

104TH CONGRESS
1ST SESSION

S. 755

To amend the Atomic Energy Act of 1954 to provide for the privatization of the United States Enrichment Corporation.

IN THE SENATE OF THE UNITED STATES

MAY 3 (legislative day, MAY 1), 1995

Mr. DOMENICI (for himself, Mr. FORD, Mr. JOHNSTON, Mr. CAMPBELL, Mr. THOMAS, and Mr. SIMPSON) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Atomic Energy Act of 1954 to provide for the privatization of the United States Enrichment Corporation.

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 AND REFERENCE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “USEC Privatization Act”.

6 (b) REFERENCE.—Except as otherwise expressly pro-
7 vided, whenever in this Act an amendment or repeal is
8 expressed in terms of an amendment to, or repeal of, a
9 section or other provision, the reference shall be consid-

1 ered to be made to a section or other provision of the
2 Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

3 **SEC. 2. PRODUCTION FACILITY.**

4 Paragraph v. of section 11 (42 U.S.C. 2014 v.) is
5 amended by striking “or the construction and operation
6 of a uranium enrichment production facility using Atomic
7 Vapor Laser Isotope Separation technology”.

8 **SEC. 3. DEFINITIONS.**

9 Section 1201 (42 U.S.C. 2297) is amended—

10 (1) in paragraph (4), by inserting before the pe-
11 riod the following: “and any successor corporation
12 established through privatization of the Corpora-
13 tion”;

14 (2) by redesignating paragraphs (10) through
15 (13) as paragraphs (14) through (17), respectively,
16 and by inserting after paragraph (9) the following
17 new paragraphs:

18 “(10) The term ‘low-level radioactive waste’ has
19 the meaning given such term in section 2(9) of the
20 Low-Level Radioactive Waste Policy Act (42 U.S.C.
21 2021b(9)).

22 “(11) The term ‘mixed-waste’ has the meaning
23 given such term in section 1004(41) of the Solid
24 Waste Disposal Act (42 U.S.C. 6903(41)).

1 “(12) The term ‘privatization’ means the trans-
2 fer of ownership of the Corporation to private inves-
3 tors pursuant to chapter 25.

4 “(13) The term ‘privatization date’ means the
5 date on which 100 percent of the ownership of the
6 Corporation has been transferred to private inves-
7 tors.”;

8 (3) by inserting after paragraph (17) (as redes-
9 ignated) the following new paragraph:

10 “(18) The term ‘transition date’ means July 1,
11 1993.”; and

12 (4) by redesignating the unredesignated para-
13 graph (14) as paragraph (19).

14 **SEC. 4. EMPLOYEES OF THE CORPORATION.**

15 (a) PARAGRAPH (2).—Paragraphs (1) and (2) of sec-
16 tion 1305(e) (42 U.S.C. 2297b-4(e)(1)(2)) are amended
17 to read as follows:

18 “(1) IN GENERAL.—It is the purpose of this
19 subsection to ensure that the privatization of the
20 Corporation shall not result in any adverse effects
21 on the accrued pension benefits of employees at fa-
22 cilities that are operated, directly or under contract,
23 in the performance of the functions vested in the
24 Corporation.

1 “(2) APPLICABILITY OF EXISTING COLLECTIVE
2 BARGAINING AGREEMENT.—Any employer (including
3 the Corporation) at a facility that is operated, di-
4 rectly or under contract, in the performance of the
5 functions vested in the Corporation shall abide by
6 the terms of the collective bargaining agreement in
7 effect on the privatization date at each individual fa-
8 cility until the earlier of the date on which the col-
9 lective bargaining agreement terminates or a new
10 collective bargaining agreement is executed. In the
11 event that a collective bargaining agreement has ex-
12 pired and is being renegotiated at a facility on the
13 privatization date, the employer shall continue to ob-
14 serve its obligations under the National Labor Rela-
15 tions Act.”.

16 (b) PARAGRAPH (4).—Paragraph (4) of section
17 1305(e) (42 U.S.C. 2297b-4(e)(4)) is amended to read
18 as follows:

19 “(4) BENEFITS OF TRANSFEREES.—

20 “(A) Employees of the Corporation who
21 were subject to either the Civil Service Retirement
22 System (CSRS) or the Federal Employ-
23 ees’ Retirement System (FERS) on the day im-
24 mediately preceding the privatization date pur-

1 suant to section 1305 as then in effect, shall
2 elect—

3 “(i) to retain their coverage under ei-
4 ther CSRS or FERS, as applicable, in lieu
5 of coverage by the Corporation’s retire-
6 ment system, or

7 “(ii) to receive a deferred annuity or
8 lump-sum benefit payable to a terminated
9 employee under CSRS or FERS, as appli-
10 cable.

11 Those employees electing (ii) shall have the op-
12 tion to transfer the balance in their Thrift Sav-
13 ings Plan account to a defined contribution
14 plan under the Corporation’s retirement system,
15 consistent with applicable law and the terms of
16 the Corporation’s defined contribution plan.

17 “(B) The Corporation shall pay to the
18 Civil Service Retirement and Disability Fund—

19 “(i) such employee deductions and
20 agency contributions as are required by
21 sections 8334, 8422, and 8423 of title 5,
22 United States Code, for those employees
23 who elect to retain their coverage under ei-
24 ther CSRS or FERS pursuant to subpara-
25 graph (A);

1 “(ii) such additional agency contribu-
2 tions as are determined necessary by the
3 Office of Personnel Management to pay, in
4 combination with the sums under subpara-
5 graph (i), the ‘normal cost’ (determined
6 using dynamic assumptions) of retirement
7 benefits for those employees who elect to
8 retain their coverage under CSRS pursu-
9 ant to subparagraph (A), with the concept
10 of ‘normal cost’ being utilized consistent
11 with generally accepted actuarial standards
12 and principles; and

13 “(iii) such additional amounts, not to
14 exceed two percent of the amounts under
15 subparagraphs (i) and (ii), as are deter-
16 mined necessary by the Office of Personnel
17 Management to pay the cost of administer-
18 ing retirement benefits for employees who
19 retire from the Corporation after the pri-
20 vatization date under either CSRS or
21 FERS, for their survivors, and for survi-
22 vors of employees of the Corporation who
23 die after the privatization date (which
24 amounts shall be available to the Office of
25 Personnel Management as provided in sec-

1 tion 8348(a)(1)(B) of title 5, United
2 States Code).

3 “(C) The Corporation shall pay to the
4 Thrift Savings Fund such employee and agency
5 contributions as are required by section 8432 of
6 title 5, United States Code, for those employees
7 who elect to retain their coverage under FERS
8 pursuant to subparagraph (A).

9 “(D) For those employees of the Corpora-
10 tion who were subject to the Federal Employee
11 Health Benefits Program (FEHBP) on the day
12 immediately preceding the privatization date
13 pursuant to section 1305 as then in effect and
14 who elect to retain their coverage under either
15 CSRS or FERS pursuant to subparagraph (A),
16 it shall be their option as to whether to receive
17 health benefits from a health benefit plan estab-
18 lished by the Corporation or to continue without
19 interruption their coverage under the FEHBP,
20 in lieu of coverage by the Corporation’s health
21 benefit system.

22 “(E) The Corporation shall pay to the Em-
23 ployees Health Benefits Fund—

24 “(i) such employee deductions and
25 agency contributions as are required by

1 section 8906(a)–(f) of title 5, United
2 States Code, for those employees who elect
3 to retain their coverage under FEHBP
4 pursuant to subparagraph (D); and

5 “(ii) such amounts as are determined
6 necessary by the Office of Personnel Man-
7 agement under subparagraph (F) to reim-
8 burse the Office of Personnel Management
9 for contributions under section 8906(g)(1)
10 of title 5, United States Code, for those
11 employees who elect to retain their cov-
12 erage under FEHBP pursuant to subpara-
13 graph (D).

14 “(F) The amounts required under sub-
15 paragraph (E)(ii) shall pay the Government
16 contributions for retired employees who retire
17 from the Corporation after the privatization
18 date under either CSRS or FERS, for survivors
19 of such retired employees, and for survivors of
20 employees of the Corporation who die after the
21 privatization date, with said amounts prorated
22 to reflect only that portion of the total service
23 of such employees and retired persons that was
24 performed for the Corporation after the privat-
25 ization date.”.

1 **SEC. 5. MARKETING AND CONTRACTING AUTHORITY.**

2 (a) **MARKETING AUTHORITY.**—Section 1401(a) (42
3 U.S.C. 2297c(a)) is amended effective on the privatization
4 date (as defined in section 1201(13) of the Atomic Energy
5 Act of 1954) to read as follows:

6 “(a) **MARKETING AUTHORITY.**—Except as provided
7 in this section, the Department may not market enriched
8 uranium (including low-enriched uranium derived from
9 highly enriched uranium) and uranium enrichment and re-
10 lated services after the privatization date.

11 “(1) **RIGHT OF FIRST REFUSAL.**—The Depart-
12 ment may itself or through a marketing agent of its
13 choice solicit a purchaser for enriched uranium (in-
14 cluding low-enriched uranium derived from highly
15 enriched uranium) and uranium enrichment and re-
16 lated services after the privatization date using com-
17 petitive bidding procedures. The Corporation may
18 obtain the enriched uranium (including low-enriched
19 uranium derived from highly enriched uranium) for
20 which the Department is seeking a purchaser by—

21 “(A) offering purchase terms that, in the
22 judgment of the Secretary, exceed the highest
23 qualifying bid received by the Department or its
24 marketing agent; or

1 “(B) offering a bid that in the judgment of
2 the Secretary best serves the public interest for
3 financial, national security, or other reasons.

4 “(2) **MARKETING AGENT.**—Without using a
5 competitive process for selecting a marketing agent,
6 the Department may use the Corporation as its mar-
7 keting agent for entering into contracts for provid-
8 ing enriched uranium (including low-enriched ura-
9 nium derived from highly enriched uranium) and
10 uranium enrichment and related services.

11 “(3) **GOVERNMENT TRANSFERS.**—Nothing in
12 this section shall be construed to limit the authority
13 of the Secretary to transfer, in a manner the Sec-
14 retary determines appropriate, enriched uranium (in-
15 cluding low-enriched uranium derived from highly
16 enriched uranium)—

17 “(A) between the Department and other
18 federal agencies if the material is transferred
19 for the use of the receiving agency and does not
20 meet commercial specifications;

21 “(B) between the Department and any en-
22 tity or person for national security purposes, as
23 determined by the Secretary; or

24 “(C) between the Department and state or
25 local agencies and nonprofit, charitable or edu-

1 cational institutions for use other than for the
2 generation of electricity for commercial use.

3 “(4) SECRETARIAL DETERMINATION.—Prior to
4 any sale by the Department or its marketing agent
5 under paragraph (1) of enriched uranium (including
6 low-enriched uranium derived from highly enriched
7 uranium) or uranium enrichment or related services,
8 and after the President has determined such mate-
9 rial is not necessary to national security needs, the
10 Secretary shall determine by full rulemaking with
11 opportunity for public comment that—

12 “(A) the price paid to the Department for
13 such material will be a fair market price; and

14 “(B) the sale of such material will not
15 have an adverse impact on the domestic mining
16 or enrichment industries taking into account
17 sales of enriched uranium (including low-en-
18 riched uranium derived from highly enriched
19 uranium) under the Amendment to the Agree-
20 ment Suspending the Antidumping Investiga-
21 tion on Uranium from the Russian Federation,
22 Department of Commerce Investigation No. A-
23 821-802, dated March 11, 1994, and the
24 Agreement Between the Government of the
25 United States of America and the Government

1 of the Russian Federation Concerning the Dis-
2 position of Highly Enriched Uranium Extracted
3 from Nuclear Weapons.

4 “(5) RIGHT TO CANCEL PROPOSED SALE.—
5 Nothing in this section shall be interpreted to pre-
6 clude the Secretary from canceling a proposed sale
7 for any reason.

8 “(6) URANIUM INVENTORY REPORT.—180 days
9 prior to any sale under this section, the Secretary
10 shall submit to Congress a current uranium inven-
11 tory report including updated information with re-
12 spect to the items listed in section 2296b–5 of title
13 42 United States Code, together with information
14 regarding the proposed sale or transfer.

15 “(7) PROCEEDS FROM SALES.—Proceeds from
16 sales under this section shall be deposited into the
17 general fund of the United States Treasury.”.

18 (b) TRANSFER OF CONTRACTS.—Section 1401(b) (42
19 U.S.C. 2297c(b)) is amended—

20 (1) in paragraph (2)(B), by adding at the end
21 the following: “The privatization of the Corporation
22 shall not affect the terms of, or the rights or obliga-
23 tions of the parties to, any such power purchase con-
24 tract.”; and

25 (2) by adding at the end the following:

1 “(3) EFFECT OF TRANSFER.—

2 “(A) As a result of the transfer pursuant
3 to paragraph (1), all rights, privileges, and ben-
4 efits under such contracts, agreements, and
5 leases, including the right to amend, modify, ex-
6 tend, revise, or terminate any of such contracts,
7 agreements, or leases were irrevocably assigned
8 to the Corporation for its exclusive benefit.

9 “(B) Notwithstanding the transfer pursu-
10 ant to paragraph (1), the United States shall
11 remain obligated to the parties to the contracts,
12 agreements, and leases transferred pursuant to
13 paragraph (1) for the performance of the obli-
14 gations of the United States thereunder during
15 the term thereof. The Corporation shall reim-
16 burse the United States for any amount paid in
17 respect of such obligations arising after the pri-
18 vatization date to the extent such amount is a
19 legal and valid obligation of the Corporation
20 then due.

21 “(C) After the privatization date, upon any
22 material amendment, modification, extension,
23 revision, replacement, or termination of any
24 contract, agreement, or lease transferred under
25 paragraph (1), the United States shall be re-

1 leased from further obligation under such con-
2 tract, agreement, or lease, except that such ac-
3 tion shall not release the United States from
4 obligations arising under such contract, agree-
5 ment, or lease prior to such time.

6 “(D) The Corporation shall establish prices
7 for its products, materials, and services pro-
8 vided to customers on a basis that will allow it
9 to attain the normal business objectives of a
10 profitmaking corporation for all uranium en-
11 richment contracts transferred pursuant to
12 paragraph (1).”.

13 (c) LOW-LEVEL RADIOACTIVE WASTE.—Section
14 1403 (42 U.S.C. 2297c-2) is amended by adding at the
15 end the following:

16 “(h) OBLIGATION OF THE DEPARTMENT TO ACCEPT
17 LOW-LEVEL RADIOACTIVE WASTE.—

18 “(1) At the request of the generator, the De-
19 partment shall accept for treatment and disposal the
20 low-level radioactive waste generated—

21 “(A) by the Corporation as a result of the
22 operation of the facilities and related property
23 leased by the Corporation pursuant to sub-
24 section (a); and

1 “(B) by any person licensed by the Nu-
2 clear Regulatory Commission to operate a ura-
3 nium enrichment facility under sections 53, 63,
4 and 193 of the Atomic Energy Act of 1954 (42
5 U.S.C. 2073, 2093, and 2243).

6 “(2) The increase in costs of treatment and dis-
7 posal actually incurred by the Department which are
8 solely attributable to and result from the treatment
9 and disposal of such wastes received from the gener-
10 ator shall be paid to the Department by the genera-
11 tor, but in no event shall such payment exceed an
12 amount equal to that which would be charged by
13 commercial entities for the treatment and disposal of
14 such wastes.

15 “(3) At its sole discretion, the generator may,
16 but is not required to, arrange for the treatment and
17 disposal of such wastes or any portion thereof at any
18 other facility otherwise authorized by applicable laws
19 and regulations to treat or dispose of such wastes.

20 “(4) The costs of treatment and disposal of
21 such wastes at any other facility shall be borne sole-
22 ly by the generator.”.

23 (d) TRANSFER OF URANIUM.—Title II (42 U.S.C.
24 2297 et seq.) is amended by redesignating section 1408

1 as section 1409 and inserting after section 1407 the fol-
2 lowing:

3 **“SEC. 1408. TRANSFER OF URANIUM.**

4 “(a) IN GENERAL.—In addition to material trans-
5 ferred to the Corporation pursuant to the Memorandum
6 of Agreement Relating to the Transfer of Functions and
7 Activities from the Department to the Corporation dated
8 December 15, 1994, the Secretary may, before the privat-
9 ization date, transfer to the Corporation without charge
10 the low-enriched uranium from up to 50 metric tons of
11 highly enriched uranium and up to 7,000 metric tons of
12 natural uranium.

13 “(b) LIMITATION ON SALE OF LOW-ENRICHED URA-
14 NIUM AND NATURAL URANIUM TRANSFERRED BY THE
15 UNITED STATES.—

16 “(1) Natural uranium transferred pursuant to
17 subsection (a) by the United States to the Corpora-
18 tion may not be delivered for commercial end use
19 prior to January 1, 1998. Beginning January 1,
20 1998, the total amount of such natural uranium
21 from stockpiles held by the United States or the
22 Corporation delivered in any calendar year for com-
23 mercial end use may not exceed ten percent of the
24 uranium hexafluoride equivalent content of the total
25 amount of natural uranium transferred pursuant to

1 subsection (a). In no event shall the total quantity
2 of such natural uranium delivered for commercial
3 end use exceed 4 million pounds uranium
4 hexafluoride equivalent in any calendar year.

5 “(2) Low-enriched uranium transferred pursu-
6 ant to subsection (a) by the United States to the
7 Corporation may be delivered for commercial end
8 use in an amount not to exceed 800,000 separative
9 work units in any calendar year.”.

10 **SEC. 6. PURCHASE OF HIGHLY ENRICHED URANIUM FROM**
11 **FORMER SOVIET UNION.**

12 Section 1409 (as redesignated) of the Atomic Energy
13 Act of 1954 (42 U.S.C. 2011 et seq.) is amended to read:

14 “(a) IN GENERAL.—The Government of the United
15 States, may, at any time after the privatization date,
16 change the Executive Agent pursuant to Article III of the
17 Agreement Between the Government of the United States
18 of America and the Government of the Russian Federation
19 Concerning the Disposition of Highly Enriched Uranium
20 Extracted from Nuclear Weapons, dated February 18,
21 1993, upon 30 days written notice to the other Party.

22 “(b) EXECUTIVE AGENT ON PRIVATIZATION DATE.—
23 On the privatization date, the Executive Agent designated
24 by the Government of the United States pursuant to Arti-
25 cle III of the Agreement Between the Government of the

1 United States of America and the Government of the Rus-
2 sian Federation Concerning the Disposition of Highly En-
3 riched Uranium Extracted from Nuclear Weapons, dated
4 February 18, 1993, shall be the Corporation.

5 “(c) AUTHORITIES AND OBLIGATIONS OF THE EXEC-
6 UTIVE AGENT.—The Executive Agent is authorized to ne-
7 gotiate the purchase of all highly enriched uranium made
8 available by any State of the former Soviet Union under
9 a government-to-government agreement or shall assume
10 the obligations of the Department or any previous Execu-
11 tive Agent under any contractual agreement that has been
12 reached with any such State or any private entity by the
13 Department or any previous Executive Agent. The Execu-
14 tive Agent may only purchase that material so long as the
15 quality of the material can be made suitable for use in
16 commercial reactors.

17 “(d)(1) The Executive Agent of the United States is
18 authorized to enter into contracts for the resale of the en-
19 richment component of low-enriched uranium derived from
20 highly enriched uranium and purchased pursuant to an
21 agreement under subsection (c). Upon delivery by the Ex-
22 ecutive Agent of the United States of such low-enriched
23 uranium pursuant to a contract for the sale of the enrich-
24 ment component of such low-enriched uranium, the Execu-
25 tive Agent of the United States shall deliver an amount

1 of uranium hexafluoride equivalent to the natural uranium
2 component of such low-enriched uranium to the Executive
3 Agent of the Russian Federation. The quantity of such
4 uranium hexafluoride delivered to the Executive Agent of
5 the Russian Federation shall be based on a 0.30 w/o tails
6 assay.

7 “(2) Title to uranium hexafluoride delivered to the
8 Executive Agent of the Russian Federation pursuant to
9 subparagraph (d)(1) shall transfer to the Executive Agent
10 of the Russian Federation upon delivery of such material
11 to the Executive Agent of the Russian Federation.

12 “(3) Uranium hexafluoride delivered to the Executive
13 Agent of the Russian Federation pursuant to subpara-
14 graph (d)(1) shall be deemed to be of Russian origin. Ex-
15 cept as otherwise provided in paragraph (d)(4), such ura-
16 nium hexafluoride shall be subject to the restrictions con-
17 tained in the Amendment to the Agreement Suspending
18 the Antidumping Investigation on Uranium from the Rus-
19 sian Federation, 59 Federal Register 15373, as such re-
20 strictions were in effect on March 11, 1994; and may also
21 be used in the United States for the purpose of overfeed-
22 ing in the operations of enrichment facilities or may be
23 resold for end use outside the United States.

24 “(4) Beginning January 1, 2002, uranium
25 hexafluoride delivered to the Executive Agent of the Rus-

1 sian Federation pursuant to subparagraph (d)(1), may be
 2 delivered for consumption by end users in the United
 3 States only in accordance with the following schedule:

Years	Annual Maximum Deliveries
2002–2011	10 million lbs. uranium hexafluoride
2012–	20 million lbs. uranium hexafluoride

4 “(5) Material sold pursuant to subparagraph (d)(4)
 5 may be used for swaps and exchanges only where such
 6 swaps and exchanges are documented to be conducted
 7 solely for the purpose of facilitating the further processing
 8 and use as nuclear fuel by the end-user. The material shall
 9 not be loaned.”.

10 **SEC. 7. PRIVATIZATION OF THE CORPORATION.**

11 (a) ESTABLISHMENT OF PRIVATE CORPORATION.—
 12 Chapter 25 (42 U.S.C. 2297d et seq.) is amended by add-
 13 ing at the end the following new section:

14 **“SEC. 1503. ESTABLISHMENT OF PRIVATE CORPORATION.**

15 “(a) ESTABLISHMENT.—

16 “(1) IN GENERAL.—In order to facilitate pri-
 17 vatization, the Corporation may provided for the es-
 18 tablishment of a private corporation organized under
 19 the laws of the several States. Such corporation shall
 20 have among its purposes the following:

21 “(A) To help maintain a reliable and eco-
 22 nomical domestic source of uranium enrichment
 23 services.

1 “(B) To undertake any and all activities as
2 provided in its corporate charter.

3 “(2) AUTHORITIES.—Subject to applicable li-
4 censing, certification, or other requirements under
5 this Act, the corporation established pursuant to
6 paragraph (1) shall be authorized to—

7 “(A) enrich uranium, provide for uranium
8 to be enriched by others, or acquire enriched
9 uranium (including low-enriched uranium de-
10 rived from highly enriched uranium);

11 “(B) conduct, or provide for conducting,
12 those research and development activities relat-
13 ed to uranium enrichment and related processes
14 and activities the corporation considers nec-
15 essary or advisable to maintain itself as a com-
16 mercial enterprise operating on a profitable and
17 efficient basis:

18 “(C) enter into transactions regarding ura-
19 nium, enriched uranium, or depleted uranium
20 with—

21 “(i) persons licensed under section 53,
22 63, 103, or 104 in accordance with the li-
23 censes held by those persons;

1 “(ii) persons in accordance with, and
2 within the period of, an agreement for co-
3 operation arranged under section 123; or

4 “(iii) persons otherwise authorized by
5 law to enter into such transactions;

6 “(D) enter into contracts with persons li-
7 censed under section 53, 63, 103, or 104, for
8 as long as the corporation considers necessary
9 or desirable, to provide uranium or uranium en-
10 richment or related services;

11 “(E) enter into contracts to provide ura-
12 nium or uranium enrichment and related serv-
13 ices in accordance with, and within the period
14 of, an agreement for cooperation arranged
15 under section 123 or as otherwise authorized by
16 law; and

17 “(F) take any and all such other actions as
18 are permitted by law of the jurisdiction of in-
19 corporation of the corporation.

20 “(3) TRANSFER OF ASSETS.—For purposes of
21 implementing the privatization, the Corporation may
22 transfer some or all of its assets and obligations and
23 records to the corporation established pursuant to
24 this section, including—

1 “(A) all the Corporation’s assets and obli-
2 gations, including all of the Corporation’s
3 rights, duties, and obligations accruing subse-
4 quent to the privatization date under contracts,
5 agreements, and leases entered into by the Cor-
6 poration before the privatization date, including
7 all uranium enrichment contracts and power
8 purchase contracts;

9 “(B) all funds in accounts of the Corpora-
10 tion held by the Treasury or on deposit with
11 any bank or other financial institution;

12 “(C) all of the Corporation’s rights to pur-
13 chase power from the Secretary under the
14 power purchase contracts covered by section
15 1401(b)(2)(B); and

16 “(D) all of the Corporation’s rights, duties,
17 and obligations, accruing subsequent to the pri-
18 vatization date, under the lease agreement be-
19 tween the Department and the Corporation exe-
20 cuted by the Department and the Corporation
21 pursuant to section 1403; and

22 “(E) all of the Corporation’s records, in-
23 cluding all of the papers and other documentary
24 materials, regardless of physical form or char-

1 acteristics, made or received by the Corpora-
2 tion.

3 “(4) MERGER OR CONSOLIDATION.—For pur-
4 poses of implementing the privatization, the Cor-
5 poration may merge or consolidate with the corpora-
6 tion established pursuant to subsection (a)(1) if such
7 action is contemplated by the plan for privatization
8 approved by the President under section 1502(b).
9 The Board shall have exclusive authority to approve
10 such merger or consolidation, and to take all further
11 actions necessary to consummate such merger or
12 consolidation, and no action by or in respect of
13 shareholders shall be required. The merger or con-
14 solidation shall be effected in accordance with, and
15 have the effects of a merger or consolidation under,
16 the laws of the jurisdiction of incorporation of the
17 surviving corporation, and all rights and benefits
18 provided under this title to the Corporation shall
19 apply to the surviving corporation as if it were the
20 Corporation.

21 “(5) TAX TREATMENT OF PRIVATIZATION.—

22 “(A) TRANSFER OF ASSETS OR MERGER.—
23 No income, gain, or loss shall be recognized by
24 any person by reason of the transfer of the Cor-
25 poration’s assets to, or the Corporation’s merg-

1 er with, the corporation established pursuant to
2 subsection (a)(1) in connection with the privat-
3 ization.

4 “(B) CANCELLATION OF DEBT AND COM-
5 MON STOCK.—No income, gain, or loss shall be
6 recognized by any person by reason of any can-
7 cellation of any obligation or common stock of
8 the Corporation in connection with the privat-
9 ization.

10 “(6) ACTIVITIES PRIOR TO PRIVATIZATION.—
11 Prior to privatization, the activities of the corpora-
12 tion established pursuant to subsection (a)(1) shall
13 be limited to those contemplated by the privatization
14 plan approved by the President under section
15 1502(b).

16 “(b) OSHA REQUIREMENTS.—For purposes of the
17 regulation of radiological and nonradiological hazards
18 under the Occupational Safety and Health Act of 1970,
19 the corporation established pursuant to subsection (a)(1)
20 shall be treated in the same manner as other employers
21 licensed by the Nuclear Regulatory Commission. Any
22 interagency agreement entered into between the Nuclear
23 Regulatory Commission and the Occupational Safety and
24 Health Administration governing the scope of their respec-
25 tive regulatory authorities shall apply to the corporation

1 as if the corporation were a Nuclear Regulatory Commis-
2 sion licensee.

3 “(c) LEGAL STATUS OF PRIVATE CORPORATION.—

4 “(1) NOT FEDERAL AGENCY.—The corporation
5 established pursuant to subsection (a)(1) shall not
6 be an agency of the United States Government and
7 shall not be a Government corporation or Govern-
8 ment-controlled corporation. For purposes of United
9 States antitrust laws, the performance by the cor-
10 poration established pursuant to subsection (a)(1) of
11 a ‘matched import’ contract shall be considered to
12 have occurred prior to the privatization date, if at
13 the time of privatization, such contract had been
14 agreed to by the parties in all material terms and
15 confirmed by the United States Department of Com-
16 merce under the Amendment to the Agreement Sus-
17 pending the Antidumping Investigation on Uranium
18 from the Russian Federation, Department of Com-
19 merce Investigation No. A-821-802, dated March
20 11, 1994.

21 “(2) NO RECOURSE AGAINST UNITED
22 STATES.—Obligations of the corporation established
23 pursuant to subsection (a)(1) shall not be obliga-
24 tions of, or guaranteed as to principal or interest by,

1 the Corporation or the United States, and the obli-
2 gations shall so plainly state.

3 “(3) NO CLAIMS COURT JURISDICTION.—No ac-
4 tion under section 1491 of title 28, United States
5 Code, shall be allowable against the United States
6 based on the actions of the corporation established
7 pursuant to subsection (a)(1).

8 “(d) BOARD OF DIRECTOR’S ELECTION AFTER PUB-
9 LIC OFFERING.—In the event that the privatization is im-
10 plemented by means of a public offering, an election of
11 the members of the board of directors of the Corporation
12 by the shareholders shall be conducted before the end of
13 the 1-year period beginning the date shares are first of-
14 fered to the public pursuant to such public offering.”.

15 (b) OWNERSHIP LIMITATIONS.—Chapter 25 (as
16 amended by subsection (a)) is amended by adding at the
17 end the following new section:

18 **“SEC. 1504. OWNERSHIP LIMITATIONS.**

19 “(a) SECURITIES LIMITATION.—In the event that the
20 privatization is implemented by means of a public offering,
21 during a period of 3 years beginning on the privatization
22 date, no person, directly or indirectly, may acquire or hold
23 securities representing more than 10 percent of the total
24 votes of all outstanding voting securities of the Corpora-
25 tion.

1 “(b) APPLICATION.—Subsection (a) shall not apply—

2 “(1) to any employee stock ownership plan of
3 the Corporation,

4 “(2) to underwriting syndicates holding shares
5 for resale, or

6 “(3) in the case of shares beneficially held for
7 others, to commercial banks, broker-dealers, clearing
8 corporations, or other nominees.

9 “(c) No director, officer, or employee of the Corpora-
10 tion may acquire any securities, or any rights to acquire
11 securities of the Corporation on terms more favorable than
12 those offered to the general public—

13 “(1) in the public offering of securities of the
14 Corporation in the implementation of the privatiza-
15 tion,

16 “(2) pursuant to any agreement, arrangement,
17 or understanding entered into before the privatiza-
18 tion date, or

19 “(3) before the election of directors of the Cor-
20 poration under section 1503(d).”.

21 (c) EXEMPTION FROM LIABILITY.—Chapter 25 (as
22 amended by subsection (b)) is amended by adding at the
23 end the following new section:

1 **“SEC. 1505. EXEMPTION FROM LIABILITY.**

2 “(a) IN GENERAL.—No director, officer, employee, or
3 agent of the Corporations shall be liable, for money dam-
4 ages or otherwise, to any party if, with respect to the sub-
5 ject matter of the action, suit, or proceeding, such person
6 was fulfilling a duty, in connection with any action taken
7 in connection with the privatization, which such person in
8 good faith reasonably believed to be required by law or
9 vested in such person.

10 “(b) EXCEPTION.—The exemption set forth in sub-
11 section (a) shall not apply to claims arising under the Se-
12 curities Act of 1933, the Securities Exchange Act of 1934
13 or under the Constitution or laws of any State, territory,
14 or possession of the United States relating to transactions
15 in securities, which claims are in connection with a public
16 offering implementing the privatization.

17 “(c) SECURITIES LAWS APPLICABLE.—Any offering
18 or sale of securities by the corporation established pursu-
19 ant to section 1503(a)(1) shall be subject to the Securities
20 Act of 1933, the Securities Exchange Act of 1934 and
21 the provisions of the Constitution and laws of any State,
22 territory, or possession of the United States relating to
23 transactions in securities.”.

24 (d) RESOLUTION OF CERTAIN ISSUES.—Chapter 25
25 (as amended by subsection (c)) is amended by adding at
26 the end the following new section:

1 **“SEC. 1506. RESOLUTION OF CERTAIN ISSUES.**

2 “(a) CORPORATION ACTIONS.—Notwithstanding any
3 provision of any agreement to which the Corporation is
4 a party, the Corporation shall not be considered to be in
5 breach, default, or violation of any such agreement be-
6 cause of any provision of this chapter or any action the
7 Corporation is required to take under this chapter.

8 “(b) RIGHT TO SUE WITHDRAWN.—The United
9 States hereby withdraws any stated or implied consent for
10 the United States, or any agent or officer of the United
11 States, to be sued by any person for any legal, equitable,
12 or other relief with respect to any claim arising out of,
13 or resulting from, acts or omissions under this chapter.”.

14 (e) APPLICATION OF PRIVATIZATION PROCEEDS.—
15 Chapter 25 (as amended by subsection (d)) is amended
16 by adding at the end the following new section:

17 **“SEC. 1507. APPLICATION OF PRIVATIZATION PROCEEDS.**

18 “The proceeds from the privatization shall be in-
19 cluded in the budget baseline required by the Balanced
20 Budget and Emergency Deficit Control Act of 1985 and
21 shall be counted as an offset to direct spending for pur-
22 poses of section 252 of such Act, notwithstanding section
23 257(e) of such Act.”.

24 (f) CONFORMING AMENDMENT.—The table of con-
25 tents for chapter 25 is amended by inserting after the item
26 for section 1502 the following:

“Sec. 1503. Establishment of private corporation.

“Sec. 1504. Ownership limitations.

“Sec. 1505. Exemption from liability.

“Sec. 1506. Resolution of certain issues.

“Sec. 1507. Application of privatization proceeds.”.

1 (g) Section 193 (42 U.S.C. 2243) is amended by add-
2 ing at the end the following:

3 “(f) LIMITATION.—No license or certificate of com-
4 pliance may be issued to the Corporation under section
5 53, 63, 193, or 1701, if in the opinion of the Nuclear Reg-
6 ulatory Commission, the issuance of such a license or cer-
7 tificate of compliance to the Corporation would be inimical
8 to the common defense and security of the United States
9 due to the nature and extent of the ownership, control or
10 domination of the Corporation by a foreign corporation or
11 a foreign government or any other relevant factors or cir-
12 cumstances.”.

13 **SEC. 8. PERIODIC CERTIFICATION OF COMPLIANCE.**

14 Section 1701(c)(2) (42 U.S.C. 2297f(c)(2)) is
15 amended by striking “ANNUAL APPLICATION FOR CER-
16 TIFICATE OF COMPLIANCE.—The Corporation shall apply
17 at least annually to the Nuclear Regulatory Commission
18 for a certificate of compliance under paragraph (1).” and
19 inserting “PERIODIC APPLICATION FOR CERTIFICATE OF
20 COMPLIANCE.—The Corporation shall apply to the Nu-
21 clear Regulatory Commission for a certificate of compli-
22 ance under paragraph (1) periodically, as determined by

1 the Nuclear Regulatory Commission, but not less than
2 every 5 years.”.

3 **SEC. 9. LICENSING OF OTHER TECHNOLOGIES.**

4 Subsection (a) of section 1702 (42 U.S.C. 2297f-
5 1(a)) is amended—

6 (1) by striking “other than” and inserting “in-
7 cluding”, and

8 (2) by striking “sections 53 and 63” and insert-
9 ing “sections 53, 63, and 193”.

10 **SEC. 10. JUDICIAL REVIEW OF NUCLEAR REGULATORY**
11 **COMMISSION ACTIONS.**

12 Section 189 of the Atomic Energy Act of 1954 (42
13 U.S.C. 2239(b)) is amended to read as follows:

14 “(b) The following Commission actions shall be sub-
15 ject to judicial review in the manner prescribed in chapter
16 158 of title 28, United States Code and chapter 7 of title
17 5, United States Code:

18 “(1) Any final order entered in any proceeding
19 of the kind specified in subsection (a) above.

20 “(2) Any final order allowing or prohibiting a
21 facility to begin operating under a combined con-
22 struction and operating license.

23 “(3) Any final order establishing by regulation
24 standards to govern the gaseous diffusion uranium
25 enrichment facilities of the Department of Energy,

1 including any such facilities leased to a corporation
2 established pursuant to section 1503.

3 “(4) Any final determination relating to wheth-
4 er the gaseous diffusion uranium enrichment facili-
5 ties of the Department of Energy, including any
6 such facilities leased to a corporation established
7 pursuant to section 1503, are in compliance with the
8 Commission’s standards governing the gaseous diffu-
9 sion uranium enrichment facilities of the Depart-
10 ment of Energy and all applicable laws.”.

11 **SEC. 11. CIVIL MONETARY PENALTIES FOR VIOLATIONS OF**
12 **LICENSING OR CERTIFICATION REQUIRE-**
13 **MENTS.**

14 (a) IN GENERAL.—Subsection 234 of the Atomic En-
15 ergy Act of 1954 (42 U.S.C. 2282(a)) is amended to read
16 as follows:

17 “(a) CIVIL PENALTIES.—

18 “(1) IN GENERAL.—A person who—

19 “(A) violates—

20 “(i) a licensing provision of section
21 53, 57, 62, 63, 81, 82, 101, 103, 104,
22 107, or 109, or any rule, regulation, or
23 order issued under the provision;

1 “(ii) a certification provision of sec-
2 tion 1701, or any rule or regulation issued
3 under the provision; or

4 “(iii) a term, condition, or limitation
5 of a license or certification issued under a
6 section referred to in clause (i) or (ii); or

7 “(B) commits a violation for which a li-
8 cense may be revoked under section 186 or a
9 certificate may be revoked under section 1701;
10 shall be subject to a civil penalty, to be imposed by
11 the Commission, of not to exceed \$100,000 for each
12 violation.

13 “(2) CONTINUING VIOLATIONS.—If a violation
14 described in paragraph (1) continues for more than
15 1 day, each day of the violation shall constitute a
16 separate violation for the purpose of determining the
17 applicable civil penalty.

18 “(3) MODIFICATION OF PENALTY.—The Com-
19 mission may compromise, mitigate, or remit a pen-
20 alty required to be imposed under this subsection.”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) Section 234 of such Act (42 U.S.C. 2282)
23 is amended—

24 (A) in the section heading, by inserting

25 “**OR CERTIFICATION**” after “**LICENSING**”;

1 (B) by inserting after “(b)”, the following:

2 “NOTIFICATION BY THE COMMISSION.—”; and

3 (C) by inserting after “(c)” the following:

4 “ACTION BY THE ATTORNEY GENERAL.—”.

5 (2) The table of contents of such Act (42
6 U.S.C. prec. 2011) is amended by striking the item
7 relating to section 234 and inserting the following
8 new item:

“Sec. 234. Civil monetary penalties for violations of licensing or certification re-
quirements.”.

9 **SEC. 12. CONFORMING AMENDMENTS.**

10 (a) REPEALS IN ATOMIC ENERGY ACT OF 1954 AS
11 OF THE PRIVATIZATION DATE.—

12 (1) REPEALS.—As of the privatization date (as
13 defined in section 1201(13) of the Atomic Energy
14 Act of 1954), the following sections (as in effect on
15 such privatization date) of the Atomic Energy Act of
16 1954 are repealed:

17 (A) Section 1202.

18 (B) Sections 1301 through 1304.

19 (C) Sections 1306 through 1316.

20 (D) Section 1402.

21 (E) Sections 1404 and 1405.

22 (F) Section 1601.

23 (G) Sections 1603 through 1607.

1 (2) CONFORMING AMENDMENT.—The table of
2 contents of such Act is amended by repealing the
3 items referring to sections repealed by paragraph
4 (1).

5 (b) STATUTORY MODIFICATIONS.—As of such privat-
6 ization date, the following shall take effect:

7 (1) For purposes of title I of the Atomic En-
8 ergy Act of 1954, all references in such Act to the
9 “United States Enrichment Corporation” shall be
10 deemed to be references to the corporation estab-
11 lished pursuant to section 1503 of the Atomic En-
12 ergy Act of 1954 (as added by section 7(a)).

13 (2) Section 1018(1) of the Energy Policy Act of
14 1992 (42 U.S.C. 2296b–7(1)) is amended by strik-
15 ing “the United States” and all that follows through
16 the period and inserting “the corporation referred to
17 in section 1201(4) of the Atomic Energy Act of
18 1954.”.

19 (3) Section 9101(3) of title 31, United States
20 Code, is amended by striking subparagraph (N), as
21 added by section 902(b) of Public Law 102–486.

22 (c) REVISION OF SECTION 1305.—As of such privat-
23 ization date, section 1305 of the Atomic Energy Act of
24 1954 (42 U.S.C. 2297b–4) is amended—

1 (1) by repealing subsections (a), (b), (c), and
2 (d), and

3 (2) in subsection (e)—

4 (A) by striking the subsection designation
5 and heading,

6 (B) by redesignating paragraphs (1) and
7 (2) (as added by section 4(a)) as subsections
8 (a) and (b) and by moving the margins 2-ems
9 to the left,

10 (C) by striking paragraph (3), and

11 (D) by redesignating paragraph (4) (as
12 amended by section 4(b)) as subsection (c), and
13 by moving the margins 2-ems to the left.

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