

117TH CONGRESS
2D SESSION

S. 3741

To prohibit the use of Federal funds for the private interim storage of spent nuclear fuel, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 2, 2022

Mr. HEINRICH (for himself and Mr. CRUZ) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To prohibit the use of Federal funds for the private interim storage of spent nuclear fuel, 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. PROHIBITION ON USE OF FEDERAL FUNDS FOR**
4 **PRIVATE INTERIM STORAGE OF SPENT NU-**
5 **CLEAR FUEL UNTIL SUCH TIME THAT A PER-**
6 **MANENT REPOSITORY IS AVAILABLE TO AC-**
7 **CEPT THE SPENT NUCLEAR FUEL.**

8 (a) DEFINITIONS.—In this section:

9 (1) DISPOSAL; MONITORED RETRIEVABLE STOR-
10 AGE FACILITY; REPOSITORY; SPENT NUCLEAR FUEL;

1 STORAGE.—The terms “disposal”, “monitored re-
2 trievable storage facility”, “repository”, “spent nu-
3 clear fuel”, and “storage” have the meanings given
4 the terms in section 2 of the Nuclear Waste Policy
5 Act of 1982 (42 U.S.C. 10101).

6 (2) MONITORED RETRIEVABLE STORAGE.—The
7 term “monitored retrievable storage” has the same
8 meaning as in subtitle C of title I of the Nuclear
9 Waste Policy Act of 1982 (42 U.S.C. 10161 et seq.).

10 (b) PROHIBITION.—

11 (1) IN GENERAL.—Notwithstanding any other
12 provision of law and subject to subsection (c), during
13 the period described in subsection (d), no Federal
14 funds made available under any Act, including
15 amounts made available under the permanent judg-
16 ment appropriation established pursuant to section
17 1304 of title 31, United States Code (commonly
18 known as the “Judgment Fund”), for any fiscal year
19 may be used for any costs associated with the identi-
20 fication, development, licensing, granting of rights-
21 of-way, construction, operation, decommissioning, or
22 post-decommissioning maintenance and monitoring
23 of any privately owned—

24 (A) monitored retrievable storage facility;

(B) consolidated interim storage facility that serves the purpose and function of monitored retrievable storage under the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.); or

(C) spent nuclear fuel storage facility that—

(i) is not—

(I) colocated at the site of a nuclear fuel production, fabrication, or utilization facility; or

(II) in operation as of the date of enactment of this Act; and

(ii) serves the purpose and function of monitored retrievable storage under the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.).

(2) SCOPE.—The prohibition described in paragraph (1) extends to contracting for the services of a private company for any storage of spent nuclear fuel at, or transportation of spent nuclear fuel to, a privately owned facility that serves the purpose and function of monitored retrievable storage under the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) for the purpose of consolidating the storage

1 of domestic spent nuclear fuel at 1 or more facilities
2 until such time that a repository is available to ac-
3 cept the spent nuclear fuel for permanent disposal.

4 (c) LIMITATIONS.—Subsection (b) does not pro-
5 hibit—

6 (1) a manufacturer of nuclear reactors or fabri-
7 cator of nuclear fuel from accepting spent nuclear
8 fuel at the site where the spent nuclear fuel is fab-
9 ricated or generated;

10 (2) an operating or decommissioned nuclear
11 power plant from accepting spent nuclear fuel for in-
12 terim storage at the site of the plant;

13 (3) the use of Federal funds for the costs de-
14 scribed in that subsection that are associated with
15 the activities described in paragraphs (1) and (2);

16 (4) the use of Federal funds for storage of
17 spent nuclear fuel at, or the transportation of spent
18 nuclear fuel to, federally owned facilities at Depart-
19 ment of Energy sites in existence as of the date of
20 enactment of this Act; or

21 (5) the transfer of spent nuclear fuel owned by
22 the Department of Energy between Department of
23 Energy sites.

24 (d) PERIOD OF PROHIBITION DESCRIBED.—The pe-
25 riod referred to in subsection (b) is the period beginning

1 on the date of enactment of this Act and ending on the
2 date on which the Secretary of Energy certifies to Con-
3 gress that a permanent repository is available to accept
4 the spent nuclear fuel.

5 (e) DEPARTMENT OF ENERGY FUNDS.—No funds of
6 the Department of Energy shall be used to pay to any
7 privately owned facility described in subsection (b) any
8 damages awarded in any civil action in an appropriate dis-
9 trict court of the United States relating to the prohibition
10 under subsection (b).

11 (f) RULE OF CONSTRUCTION.—Nothing in this sec-
12 tion shall be construed to imply that, prior to the date
13 of enactment of this Act, any privately owned facility de-
14 scribed in subsection (b) may receive any funds from the
15 Federal Government for the activities prohibited under
16 that subsection.

17 (g) REPORT.—Not later than 180 days after the date
18 of enactment of this Act, the Secretary of Energy shall
19 submit to Congress a report detailing—

20 (1) possible locations, or a description of a pos-
21 sible siting process, for future consolidated interim
22 storage facilities and repositories of spent nuclear
23 fuel if Congress were to authorize the siting, con-
24 struction, and operation of new storage facilities or

- 1 repositories through the use of a consent-based sys-
- 2 tem; and
- 3 (2) the estimated costs and risks of that future
- 4 consolidated interim storage.

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