

112TH CONGRESS  
2D SESSION

# S. 2176

To amend the Nuclear Waste Policy Act of 1982 to require the President to certify that the Yucca Mountain site remains the designated site for the development of a repository for the disposal of high-level radioactive waste, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 8, 2012

Mr. GRAHAM (for himself, Mr. McCAIN, Mr. DEMINT, Mr. CHAMBLISS, and Mr. JOHNSON of Wisconsin) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To amend the Nuclear Waste Policy Act of 1982 to require the President to certify that the Yucca Mountain site remains the designated site for the development of a repository for the disposal of high-level radioactive waste, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Nuclear Waste Fund  
5 Relief and Rebate Act”.

1 **SEC. 2. CERTIFICATION OF COMMITMENT TO YUCCA MOUN-**  
2 **TAIN.**

3 (a) IN GENERAL.—Subtitle E of title I of the Nuclear  
4 Waste Policy Act of 1982 (42 U.S.C. 10172 et seq.) is  
5 amended by adding at the end the following:

6 **“SEC. 162. CERTIFICATION OF COMMITMENT TO YUCCA**  
7 **MOUNTAIN SITE.**

8 “(a) DEFINITION OF DEFENSE WASTE.—In this sec-  
9 tion, the term ‘defense waste’ means—

10 “(1) transuranic waste;

11 “(2) high-level radioactive waste;

12 “(3) spent nuclear fuel;

13 “(4) special nuclear materials;

14 “(5) greater-than-class C, low-level radioactive  
15 waste; and

16 “(6) any other waste arising from the produc-  
17 tion, storage, or maintenance of nuclear weapons  
18 (including components of nuclear weapons).

19 “(b) CERTIFICATION OF COMMITMENT.—Not later  
20 than 30 days after the date of enactment of this section,  
21 the President shall publish in the Federal Register a no-  
22 tice that the President certifies that the Yucca Mountain  
23 site is the selected site for the development of a repository  
24 for the disposal of high-level radioactive waste and spent  
25 nuclear fuel, in accordance with section 160.

1       “(c) FAILURE TO PUBLISH CERTIFICATION; REV-  
2 OCATION OF CERTIFICATION.—If the President fails to  
3 publish the certification of the President in accordance  
4 with subsection (b), or if the President revokes the certifi-  
5 cation of the President after the date described in that  
6 subsection, not later than 1 year after the date described  
7 in subsection (b), or the date of revocation, as appropriate,  
8 and in accordance with subsection (d)—

9               “(1) each entity that is required under section  
10       302 to make a payment to the Secretary shall not  
11       be required to make any additional payment; and

12               “(2) each entity that has made a payment  
13       under section 302 shall receive from the Secretary of  
14       the Treasury, from amounts available in the Nuclear  
15       Waste Fund, an amount equal to the aggregate  
16       amount of the payments made by the entity (includ-  
17       ing interest on the aggregate amount of the pay-  
18       ments) to the Secretary for deposit in the Nuclear  
19       Waste Fund.

20       “(d) USE OF RETURNED PAYMENTS.—

21               “(1) IN GENERAL.—Subject to paragraph (2),  
22       of the aggregate amount of payments returned to an  
23       entity described in subsection (c)(2)—

1           “(A) 75 percent shall be used by the entity  
2           to provide rebates to ratepayers of the entity;  
3           and

4           “(B) 25 percent shall be used by the entity  
5           to carry out upgrades to nuclear power facilities  
6           of the entity to enhance the storage and secu-  
7           rity of materials used to generate nuclear  
8           power.

9           “(2) DEFENSE WASTE.—In the case of a pay-  
10          ment required to be paid to an entity for the storage  
11          of defense waste, the Secretary shall use the amount  
12          required to be paid to the entity to meet the penalty  
13          payment obligation of the Secretary under sub-  
14          section (e)(2) to the State in which the entity is lo-  
15          cated.

16          “(e) DISPOSITION OF DEFENSE WASTE.—

17                 “(1) IN GENERAL.—Not later than January 1,  
18                 2017, the Secretary shall initiate the transportation  
19                 of defense waste from each State in which defense  
20                 waste is located to the Yucca Mountain site.

21                 “(2) PENALTY.—

22                         “(A) IN GENERAL.—Subject to subpara-  
23                         graph (B), if the Secretary fails to initiate the  
24                         transportation of defense waste in accordance  
25                         with paragraph (1), the Secretary shall pay to

1 each State in which defense waste is located  
2 \$1,000,000 for each day that the defense waste  
3 is located in the State until the date on which  
4 the Secretary initiates the transportation of the  
5 defense waste under paragraph (1).

6 “(B) MAXIMUM AMOUNT.—Subject to sub-  
7 section (c)(2), for each calendar year, the Sec-  
8 retary shall not pay to any State described in  
9 subparagraph (A) an amount greater than  
10 \$100,000,000.

11 “(C) REQUIRED USE OF PAYMENTS.—A  
12 State that receives amounts through a payment  
13 from the Secretary under this paragraph shall  
14 use the amounts—

15 “(i) to help offset the loss in commu-  
16 nity investments that results from the con-  
17 tinued storage of defense waste in the  
18 State; and

19 “(ii) to help mitigate the public health  
20 risks that result from the continued stor-  
21 age of defense waste in the State.

22 “(f) DETERMINATION BY COMMISSION TO GRANT OR  
23 AMEND LICENSES.—In determining whether to grant or  
24 amend any license to operate any civilian nuclear power  
25 reactor, or high-level radioactive waste or spent fuel stor-

1 age or treatment facility, under the Atomic Energy Act  
2 of 1954 (42 U.S.C. 2011 et seq.), the responsibilities of  
3 the President and the Secretary described in this subtitle  
4 shall be considered to be sufficient and independent  
5 grounds for the Commission to determine the existence of  
6 reasonable assurances that spent nuclear fuel and high-  
7 level radioactive waste would be disposed of safely and in  
8 a timely manner by the entity that is the subject of the  
9 determination.

10 “(g) EFFECTS.—

11 “(1) TERMINATION OF PAYMENT REQUIRE-  
12 MENT; ACCEPTANCE OF RETURNED PAYMENTS.—

13 With respect to an entity that receives a benefit  
14 under paragraph (1) or (2) of subsection (c)—

15 “(A) the entity shall not be considered by  
16 the Commission to be in violation under section  
17 302(b); and

18 “(B) the Commission shall not refuse to  
19 take any action with respect to a current or  
20 prospective license of the entity on the grounds  
21 that the entity has cancelled or rescinded a con-  
22 tract to which the entity is a party as the result  
23 of—

1                   “(i) the failure by the entity to make  
2                   a payment to the Secretary under section  
3                   302; or

4                   “(ii) the acceptance by the entity of  
5                   amounts described in subsection (c)(2).

6                   “(2) DISPOSITION OF WASTE.—Nothing in this  
7                   section affects the responsibility of the Federal Gov-  
8                   ernment under any Act (including regulations) with  
9                   respect to the ultimate disposition of high-level ra-  
10                  dioactive waste and spent nuclear fuel.”.

11               (b) CONFORMING AMENDMENT.—The table of con-  
12               tents of the Nuclear Waste Policy Act of 1982 (42 U.S.C.  
13               prec. 10101) is amended by adding at the end of the items  
14               relating to subtitle E of title I the following:

“Sec. 162. Certification of commitment to Yucca Mountain site.”.

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