote would deprive you of information that you need to make the right choice. Of course, we are in favor of the continued operation of Vermont Yankee beyond 2012 and we're prepared to make the case for it. But make no mistake about this: we are also firm believers in the state and regulatory processes in place. We believe those processes should be allowed to go forward without premature legislative action that could have unintended consequences. We are not in favor of legislation that would deny the Public Service Board its right to decide on whether to issue a Certificate of Public Good.</p>
<p>February 2010 Senate Finance Committee Hearing on S. 289 Testimony of Commissioner David O'Brien, Department of Public Service Pl. Ex. 273B</p>	<p>[Track 2 00:08:49] COMMISSIONER O'BRIEN: My name is David O'Brien. I am Commissioner in the Vermont Department of Public Service. *** [Track 2 00:09:55] COMMISSIONER O'BRIEN: Also, of course, the tritium leak on the site and not knowing the source of that at the moment. *** [Track 2 00:10:23] COMMISSIONER O'BRIEN: It's, you know, while we're getting a lot of data on a day-to-day basis, you know, we don't have anything definitive yet. *** [Track 2 00:10:44] COMMISSIONER O'BRIEN: Is there any sort of indication of that contamination readi- reaching the general public and therefore affecting public health and safety? *** [Track 2 00:11:36]</p>

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	<p>COMMISSIONER O'BRIEN: So, from our perspective, we think that a time-out is the appropriate step, as opposed to taking the action or taking up this bill that's before you.</p> <p style="text-align: center;">***</p> <p>[Track 2 00:13:37] COMMISSIONER O'BRIEN: [W]e essentially sort of view this as a question that should not be made in the environment we are presently in, with a lot of unknowns.</p> <p style="text-align: center;">***</p> <p>[Track 2 00:16:40] COMMISSIONER O'BRIEN: [A] fact remains that right now, right here, right now, the question of what do we have on the site and what sort of public health and safety issues do we need to address is sort of priority one.</p>
<p>February 2010 Senate Finance Committee Hearing on S. 289 Statement of Senator Geyer Pl. Ex. 273C</p>	<p>[Track 2 00:32:51] SENATOR GEYER: I don't think Vermonters are comfort – comfortable with that plant. I think it makes them extremely nervous.</p> <p style="text-align: center;">***</p> <p>[Track 2 00:33:09] SENATOR GEYER: It's old technology. It's run out. And they're very uncomfortable with it. Again, what you said in terms of the comfort level.</p> <p style="text-align: center;">***</p> <p>[Track 2 00:33:30] SENATOR GEYER: And the e-mails that I'm – or, and the messages that I'm getting, people are not comfortable with the way that place is operating. And again, they don't want to sleep with one eye opening – one eye open waiting for something to happen down there that can't be controlled.</p>
<p>February 2010 Senate Finance Committee Hearing on S. 289 Testimony of Steve Kimbell, lobbyist, Green Mountain Power Corporation Pl. Ex. 273D</p>	<p>[Track 2 00:45:08] STEVE KIMBELL: [M]y name is Steve Kimbell. I'm an attorney and lobbyist in Montpelier, here today on behalf of Green Mountain Power Corporation.</p> <p style="text-align: center;">***</p> <p>[Track 2 00:46:41] STEVE KIMBELL: [W]e would urge and recommend to the committee that it delay a decision on this bill until we all know more. There are safety studies still ongoing as a result of recent issues that have the promise of being resolved in the reasonably</p>

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	near future, as I understand it.
February 2010 Senate Finance Committee Hearing on S. 289 Testimony of James Moore, Vermont Public Interest Research Group Pl. Ex. 273E	<p>[Track 2 00:51:23] JAMES MOORE: My name is James Moore. I'm the Clean Energy Program Director with Vermont Public Interest Research Group.</p> <p style="text-align: center;">***</p> <p>[Track 2 00:53:42] JAMES MOORE: And Entergy made their best rate offer. And they made it public. And they filed it and put it out there in the newspapers and it wasn't deemed to be good enough. This is a situation of their making.</p> <p style="text-align: center;">***</p> <p>[Track 2 00:57:03] JAMES MOORE: [I]t can reasonably be assumed that as the reactor gets older, and continues to have accidents, leaks, and other mishaps, additional harm to our state's image will result.</p> <p style="text-align: center;">***</p> <p>[Track 2 00:57:34] JAMES MOORE: And the economic risk to our State increases exponentially as we consider a lower probability, but higher impact events, such as increased environmental contamination or serious mechanical failures at the reactor.</p>
February 2010 Senate Finance Committee Hearing on S. 289 Testimony of Bob Stannard, Vermont Citizens Action Network Pl. Ex. 274A	<p>[Track 1 00:11:38] BOB STANNARD: My name is Bob Stannard, for the record. I'm here on behalf of Citizens– Vermont Citizens Action Network.</p> <p style="text-align: center;">***</p> <p>[Track 1 00:12:31] BOB STANNARD: It's a nuclear power plant that is now leaking radioactive isotopes from aged pipes that have never been inspected because the regulators have no serious inspection program.</p>
February 2010 Senate Finance Committee Hearing on S. 289 Testimony of Paul Blanch, State of New York Attorney General's Office Pl. Ex. 275A	<p>[Track 1 00:02:20] PAUL BLANCH: What are you going to see next? Well, you're probably, and I can't – this is my opinion, there's probably strontium leaking into the ground. There's probably cesium, maybe some zinc, and other radioactive isotopes. Tritium is a problem. We have limits. I mentioned before I'm a smoker. Is tritium going to kill you if you take one puff of it? No. It's just going to increase your probability that your life is going to end</p>

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	<p>earlier.</p> <p style="text-align: center;">***</p> <p>[Track 1 00:03:23] PAUL BLANCH: This is their run-to-failure program. It is not adequate. We don't allow that for pipelines. We don't allow that for our car brake lines, and we should not allow it for a nuclear power plant here that contains, at best, hazardous material, at worst, extremely dangerous material.</p>
February 2010 Senate Finance Committee Hearing on S. 289 Testimony of Paul Blanch, State of New York Attorney General's Office Pl. Ex. 275B	<p>[Track 1 00:06:07] SENATOR CUMMINGS: What happens if the cables break?</p> <p>PAUL BLANCH: Well, the cables again, we're on Indian Point again public records – cables buried underground age just like buried piping does. Insulation breaks down, water intrudes, corrodes the insulation, those – it's not going to release any tritium but it could disable safety systems.</p> <p style="text-align: center;">***</p> <p>[Track 1 00:07:20] SENATOR CUMMINGS: Well, I think this has been helpful.</p>
February 24, 2010 Senate Floor Debate on S. 289 Statement of Senator Cummings Pl. Ex. 276A	<p>[Track 30 00:02:46] SENATOR CUMMINGS: These are not – these nuclear plants are not regulated utilities. They are merchant plants. They sell to the market. They are not owned by a utility.</p>
February 24, 2010 Senate Floor Debate on S. 289 Statement of Senator Cummings Pl. Ex. 276B	<p>[Track 32 00:03:52] SENATOR CUMMINGS: The other one is the favorable Purchase Power Agreement. Now, I understand that yesterday while I was putting my slides together there was a gift proposed for Vermont, but we've been – the utilities have been negotiating for I think two years to reach a Purchase Power Agreement. This is not something that the Legislature negotiates. They have failed to reach agreement, and Entergy has made, and I guess it's Enexus at this point, even though, the offer is coming from Enexus, even though the sale to Enexus has not been approved either here or in New York at this date. So they have made known their purchase power agreement, and they are offering us where we had 280 megawatts, they are offering us 115, about a third, and we were getting it at 4.2 cents a kilowatt hour. They're offering it at 6.1 cents a kilowatt hour. 6.1 cents is roughly the market rate –</p> <p>[Start track 33] – for energy right now. We can go to the market, and we can buy</p>

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	<p>electricity for 6.1 cents a kilowatt hour, so no matter what you do, depending on the mix of your utility, if we accept the offer or if we go to the market, your electric rates are going to go up 7 percent no matter what we do. There is – we are not – the option to continue under our present favorable arrangement has not been offered, so that’s there.</p>
<p>February 24, 2010 Senate Floor Debate on S. 289 Statement of Senator Cummings Pl. Ex. 276C</p>	<p>[Track 33 00:02:28] SENATOR CUMMINGS: We are concerned that we have not gotten the favorable purchase power agreement we had.</p>
<p>February 24, 2010 Senate Floor Debate on S. 289 Statement of Senator from Chittenden Pl. Ex. 276D</p>	<p>[Track 34 00:00:17] SENATOR FROM CHITTENDEN: [W]e’ve taken testimony and we’ve heard that, through the work of the independent public oversight panel, that brought – that developed the vertical audit of the plant, we have heard a variety of issues related to operational – um, operations and management at the plant, and I know that those are issues that are familiar to many people, you know, the issues of the missing fuel rods for a period of time, transformer fire, or fire in the transformer, or cracks in the steam dryer, cooling tower collapse, crane mis-operation, workers being evacuated due to irradiation, inadequate testing of spray nozzles...</p> <p>SENATOR FROM WINDSOR: Mr. President, a point of order.</p> <p>SENATOR SHUMLIN: Excuse me, Senator.</p> <p>SENATOR FROM WINDSOR: Just a point of order, Mr. President. I just would like to clarify for the body that we here in the Senate, unfortunately, we are limited to certain areas of debate, and anything dealing with the safety issue is not within our purview, and therefore I would ask that any debate be limited strictly to those issues under our purview, and safety is not one of them. I just want to make sure that the body is aware of that.</p> <p>SENATOR SHUMLIN: Thank you, Senator. Point well taken. Senator from Chittenden.</p> <p>SENATOR FROM CHITTENDEN: Thank you, Mr. President. And most recently we’ve heard of leaking pipes at the plant, which have caused radiologic liquid effluent. Now, as the Senator from Windsor has indicated, many of these areas are not within our jurisdiction. Nevertheless, they are indicative of operational</p>

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	<p>problems and concerns at the plant and indicative of an aging nuclear plant. It has been operating for 37 years of its 40-year life. And as I indicated, the vertical audit has identified 80 of these areas, issues that should be resolved before any continued operation of the plant. Current to date, four of those have been addressed by the plant, as indicated to us by our independent oversight committee.</p>
<p>February 24, 2010 Senate Floor Debate on S. 289 Statement of Senator Shumlin Pl. Ex. 277A</p>	<p>[Track 1 00:04:06] SENATOR SHUMLIN: The first is the price that was offered to us by Enexus.</p> <p style="text-align: center;">***</p> <p>[Track 3 00:01:10] SENATOR SHUMLIN: Now there's a reason why Green Mountain Power and Central Vermont haven't come to a power purchase agreement with Enterg – Enexus, Entergy Louisiana. The reason is, they've concluded that the price is no good; that Vermonters would have to pay too much. I agree with that assessment.</p>
<p>February 24, 2010 Senate Floor Debate on S. 289 Statement of Senator Shumlin Pl. Ex. 277B</p>	<p>[Track 3 00:01:29] SENATOR SHUMLIN: Second, clean-up. It would cost \$1 billion, roughly, today, to return the plant to a green field as was promised by Entergy Louisiana when they bought the plant from CV and Green Mountain Power.</p> <p style="text-align: center;">***</p> <p>[Track 3 00:01:51] SENATOR SHUMLIN: Despite the good judgment of two bipartisan bills passed by this Legislature to require Entergy to guarantee the fund if they're going so spin it off to another company, to guarantee that Vermonters don't get stuck with that bill. We know that the governor has vetoed both of those bills.</p>
<p>February 24, 2010 Senate Floor Debate on S. 289 Statement of Senator Shumlin Pl. Ex. 277C</p>	<p>[Track 3 00:02:37] SENATOR SHUMLIN: The third is the spin-off.</p> <p style="text-align: center;">***</p> <p>[Track 3 00:04:00] SENATOR SHUMLIN: Then they need money to run a company, so they have to borrow and issue \$1.2 billion of junk-rated B bonds to run the thing. So what are we left with in the State of Vermont? Six aging nuclear power plants, one of which seems to be leaking.</p>

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<p>February 24, 2010 Senate Floor Debate on S. 289 Statement of Senator Shumlin Pl. Ex. 277D</p>	<p>[Track 3 00:04:40] SENATOR SHUMLIN: Fourth, reliability. Listen, I don't think that needs any further discussion than has been offered by our two chairs, except to say that if you don't think that leaking tritium and, I believe cobalt, into the ground water and the Connecticut River, and the [Start track 4] environment of the state of Vermont, that every single Vermonter cherishes and holds dear and we all agree is the bedrock and the foundation of the values that we hold as Vermonters. I don't know what else you can have as an indicator that reliability is a problem.</p>
<p>February 24, 2010 Senate Floor Debate on S. 289 Statement of Senator Shumlin Pl. Ex. 277E</p>	<p>[Track 4 00:00:21] SENATOR SHUMLIN: Finally, trust. Listen, I know that Entergy Louisiana had a press conference this morning and they issued a report that said that lawyers that they had hired from Washington had filed information with the Attorney General's Office concluding that they had not misled our regulators or our legislators in describing the underground pipes that didn't exist. As the senator from Washington, Senator Cummings, said, if you want to believe that, you should and you could. I learned in business 23 – when I was 23 years old, don't do business with someone that you can't trust because they'll eat your lunch every single time.</p> <p style="text-align: center;">***</p> <p>[Track 4 00:01:17] SENATOR SHUMLIN: If you can trust them, if they were in fact telling the truth that they didn't know that there were underground pipes under the plant, then the obvious question is, well, what's worse? A company that won't tell you the truth, or a company that's operating an aging nuclear power plant on the banks of the Connecticut River and doesn't know that they have pipes with radioactive water running through them that are leaking and they don't know because they didn't even know the pipes existed? Neither is very comforting.</p>
<p>February 24, 2010 Senate Floor Debate on S. 289 Pl. Ex. 277F</p>	<p>[Track 4 00:03:04] SENATOR 1: Thank you, Mr. President. I wonder if you might be able to – there was a point of order brought before, and I'm somewhat unclear as to what that really meant. We're talking about reliability, and we're talking about safety, and I'm wondering if you could maybe describe to us what we're supposed to base our decision on and what we're supposed to talk</p>

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	<p>and what we're not supposed to talk about in the context of safety and reliability. Is that something you can do, Mr. President?</p> <p>SENATOR 2: The chair is going to declare a brief recess and confer with the secretary of the Senate to discuss the point of order.</p> <p style="text-align: center;">***</p> <p>[Track 5 00:00:08] SENATOR 2: Call the Senate to order. Thank you for your patience. The Senate President has conferred with the secretary of the Senate, and the secretary of the Senate, in response to a parliamentary inquiry— it's always fun as the presiding officer to rely on our source document, the Vermont Constitution. And the secretary of the Senate has referred me, the presiding officer, to Article 14. I'm going to read it verbatim.</p> <p>The section under Article 14 is, Immunity for Words Spoken in Legislative Debate. The freedom of deliberation, speech, and debate in the Legislature is so essential to the rights of the people that it cannot be the foundation for any accusation or prosecution action, complaint or any other court or place whatsoever.</p> <p>And the question that I think the Senator was talking about is safety, reliability, what is the responsibility of this body? I would say, quoting the Article 14 of the Constitution is, it's our responsibility to talk about these things, irregardless of the fact that the Public Service Board is the – and the Nuclear Regulatory Commission has a responsibility for safety.</p>
<p>February 24, 2010 Senate Floor Debate on S. 289 Pl. Ex. 277G</p>	<p>[Track 11 00:04:27] SENATOR CUMMINGS: But your regular rate payers, according to what has been offered, are going to pay 7 percent more. It depends on the mix in your particular utility. They're going to pay more whether you buy it off the market, or you buy it from Entergy. Because they're not offering us a good deal.</p>
<p>February 24, 2010 Senate Floor Debate on S. 289 Statement of Senator from Rutland Pl. Ex. 278A</p>	<p>[Track 1 00:04:40] SENATOR FROM RUTLAND: In Section 1, if we were to vote yes, if we were to vote for the continued operation and I know a number of us won't be voting to continue that operation, but if we were, shouldn't we really be looking at the question in a way that addresses – [start track 2] – of rate payers, addresses the concerns of Vermont's work force, addresses the concerns of Vermont's future energy needs,</p>

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	addresses safety concerns, although I'm not supposed to talk about that so I won't go into detail on that, but it's certainly in everybody's mind in this room, we all know it.
February 24, 2010 Senate Floor Debate on S. 289 Statement of Senator from Rutland Pl. Ex. 278B	[Track 2 00:01:09] SENATOR FROM RUTLAND: So, this condition would allow acceptance only if a contract at the same amount of megawatt hours, 115, was agreed to at a rate that is no more than 125 percent of existing rates, which would put it a little over 5 cents.
February 24, 2010 Senate Floor Debate on S. 289 Statement of Senator Flory Pl. Ex. 278C	[Track 6 00:01:23] SENATOR FLORY: Nuclear power, at least from the time that Entergy has owned it, has been reliable. The total number of outplanned [sic] outages is 26 days. Since 2003, there have been 26 days that they were shut down for unplanned outage. That, in my mind, is fairly reliable.
February 24, 2010 Senate Floor Debate on S. 289 Statement of Senator from the Lamoille District Pl. Ex. 278D	[Track 11 00:01:16] SENATOR FROM LAMOILLE: For me, and then coming to the floor and in this conversation, to add to my frustration, and I know others in the body, we have to be really, really careful about what we talk about because what we have jurisdiction over is reliability. So we don't have jurisdiction over anything else. And the concern is that if we say things about other things, then our wonderful partner is going to sue us and that will be used against us. So we just kind of compound, I know it's not just my frustration. So I want to start with, I understand we do not have jurisdiction over what I'm about to talk about. And for me, the past couple of weeks, the scariest testimony has been coming from our Natural Resources Committee. And it appears to be, between all the bodies involved and the regulatory committee, that nobody has control over this. I am told that, it seems pretty evident to me, that there is an illegal discharge into the waters of the State of Vermont. But, it's nuclear, so we don't have any control over it, which truly makes me wild.
February 24, 2010 Senate Floor Debate on S. 289 Statement of Senator Scott Pl. Ex. 278E	[Track 13 00:00:53] SENATOR SCOTT: I cannot stand by and vote to support what I view as a blatant political maneuver. My yes vote is a reminder that there is more at stake today than scoring political points. The future of 600 jobs, affordable power, and the Vermont economy should not be decided in a rush to judgment. Unfortunately for the people of Vermont, politics came before a responsible process today. Vermonters deserve better than this.