

111TH CONGRESS
1ST SESSION

S. 861

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.

IN THE SENATE OF THE UNITED STATES

APRIL 22, 2009

Mr. GRAHAM (for himself, Mr. MCCAIN, Ms. COLLINS, Mr. MARTINEZ, Mr. DEMINT, Mr. CHAMBLISS, Mr. ISAKSON, Mr. BURR, and Mr. INHOFE) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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 “Rebating America’s
5 Deposits 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 LOCATION 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.”.

○