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Part 2

CIVIL PENALTIES ON NONPROFIT INSTITU-  
TIONS UNDER THE ATOMIC ENERGY ACT  
OF 1954

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R E P O R T

OF THE

COMMITTEE ON ARMED SERVICES  
HOUSE OF REPRESENTATIVES

ON

H.R. 3383

[Including cost estimate of the Congressional Budget Office]



JULY 21, 2000.—Committed to the Committee of the Whole House on  
the State of the Union and ordered to be printed

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## CONTENTS

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	Page
Purpose and Background .....	1
Legislative History .....	2
Section-by-Section Analysis .....	2
Section 1—Civil Penalties .....	2
Committee Position .....	3
Fiscal Data .....	3
Congressional Budget Office Estimate .....	3
Committee Cost Estimate .....	4
Oversight Findings .....	4
Constitutional Authority Statement .....	4
Statement of Federal Mandates .....	4
Record Vote .....	5
Changes in Existing Law Made by the Bill, as Reported .....	5



CIVIL PENALTIES ON NONPROFIT INSTITUTIONS UNDER  
THE ATOMIC ENERGY ACT OF 1954

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JULY 21, 2000.—Committed to the Committee of the Whole House on the State of  
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Mr. SPENCE, from the Committee on Armed Services,  
submitted the following

R E P O R T

[To accompany H.R. 3383]

[Including cost estimate of the Congressional Budget Office]

The Committee on Armed Services, to whom was referred the bill (H.R. 3383) to amend the Atomic Energy Act of 1954 to remove separate treatment or exemption for nuclear safety violations by nonprofit institutions, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND BACKGROUND

The purpose of H.R. 3383 is to repeal the exemption of non-profit contractors of the Department of Energy (DOE) from civil penalties for violations of DOE rules, regulations, and orders relating to nuclear safety.

The Price-Anderson Amendments Act of 1988 (Public Law 100-408) amended the Atomic Energy Act of 1954 (Public Law 83-703) to provide for the establishment of civil penalties for contractors of the Department of Energy that violate DOE rules, regulations, and orders relating to nuclear safety. The Atomic Energy Act, as amended, also provided for an exemption from such penalties for the following non-profit and other DOE contractors: the University of Chicago (Argonne National Laboratory), the University of California (Los Alamos National Laboratory, Lawrence Livermore National Laboratory, and Lawrence Berkeley National Laboratory), the American Telephone and Telegraph Company (Sandia National Laboratories), the Universities Research Association, Inc. (FERMI National Laboratory), Princeton University (Princeton Plasma

Physics Laboratory), Associated Universities, Inc. (Brookhaven National Laboratory), and Battelle Memorial Institute (Pacific Northwest Laboratory). The Atomic Energy Act, as amended, also authorized the Secretary of Energy to provide for the automatic remission of assessed civil penalties for all non-profit institutions.

H.R. 3383 would repeal the authority of the Secretary of Energy to grant non-profit institutions an automatic remission of any civil penalty assessed for violations of any applicable rule, regulation, or order related to nuclear safety issued by the Secretary of Energy. H.R. 3383 would also limit any civil penalties assessed for violations of such rules, regulations, or orders to an amount not to exceed the amount of any discretionary fee paid to a non-profit institution by the Secretary of Energy under a contract to manage facilities and laboratories of the Department of Energy.

The committee notes that section 2282a(b)(2) of title 42, United States Code, requires the Secretary of Energy to take into account the nature, circumstances, extent, and gravity of any violations of nuclear safety rules, in concert with the ability of the responsible party to pay, the effect of such penalties on the ability to continue to do business, the history of any prior violations, and the degree of culpability, in the determination of the amount of any civil penalty to be assessed to a responsible party for such violations. H.R. 3383 would not disturb the discretionary authority of the Secretary to determine the amount of any such civil penalties within the limitations otherwise provided by law.

The committee understands that the discretionary fees provided to non-profit contractors by the Department of Energy, including, in some cases, funds accumulated from discretionary fees awarded in prior years, may be available for the payment of civil penalties under the Atomic Energy Act as well as penalties imposed by other federal, state, or local entities for violations of other laws, rules, or regulations. The committee does not intend the repeal of the exemption from civil penalties for non-profit institutions contained in H.R. 3383 to exceed the ability of any non-profit contractor to pay such penalties.

#### LEGISLATIVE HISTORY

H.R. 3383 was introduced on November 16, 1999. The bill was reported (amended) June 23, 2000 by the House Committee on Commerce (H. Rept. 106-695, Part I). The bill was also referred to the Committee on Armed Services.

On June 28, 2000 the Committee on Armed Services held a markup session to consider H.R. 3383. The committee adopted the bill as reported by the Commerce Committee by a voice vote. The bill was reported favorably by a voice vote.

#### SECTION-BY-SECTION ANALYSIS

The following is a section-by-section analysis of the amendment in the nature of a substitute adopted by the committee.

##### *Section 1—Civil penalties*

This section would amend section 2282a of title 42, United States Code, to repeal the authority of the Secretary of Energy to grant nonprofit institutions an automatic remission for any civil penalties assessed for violations of any applicable rule, regulation, or order

related to nuclear safety issued by the Secretary of Energy. This section would also limit any civil penalties assessed for violations of such rules, regulations, or orders to an amount not to exceed the amount of any discretionary fee paid to a nonprofit institution by the Secretary of Energy under a contract to manage facilities and laboratories of the Department of Energy.

#### COMMITTEE POSITION

On June 28, 2000, the Committee on Armed Services, a quorum being present, approved H.R. 3383 by a voice vote.

#### FISCAL DATA

Pursuant to clause 3(d)(2)(A) of rule XIII of the Rules of the House of Representatives, the committee attempted to ascertain annual outlays resulting from the bill during fiscal year 2001 and the four following fiscal years. The results of such efforts are reflected in the cost estimate prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974, which is included in this report pursuant to clause 3(c)(3) of rule XIII of the Rules of the House.

#### CONGRESSIONAL BUDGET OFFICE ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the cost estimate prepared by the Congressional Budget Office and submitted pursuant to section 402(a) of the Congressional Budget Act of 1974 is as follows:

JULY 5, 2000.

Hon. FLOYD SPENCE,  
*Chairman, Committee on Armed Services,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3383, a bill to amend the Atomic Energy Act of 1954 to remove an exemption from civil penalties for nuclear safety violations by nonprofit institutions.

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

Sincerely,

DAN L. CRIPPEN, *Director.*

*H.R. 3383—A bill to amend the Atomic Energy Act of 1954 to remove an exemption from civil penalties for nuclear safety violations by nonprofit institutions*

H.R. 3383 would amend the Atomic Energy Act of 1954 to repeal the exemption from civil penalties for nuclear safety violations that currently applies to nonprofit institutions operating laboratories of the Department of Energy (DOE). Under the bill, nonprofit institutions that are operating DOE laboratories would be subject to penalties no greater than the amount that they are paid by DOE that exceeds their reimbursable costs (known as the discretionary fee). Thus, enactment of H.R. 3383 could result in an increase in governmental receipts, so pay-as-you-go procedures would apply. However, CBO estimates that any change in receipts would not be sig-

nificant. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

Currently, several nonprofit institutions (primarily universities) are exempt from paying civil penalties, assessed under the Price Anderson Act, for nuclear safety violations at DOE laboratories. According to DOE's Office of Enforcement and Investigation, over the last four years nonprofit contractors have been assessed \$990,625 in penalties. All of those penalties have been waived in accordance with current law. Under H.R. 3383, any future penalties would be paid to the Treasury. Based on penalties that have been assessed in the past, CBO expects that such revenues would be less than \$250,000 a year.

On June 7, 2000, CBO transmitted a cost estimate for H.R. 3383 as ordered reported by the House Committee on Commerce. The cost estimates and the two versions of the bill are identical.

The CBO staff contacts are Lisa Cash Driskill (for federal costs), and Victoria Heid Hall (for the state and local impact). This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

#### COMMITTEE COST ESTIMATE

Pursuant to clause 3(d) of rule XIII of the Rules of the House of Representatives, the committee generally concurs with the estimate contained in the report of the Congressional Budget Office.

#### OVERSIGHT FINDINGS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, this legislation results from hearings and other oversight activities conducted by the committee pursuant to clause 2(b)(1) of rule X.

With respect to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a)(1) of the Congressional Budget Act of 1974, this legislation does not include any new spending or credit authority, nor does it provide for any increase or decrease in tax revenues or expenditures. The fiscal features of this legislation are addressed in the estimate prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the committee has not received a report from the Committee on Government Reform and Oversight pertaining to the subject matter of H.R. 3383.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the committee finds the authority for this legislation in Article I, section 8 of the United States Constitution.

#### STATEMENT OF FEDERAL MANDATES

Pursuant to section 423 of Public Law 104-4, this legislation contains no federal mandates with respect to state, local, and tribal governments, nor with respect to the private sector. Similarly, the bill provides no unfunded federal intergovernmental mandates.



## RECORD VOTE

In accordance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the committee notes that no rollcall votes were taken with respect to H.R. 3383.

The committee ordered H.R. 3383 reported to the House with a favorable recommendation by a voice vote, a quorum being present.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

The bill was referred to this committee for consideration of such provisions of the bill and amendment as fall within the jurisdiction of this committee pursuant to clause 1(c) of rule X of the Rules of the House of Representatives. The changes made to existing law by the amendment reported by the Committee on Commerce are shown in the report filed by that committee (Rept. 106-695, Part 1).

