

THORIUM REIMBURSEMENT

DECEMBER 18, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. TAUZIN, from the Committee on Energy and Commerce,
submitted the following

R E P O R T

[To accompany H.R. 3343]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 3343) to amend title X of the Energy Policy Act of 1992, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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AMENDMENT

The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. REAUTHORIZATION OF THORIUM REIMBURSEMENT.

(a) **PAYMENTS TO LICENSEES.**—Section 1001(b)(2)(C) of the Energy Policy Act of 1992 (42 U.S.C. 2296a(b)(2)(C)) is amended—

(1) by striking “\$140,000,000” and inserting “\$365,000,000”; and

(2) by adding at the end the following: “Such payments shall not exceed the following amounts:

- “(i) \$90,000,000 in fiscal year 2002.
- “(ii) \$55,000,000 in fiscal year 2003.
- “(iii) \$20,000,000 in fiscal year 2004.
- “(iv) \$20,000,000 in fiscal year 2005.
- “(v) \$20,000,000 in fiscal year 2006.
- “(vi) \$20,000,000 in fiscal year 2007.

Any amounts authorized to be paid in a fiscal year under this subparagraph that are not paid in that fiscal year may be paid in subsequent fiscal years.”.

(b) **AUTHORIZATION.**—Section 1003(a) of such Act (42 U.S.C. 2296a–2(a)) is amended by striking “\$490,000,000” and inserting “\$715,000,000”.

(c) **DEPOSITS.**—Section 1802(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2297g–1(a)) is amended by striking “\$488,333,333” and inserting “\$518,233,333” and by inserting after “inflation” the phrase “beginning on the date of the enactment of the Energy Policy Act of 1992”.

(d) **PORTSMOUTH.**—(1) Chapter 19 of the Atomic Energy Act of 1954 (42 U.S.C. 2015 and following) is amended by inserting the following after section 241:

“SEC. 242. COLD STANDBY.

“The Secretary is authorized to expend such funds as may be necessary for the purposes of maintaining enrichment capability at the Portsmouth, Ohio, facility.”.

(2) The table of contents for such chapter is amended by inserting the following new item after the item relating to section 241:

“Sec. 242. Cold standby.”.

SEC. 2. COMPTROLLER GENERAL AUDIT.

The Comptroller General shall conduct an audit on the Uranium Enrichment Decontamination and Decommissioning Fund established under section 1801 of the Atomic Energy Act of 1954 (42 U.S.C. 2297g). Not later than March 1, 2003, the Comptroller General shall transmit to the Congress a report on the results of the audit. Such report shall assess whether the Fund as currently authorized will be of sufficient size and duration for carrying out decontamination and decommissioning and remedial action activities anticipated to be paid for from the fund, and shall include recommendations for minimizing increases in such activities. In conducting the audit, the Comptroller General shall specifically address whether the deposits collected under sections 1802(c) and 1802(d) of the Atomic Energy Act of 1954 (42 U.S.C. 2297g–1(c) and 2297g–1(d)) are sufficient to—

(1) pay for decontamination and decommissioning activities pursuant to section 1803(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2297g–2(b));

(2) pay for the remedial action costs pursuant to section 1803(c) of such Act (42 U.S.C. 2297g–2(c)); and

(3) pay for the remedial action costs pursuant to section 1001(b)(2)(C) and (D) of the Energy Policy Act of 1992 (42 U.S.C. 2296a(b)(2)(C) and (D)).

PURPOSE AND SUMMARY

The purpose of H.R. 3343 is to increase by \$225 million the authorization level for the thorium reimbursement program established pursuant to Title X of the Energy Policy Act of 1992. The bill also increases deposits to the Uranium Enrichment Decontamination and Decommissioning Fund by the same amount, after adjustments for inflation. In addition, the bill authorizes appropriations for the Secretary of Energy to maintain the uranium enrichment facility at Portsmouth, Ohio on cold standby. Finally, the bill requires the Comptroller General to conduct an audit of the Uranium Enrichment Decontamination and Decommissioning Fund and the programs paid for by the fund, with regard to future costs and needs.

BACKGROUND AND NEED FOR LEGISLATION

Title X, Subtitle A of the Energy Policy Act of 1992 (EPAct) authorizes the Department of Energy (DOE) to use the Uranium Enrichment Decontamination and Decommissioning Fund (D&D Fund) established in Chapter 28 of the Atomic Energy Act of 1954 to reimburse thorium processing site licensees for a portion of the cost of environmental cleanup. There is only one thorium-contaminated site which is owned by Kerr-McGee Chemical Corporation (Kerr-McGee), and it is located in West Chicago, Illinois.

Section 1001 of EPAct establishes the responsibility of licensees for bearing the costs of decontamination, decommissioning, reclamation and other remedial action at active uranium and thorium sites where byproduct material has been produced. However, the section also requires the Secretary of Energy to reimburse annually a licensee for that portion of the remedial cost the Secretary has determined is attributable to byproduct material generated as the result of sales to the federal government. In the case of the West Chicago site, DOE has determined that 55.2% of the remedial cost is attributable to government contracts. As such, Kerr-McGee manages the cleanup, incurs cleanup costs at West Chicago at its own expense, and submits claims for reimbursement of 55.2% of its incurred costs. DOE reimburses claims submitted by Kerr-McGee after the Department reviews the company's claims.

As enacted, EPAct authorized the Secretary to make reimbursement payments to thorium licensees of not more than \$40 million. Public Law 104-259 increased the authorization to \$65 million, while Public Law 105-388 increased it to \$140 million. Congress increased the cap on federal contributions as cleanup activities have proceeded at the site and resulted in corresponding additional submissions of receipts for reimbursement.

At the end of 2000, Kerr-McGee had incurred cleanup costs totaling \$375 million, of which \$207 million is potentially eligible for Federal reimbursement. DOE has reimbursed only \$146 million of this amount, and has no authority to provide additional reimbursements due to the current authorization cap of \$140 million (the additional \$6 million is related to authorized inflation adjustments). Thus, there is currently a \$61 million shortfall in reimbursement for cleanup costs incurred through 2000.

Kerr-McGee currently projects that it will incur an additional \$298 million in additional cleanup costs to complete the project. Of this amount, the potential amount eligible for reimbursement by the Secretary is projected to be an additional \$164 million, bringing the total Federal contribution to \$371 million (\$146 million paid to date, plus \$61 million in un-reimbursed claims, plus \$164 million in projected future claims).

H.R. 3343 would increase the authorization in Section 1001(b)(2)(C) of EPAct to cover the full potential remaining Federal contribution to the thorium cleanup. The bill would also increase the annual cap on deposits to the D&D Fund by the same amount, after adjustments for inflation, to cover the costs of the thorium program, in order to assure that sufficient funds are available for cleaning up the Portsmouth and Paducah Gaseous Diffusion Plants, which are also paid for out of the D&D Fund.

HEARINGS

The Committee on Energy and Commerce has not held hearings on the legislation.

COMMITTEE CONSIDERATION

On Wednesday, December 12, 2001, the Full Committee met in open markup session and ordered H.R. 3343 favorably reported to the House, as amended, by a voice vote, a quorum being present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. There were no record votes taken in connection with ordering H.R. 3343 reported. A motion by Mr. Tauzin to order H.R. 3343 reported to the House, as amended, was agreed to by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has not held oversight or legislative hearings on this legislation.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

The goal of H.R. 3343 is to increase the authorization to cover the Federal cost-share for the cleanup of the thorium contaminated site in West Chicago owned by the Kerr-McGee Corporation.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 3343, a bill to amend title X of the Energy Policy Act of 1992, and for other purposes, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 18, 2001.

Hon. W.J. "BILLY" TAUZIN,
*Chairman, Committee on Energy and Commerce,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3343, a bill to amend title X of the Energy Policy Act and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Lisa Cash Driskill.

Sincerely,

BARRY B. ANDERSON,
(For Dan L. Crippen, Director).

Enclosure.

H.R. 3343—A bill to amend title X of the Energy Policy Act and for other purposes

Summary: H.R. 3343 would authorize the appropriation of \$225 million over the 2002–2007 period for payments to private contractors for remediation work at a thorium processing plant that supplied nuclear material to the federal government. Assuming appropriation of the authorized amounts, CBO estimates that implementing the bill would cost \$195 million over the 2002–2006 period, with the remaining \$30 million spent after 2006.

The bill also would authorize the appropriation of such sums as may be necessary for maintaining the uranium enrichment capability of the Portsmouth Gaseous Diffusion Plant in 2002. The Department of Energy (DOE) currently has the authority for such activities under the Atomic Energy Act and plans to spend about \$65 million in 2002 to maintain the enrichment capability at the Portsmouth facility. Therefore, this provision of the bill would not add to costs that could be incurred under current law. The bill also would require the Comptroller General to provide an audit of the Uranium Decontamination and Decommission Fund and report to the Congress. CBO estimates that this work would have a negligible effect of federal spending.

H.R. 3343 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3343 is shown in the following table. The costs of this legislation fall within budget function 270 (energy).

	By fiscal year, in millions of dollars—				
	2002	2003	2004	2005	2006
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated authorization level	90	55	20	20	20
Estimated outlays	45	73	38	20	20

Basis of estimate: For this estimate, CBO assumes that H.R. 3343 will be enacted in January 2002 and that all amounts author-

ized will be appropriated in each year, as specified by the bill. Outlays were estimated using historical spending patterns for the decontamination program.

The bill would increase the amount authorized to pay a private contractor for decontamination of a thorium processing plant in West Chicago, Illinois, that formerly provided nuclear material to the federal government. Based on information from DOE, the additional funds that would be authorized by this bill would be spent over the next several years. Thus, CBO estimates that, implementing the bill would cost \$195 million over the 2002–2006 period and \$225 million over the 2002–2011 period.

Pay-as-you-go considerations: None.

Intergovernmental and private sector impact: H.R. 3343 contains no intergovernmental or private-sector mandates as defined by UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal costs: Lisa Cash Driskill; impact on State, local, and tribal governments: Elyse Goldman; impact on the private sector: Lauren Marks.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Reauthorization of thorium reimbursement

Section 1(a) amends Title X of the Energy Policy Act of 1992 to increase the authorization for payments to thorium licensees by \$225 million, from its current level of \$140 million to \$365 million. The general authorization level in Title X is also increased by \$225 million in section 1(b) to match the increase in section 1(a). The new additional authority is subject to annual limits effectively requiring the new authority to be amortized over a six-year period

beginning in fiscal year 2002. The Committee has included these specific annual limits in an effort to help avoid the potential for competition with other cleanup activities paid for from the D&D Fund. Payments to the thorium licensee shall not exceed the authorized amount in any year; however, any amounts authorized to be paid in a fiscal year that are not paid in that year may carry over and be paid in subsequent fiscal years.

Section 1(c) amends Section 1802(a) of the Atomic Energy Act to increase the required D&D Fund deposits by \$29.9 million per year which is equal to the \$225 million increase in the thorium reimbursement after adjusting the amount to reflect 1992 constant dollars. Thus, the Committee expects there to be no adverse impact on the availability of money for other projects authorized to be paid for out of the D&D Fund. The Committee has not increased the special assessment on domestic utilities in Section 1802(c) of the Atomic Energy Act, thereby requiring the additional cost of deposits to be paid for by the appropriations from general revenues authorized by Section 1802(d). This section also clarifies that the D&D Fund annual deposit amount of \$518,233,333—which is in 1992 constant dollars—should continue to be adjusted annually for inflation using the date of the enactment of the Energy Policy Act of 1992 as the baseline for inflation adjustments.

Section 1(d) amends the Atomic Energy Act to authorize appropriations to the Secretary of Energy to expend such funds as may be necessary for the purpose of keeping the Portsmouth Gaseous Diffusion Plant in Portsmouth, Ohio, on cold standby. DOE is not provided with any authority to use monies from the D&D fund for this purpose. Indeed, the Committee language specifically amends Chapter 19 of the Atomic Energy Act rather than Chapter 28 in order to avoid the appearance that it is in any way affecting the previously authorized uses of the D&D Fund.

Section 2. Comptroller General audit

This section requires the Comptroller General to audit the D&D Fund and report its findings to Congress no later than March 1, 2003. In reporting to Congress, the Comptroller General is to assess whether the Fund will be of sufficient size and duration to cover the costs of all the activities authorized to be paid for from the fund. The Comptroller General should pay particular attention to any factors contributing to increased costs, in order to aid in accurately projecting the future demands on the fund. The Committee expects that this examination will also assist the Comptroller General in fulfilling the bill's requirement that he make recommendations for curtailing future increases in cleanup costs. The legislation also directs the Comptroller General to address whether the collections and deposits made pursuant to sections 1802(c) and 1802(d) of the Atomic Energy Act are providing revenue of sufficient size and duration to cover all the costs of the activities that the Atomic Energy Act and EPLA require the D&D Fund to support.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omit-

ted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ENERGY POLICY ACT OF 1992

* * * * *

TITLE X—REMEDIAL ACTION AND URANIUM REVITALIZATION

Subtitle A—Remedial Action at Active Processing Sites

SEC. 1001. REMEDIAL ACTION PROGRAM.

(a) * * *

(b) REIMBURSEMENT.—

(1) * * *

(2) AMOUNT.—

(A) * * *

* * * * *

(C) TO THORIUM LICENSEES.—Payments made under paragraph (1) to the licensee of the active thorium site shall not exceed ~~【\$140,000,000】~~ *\$365,000,000*, and may only be made for off-site disposal. *Such payments shall not exceed the following amounts:*

(i) \$90,000,000 in fiscal year 2002.

(ii) \$55,000,000 in fiscal year 2003.

(iii) \$20,000,000 in fiscal year 2004.

(iv) \$20,000,000 in fiscal year 2005.

(v) \$20,000,000 in fiscal year 2006.

(vi) \$20,000,000 in fiscal year 2007.

Any amounts authorized to be paid in a fiscal year under this subparagraph that are not paid in that fiscal year may be paid in subsequent fiscal years.

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SEC. 1003. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated ~~【\$490,000,000】~~ *\$715,000,000* to carry out this subtitle. The aggregate amount authorized in the preceding sentence shall be increased annually as provided in section 1001, based upon an inflation index to be determined by the Secretary.

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ATOMIC ENERGY ACT OF 1954

ATOMIC ENERGY ACT OF 1954

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TITLE I—ATOMIC ENERGY

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CHAPTER 19. MISCELLANEOUS

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SEC. 242. COLD STANDBY.

The Secretary is authorized to expend such funds as may be necessary for the purposes of maintaining enrichment capability at the Portsmouth, Ohio, facility.

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**TITLE II—UNITED STATES
ENRICHMENT CORPORATION**

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**CHAPTER 28—DECONTAMINATION AND
DECOMMISSIONING**

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SEC. 1802. DEPOSITS.

(a) AMOUNT.—The Fund shall consist of deposits in the amount of **【\$488,333,333】** *\$518,233,333* per fiscal year (to be annually adjusted for inflation *beginning on the date of the enactment of the Energy Policy Act of 1992* using the Consumer Price Index for all-urban consumers published by the Department of Labor) as provided in this section.

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