

111TH CONGRESS
1ST SESSION

H. R. 2471

To reauthorize the Uranium Enrichment Decontamination and Decommissioning Fund, to authorize the Secretary of Energy to pay affected participants under a pension plan referred to in the USEC Privatization Act for benefit increases not received, to direct the Secretary of Energy to provide a plan for the re-enrichment of certain uranium tailings, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 18, 2009

Mr. WHITFIELD introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To reauthorize the Uranium Enrichment Decontamination and Decommissioning Fund, to authorize the Secretary of Energy to pay affected participants under a pension plan referred to in the USEC Privatization Act for benefit increases not received, to direct the Secretary of Energy to provide a plan for the re-enrichment of certain uranium tailings, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Uranium Enrichment
3 Decontamination and Decommissioning Fund Reauthor-
4 ization Act of 2009”.

5 **SEC. 2. REAUTHORIZATION OF URANIUM ENRICHMENT DE-**
6 **CONTAMINATION AND DECOMMISSIONING**
7 **FUND.**

8 (a) AMOUNTS IN FUND.—Section 1802 of the Atomic
9 Energy Act of 1954 (42 U.S.C. 2297g–1) is amended—

10 (1) in subsection (a)—

11 (A) by striking “\$518,233,333” and in-
12 serting “\$790,000,000”; and

13 (B) by striking “the Energy Policy Act of
14 1992” and inserting “the Uranium Enrichment
15 Decontamination and Decommissioning Fund
16 Reauthorization Act of 2009”;

17 (2) in subsection (c), by inserting after “ad-
18 justed for inflation” the following: “beginning 1 year
19 after the date of enactment of the Energy Policy Act
20 of 1992”;

21 (3) in subsection (d), by striking “15 years
22 after the date of the enactment of this title” and in-
23 serting “12 years after the date of enactment of the
24 Uranium Enrichment Decontamination and Decom-
25 missioning Fund Reauthorization Act of 2009”; and

26 (4) in subsection (e)—

1 (A) in paragraph (1), by striking “15
2 years after the date of the enactment of this
3 title” and inserting “12 years after the date of
4 enactment of the Uranium Enrichment Decon-
5 tamination and Decommissioning Fund Reau-
6 thorization Act of 2009”; and

7 (B) in paragraph (2), by striking “under
8 such subsection” and inserting “during the 12-
9 year period beginning on the date of enactment
10 of the Uranium Enrichment Decontamination
11 and Decommissioning Fund Reauthorization
12 Act of 2009”.

13 (b) REPORTS.—Section 1805 of the Atomic Energy
14 Act of 1954 (42 U.S.C. 2297g–4) is amended—

15 (1) in the first sentence, by striking “the date
16 of the enactment of this title” and inserting “the
17 date of enactment of the Uranium Enrichment De-
18 contamination and Decommissioning Fund Reau-
19 thorization Act of 2009”; and

20 (2) in the second sentence, by striking “5th re-
21 port submitted under this section” and inserting
22 “third report submitted after the date of enactment
23 of the Uranium Enrichment Decontamination and
24 Decommissioning Fund Reauthorization Act of
25 2009”.

1 **SEC. 3. AUTHORIZATION AND DETERMINATION OF BENE-**
2 **FITS FOR AFFECTED PARTICIPANTS.**

3 (a) AUTHORIZATION FOR PAYMENT TO AFFECTED
4 PARTICIPANTS.—To the extent provided in advance in ap-
5 propriations Acts, the Secretary of Energy (referred to in
6 this Act as the “Secretary”)—

7 (1) shall establish a program under which the
8 Secretary shall pay any affected participant de-
9 scribed in subsection (b) a one-time lump sum pay-
10 ment in an amount to be determined by the Sec-
11 retary under subsection (c); and

12 (2) may contract for the procurement of infor-
13 mation necessary to enable the Secretary to effec-
14 tively carry out the provisions of this section.

15 (b) AFFECTED PARTICIPANT.—For the purposes of
16 this section, an affected participant is a person described
17 under section 3110(a)(6)(B) of the USEC Privatization
18 Act (42 U.S.C. 2297h–8(a)(6)(B)).

19 (c) DETERMINATION OF PAYMENT FOR AFFECTED
20 PARTICIPANTS.—

21 (1) IN GENERAL.—The Secretary shall pay an
22 affected participant, pursuant to an application
23 timely filed by such participant, a one-time lump
24 sum payment equal to an amount which bears the
25 same ratio to the total recoverable amount described
26 in paragraph (2) as the actuarial present value of

1 the accrued benefits of the affected participant
2 under the pension plan from which a transfer of
3 plan assets and liabilities required under section
4 3110(a)(2) of the USEC Privatization Act (42
5 U.S.C. 2297h-8(a)(2)) was made (as of immediately
6 before the transfer) bears to the actuarial present
7 value of the accrued benefits of all affected partici-
8 pants under the pension plan from which the trans-
9 fer under such section was made (as of immediately
10 before the transfer).

11 (2) TOTAL RECOVERABLE AMOUNT.—For pur-
12 poses of this subsection, the total recoverable
13 amount is an amount equal to the excess of—

14 (A) the present value of benefits that
15 would have been accrued or accruable by all af-
16 fected participants under the pension plan from
17 which the transfer under section 3110(a)(2) of
18 the USEC Privatization Act was made if such
19 transfer had not occurred and if benefit in-
20 creases had occurred, in connection with the
21 transferred liabilities, under such plan equiva-
22 lent to benefit increases that have occurred
23 under such plan in connection with the other li-
24 abilities under such plan, over

1 (B) the present value of benefits accrued
2 or accruable by all such affected participants
3 under the pension plan to which the transfer
4 under section 3110(a)(2) of the USEC Privat-
5 ization Act (42 U.S.C. 2297h-8(a)(2)) was
6 made.

7 (3) CONSIDERATIONS.—In determining a pay-
8 ment under this section, the Secretary shall con-
9 sider, with respect to the pension plan from which
10 the transfer under section 3110(a)(2) of the USEC
11 Privatization Act (42 U.S.C. 2297h-8(a)(2)) was
12 made and the pension plan to which such transfer
13 was made, benefits accrued as of the date of enact-
14 ment of this Act and accruable through attainment
15 of normal retirement age, assuming continued serv-
16 ice under the plan until attainment of such age and
17 the same rate of basic pay subject to increases re-
18 flective of reasonably anticipated increases in the
19 cost of living.

20 (4) SUCCESSOR PLANS.—For the purposes of
21 paragraphs (2) and (3), any reference to the pension
22 plan from which the transfer under section
23 3110(a)(2) of the USEC Privatization Act (42
24 U.S.C. 2297h-8(a)(2)) was made shall include a ref-
25 erence to any successor to such plan (other than the

1 pension plan to which the transfer required by such
2 section was made) if such successor plan received as-
3 sets in excess of the actuarial present value of ac-
4 crued benefits under such plan upon succession.

5 (d) PRO RATA REDUCTION OF PAYMENT.—The Sec-
6 retary shall provide for pro rata reductions in payment
7 amounts determined by the Secretary under subsection (c)
8 to affected participants described in subsection (b) to the
9 extent necessary to adjust for amounts provided in appro-
10 priation Acts for purposes of the program under sub-
11 section (a).

12 (e) DETERMINATION OF FINDINGS OF FACT.—The
13 Secretary may make findings of facts and decisions as to
14 the rights of any affected participant applying for a pay-
15 ment under this section.

16 (f) RULEMAKING.—Not later than 60 days after the
17 date of enactment of this Act, the Secretary shall issue
18 regulations to carry out this section. Such regulations
19 shall provide a requirement for applicants for payments
20 under this section to consent to the release of any informa-
21 tion requested by the Secretary.

22 (g) PUBLIC NOTICE.—To the extent practicable, the
23 Secretary shall provide notice to individuals who may be
24 eligible to receive a payment under this section.

1 (h) APPLICATION FOR PAYMENT.—To be eligible for
2 a payment under this section, an affected participant shall
3 prepare and submit to the Secretary an application—

4 (1) not later than 240 days after the date of
5 enactment of this Act;

6 (2) in such manner; and

7 (3) containing such information as the Sec-
8 retary requires.

9 (i) TIMELY PAYMENTS.—To the extent practicable,
10 the Secretary shall determine and make a payment to an
11 affected participant not later than 180 days after such
12 participant's submission of an application for payment
13 under subsection (h).

14 (j) ELECTION TO TREAT PAYMENT AS ROLLOVER
15 CONTRIBUTION TO IRA.—

16 (1) IN GENERAL.—Any affected participant who
17 receives a payment under this section may, at any
18 time during the 1-year period beginning on the day
19 after the date on which such payment was received,
20 make one or more contributions in an aggregate
21 amount not to exceed the amount of such payment
22 to an individual retirement plan (as defined by sec-
23 tion 7701(a)(37) of the Internal Revenue Code of
24 1986).

1 (2) TREATMENT OF CONTRIBUTIONS TO
 2 IRAS.—For purposes of the Internal Revenue Code
 3 of 1986, if a contribution is made to an individual
 4 retirement plan pursuant to paragraph (1), then—

5 (A) except as provided in paragraph (3),
 6 such contribution shall not be included in gross
 7 income, and

8 (B) to the extent of the amount of such
 9 contribution, such contribution shall be treat-
 10 ed—

11 (i) as a distribution described in sec-
 12 tion 408(d)(3) of such Code, and

13 (ii) as having been transferred to the
 14 individual retirement account in a direct
 15 trustee to trustee transfer within 60 days
 16 of the distribution.

17 (3) SPECIAL RULE FOR ROTH IRAS.—If a con-
 18 tribution is made under paragraph (1) to a Roth
 19 IRA, such contribution shall be includible in gross
 20 income and, unless the taxpayer elects not to have
 21 this clause apply, such contribution shall be so in-
 22 cluded ratably over the 2-taxable-year period begin-
 23 ning with the first taxable year in which such con-
 24 tribution is made.

25 (k) HEARING AND JUDICIAL REVIEW.—

1 (1) HEARING.—

2 (A) IN GENERAL.—Upon request by any
3 affected participant applying for a payment
4 under this section, who makes a showing in
5 writing that such participant's rights may have
6 been prejudiced by any decision the Secretary
7 has rendered, the Secretary shall give such par-
8 ticipant reasonable notice and opportunity for a
9 hearing with respect to such decision, and, if a
10 hearing is held, shall, on the basis of evidence
11 adduced at the hearing, affirm, modify, or re-
12 verse the Secretary's findings of fact and such
13 decision.

14 (B) REQUEST FOR HEARING.—Any request
15 for a hearing under this subsection must be
16 filed within 60 days after notice of a decision
17 by the Secretary is received by the affected par-
18 ticipant making such a request.

19 (C) SECRETARY.—The Secretary is further
20 authorized, on the Secretary's own motion, to
21 hold such hearings and to conduct such inves-
22 tigations and other proceedings as the Sec-
23 retary may deem necessary or proper for the
24 administration of this section.

25 (2) JUDICIAL REVIEW.—

1 (A) IN GENERAL.—Any affected partici-
2 pant, after any final decision of the Secretary
3 made after a hearing to which such participant
4 was a party, irrespective of the amount in con-
5 troversy, may obtain a review of such decision
6 by a civil action commenced within 60 days
7 after the mailing to such participant of notice
8 of such decision or within such further time as
9 the Secretary may allow.

10 (B) JURISDICTION AND VENUE.—An ac-
11 tion under this section shall be brought in the
12 district court of the United States for the judi-
13 cial district in which the affected participant
14 plaintiff resides, or where such plaintiff has a
15 principal place of business, or, if such plaintiff
16 does not reside or have a principal place of
17 business within any such judicial district, in the
18 United States District Court for the District of
19 Columbia.

20 (C) JUDICIAL DETERMINATION.—The
21 court shall have power to enter, upon the plead-
22 ings and transcript of the record, a judgment
23 affirming, modifying, or reversing the decision
24 of the Secretary, with or without remanding the
25 cause for a rehearing.

1 (D) FINAL JUDGMENT.—The judgment of
2 the court shall be final, except that it shall be
3 subject to review in the same manner as a judg-
4 ment in other civil actions.

5 (E) CHANGE IN SECRETARY.—Any action
6 instituted in accordance with this section shall
7 survive notwithstanding any change in the per-
8 son occupying the office of Secretary or any va-
9 cancy in such office.

10 (I) SECRETARY'S RESPONSIBILITY; NO THIRD PARTY
11 LIABILITY.—

12 (1) SECRETARY'S RESPONSIBILITY.—The Sec-
13 retary shall be responsible for all payments and
14 costs under this section, for reporting payments to
15 affected participants and the Internal Revenue Serv-
16 ice on Form number 1099R (or such other form as
17 required by the Internal Revenue Service) for income
18 tax purposes, and for answering questions relating
19 to the implementation of this section for affected
20 participants and applicants for payment. In no event
21 shall the current or former employer of an affected
22 participant or applicant be responsible for providing
23 communication, making payments, reporting pay-
24 ments, answering questions, or providing calcula-
25 tions.

1 (2) NO THIRD PARTY LIABILITY.—Nothing in
2 this section shall be deemed to impose any liability
3 or cost, or authorize any claim against the operator
4 of the Department of Energy’s uranium enrichment
5 facility in Paducah, Kentucky, or against any person
6 or entity other than the Secretary.

7 (m) AUTHORIZATION OF APPROPRIATIONS.—There
8 are authorized to be appropriated to the Secretary such
9 amounts as necessary to carry out this section.

10 **SEC. 4. RE-ENRICHMENT PLAN.**

11 (a) PLAN.—Not later than 180 days after the date
12 of enactment of this Act, the Secretary shall develop, com-
13 plete, and publish in the Federal Register, a plan to re-
14 enrich and sell certain cylinders of uranium tailings.

15 (b) CONTENTS.—The plan under subsection (a) shall
16 provide for the following:

17 (1) RE-ENRICHMENT REQUIREMENT.—

18 (A) REQUIREMENT.—The Secretary shall
19 seek to enter into a contract with the operator
20 of the Department of Energy’s uranium enrich-
21 ment facility in Paducah, Kentucky, for the re-
22 enrichment of cylinders of uranium tailings,
23 with an assay of such value as the Secretary
24 finds economically suitable, located at Govern-

1 ment-owned uranium enrichment sites in Paducah,
2 Kentucky, and Portsmouth, Ohio.

3 (B) AMOUNT.—A contract under subparagraph
4 (A) shall provide for re-enrichment at the
5 Paducah facility of 50 percent of the materials
6 in the cylinders described in subparagraph (A).

7 (C) SCHEDULE.—A contract under subparagraph
8 (A) shall provide for re-enrichment
9 to begin not later than 90 days after the date
10 of the publication in the Federal Register of the
11 plan under this section, subject to plant capacity
12 and availability.

13 (D) SUSPENSION OR CANCELLATION.—The
14 Secretary may suspend or cancel a contract
15 under subparagraph (A) for re-enrichment, in
16 accordance with the Federal Acquisition Regulation,
17 if the Secretary determines—

18 (i) the operator of the Paducah facility
19 has not fulfilled obligations regarding
20 such re-enrichment under the contract; or

21 (ii) economic considerations are not
22 conducive to carry out the contract at that
23 time.

24 (2) SALE OF PRODUCT OF RE-ENRICHMENT.—

25 The Secretary shall sell or contract for the sale of

1 the product of re-enrichment carried out pursuant to
2 paragraph (1).

3 (3) SALE OF REMAINING URANIUM TAILINGS.—

4 (A) IN GENERAL.—The Secretary shall sell
5 50 percent of the materials in the cylinders de-
6 scribed in subparagraph (A) of paragraph (1)
7 to qualified buyers.

8 (B) QUALIFIED BUYER.—For purposes of
9 this paragraph, the term “qualified buyer”
10 means any entity licensed, under the Atomic
11 Energy Act of 1954 (42 U.S.C. 2011 et seq.),
12 to possess materials in the cylinders described
13 in subparagraph (A) of paragraph (1).

14 (C) PREFERENCE.—In selling the mate-
15 rials in the cylinders described in subparagraph
16 (A) of paragraph (1), the Secretary shall give
17 preference to qualified buyers committed (as de-
18 termined by the Secretary) to re-enrichment of
19 such materials in the United States.

20 (D) ADDITIONAL CONTRACT FOR MATE-
21 RIAL NOT SOLD.—The Secretary shall seek to
22 enter into a contract with the operator of the
23 Department of Energy’s uranium enrichment
24 facility in Paducah, Kentucky, for the re-enrich-
25 ment of any materials in the cylinders described

1 in subparagraph (A) of paragraph (1) not sold
2 pursuant to subparagraph (A) of this para-
3 graph.

4 (4) UNABLE TO CONTRACT.—If the Secretary
5 does not enter into a contract under subparagraph
6 (A) of paragraph (1) within 270 days after the date
7 of enactment of this Act, the Secretary may do ei-
8 ther or both of the following:

9 (A) Defer negotiation of such a contract
10 until not later than the last day of calendar
11 year 2014.

12 (B) Sell the amount of the materials in the
13 cylinders described in subparagraph (B) of
14 paragraph (1) under terms consistent with the
15 plan under this section.

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