

105TH CONGRESS
2D SESSION

H. R. 3941

To amend the United States Enrichment Corporation Privatization Act.

IN THE HOUSE OF REPRESENTATIVES

MAY 21, 1998

Mr. STRICKLAND (for himself and Mr. WHITFIELD) introduced the following bill; which was referred to the Committee on Commerce

A BILL

To amend the United States Enrichment Corporation Privatization Act.

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.**

4 This Act may be cited as the “Assisting Acquisition
5 of Russian Material Act (AARM Act)”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—The Congress finds the following:

8 (1) The maintenance of the Russian HEU
9 Agreement and the timely and satisfactory acquisi-
10 tion of Russian highly enriched uranium (referred to
11 as “HEU”) under that Agreement by the Depart-

1 ment of Energy and the United States Executive
2 Agent is essential to the national security and for-
3 eign policy interests of the United States.

4 (2) Implementation of the Russian HEU Agree-
5 ment will result in the import of a total of 500 met-
6 ric tons of weapons-grade enriched uranium into the
7 United States, and commencing in 1999, the Rus-
8 sian HEU under the agreement will be imported at
9 a rate of 30 metric tons per year. When converted
10 into low enriched uranium (referred to as “LEU”)
11 for use in nuclear reactors to generate electricity, it
12 will equal a substantial portion of United States utili-
13 ty demand for nuclear fuel.

14 (3) The United States Enrichment Corporation
15 is required at the time of privatization to meet the
16 statutory requirements set out in subsection (b)(2)
17 of this section and, except for subparagraphs (A)
18 and (H), following privatization. The execution of
19 the Russian HEU Agreement will significantly in-
20 crease the supply of LEU fuel available in the
21 United States marketplace; and, as a result and in
22 order to balance supply with demand, the privatized
23 United States Enrichment Corporation may have to
24 take actions contrary to or inconsistent with main-
25 taining long-term viability, continued operation of

1 the gaseous diffusion plants, and a reliable and eco-
2 nomical domestic source of uranium mining, enrich-
3 ment, and conversion services, and other statutory
4 requirements referred to in subsection (b)(2).

5 (4) The principal responsibility for ensuring the
6 faithful implementation of the United States obliga-
7 tions under the Russian HEU Agreement, which is
8 a government-to-government agreement, lies with the
9 Department of Energy; and the execution of those
10 obligations is an inherently governmental function
11 under the foreign policy of the United States.

12 (5) Therefore, the Department of Energy shall,
13 subject to appropriations, acquire directly or from
14 the United States Executive Agent such amounts of
15 the Russian HEU converted to LEU under the Rus-
16 sian HEU Agreement, and withhold such amounts
17 from resale into the private market for such period
18 of time, as may be necessary to fully achieve the na-
19 tional security goals of the United States under the
20 Russian HEU Agreement and to allow a privatized
21 United States Enrichment Corporation to meet the
22 statutory requirements of the privatization.

23 (b) PURPOSES.—The purposes of this Act are—

24 (1) To achieve the national security objectives
25 of the Russian HEU Agreement.

1 (2) To achieve the requirements for privatiza-
2 tion of the United States Enrichment Corporation
3 set out in the Energy Policy Act of 1992 and the
4 United States Enrichment Corporation Privatization
5 Act, as follows:

6 (A) Assure that privatization will result in
7 a return to the United States at least equal to
8 the net present value of the Corporation.

9 (B) Assure that privatization will not re-
10 sult in the Corporation being owned, controlled,
11 or dominated by an alien, a foreign corporation,
12 or a foreign government.

13 (C) Assure that the privatization will not
14 be inimical to the health and safety of the pub-
15 lic or the common defense and security.

16 (D) Provide reasonable assurance that ade-
17 quate enrichment capacity will remain available
18 to meet the demands of the domestic electric
19 utility industry.

20 (E) Assure that privatization will provide
21 for the long-term viability of the Corporation.

22 (F) Assure that privatization will provide
23 for the continuation by the Corporation of the
24 operation of the Department of Energy's gase-
25 ous diffusion plants.

1 (G) Assure that privatization will provide
2 for the protection of the public interest in main-
3 taining a reliable and economical domestic
4 source of uranium mining, enrichment, and con-
5 version services.

6 (H) To the extent not inconsistent with re-
7 quirements of subparagraphs (E), (F), and (G),
8 assure that privatization will secure the maxi-
9 mum proceeds to the United States.

10 (3) To monitor and determine the effect the
11 LEU delivered under the Russian HEU Agreement
12 is having on the domestic uranium mining, conver-
13 sion, and enrichment industries and the operation of
14 the gaseous diffusion plants, and to prevent or miti-
15 gate any material adverse impact on such industries
16 or any loss of employment at the gaseous diffusion
17 plants as a result of the Russian HEU Agreement.

18 **SEC. 4. STANDBY AUTHORIZATION.**

19 Section 3112(b) of the United States Enrichment
20 Corporation Privatization Act (42 U.S.C. 2297h-10) is
21 amended by adding at the end the following:

22 “(11) The Secretary is authorized to purchase and
23 hold any amount of any contract obligation of the United
24 States Executive Agent to acquire Russian HEU con-
25 verted to LEU under the Russian HEU Agreement during

1 any year in which the Russian HEU Agreement is in
2 force, and resell such material, upon the following terms
3 and conditions:

4 “(A) At the end of any month, the United
5 States Enrichment Corporation shall certify to the
6 Secretary when enrichment of uranium at the gase-
7 ous diffusion plants, measured in SWU, for the pre-
8 vious 12 months, is determined to be 25 percent
9 below the average annual enrichment in SWU for
10 the years 1992 through 1997.

11 “(B) In its certification under subparagraph
12 (A), the United States Enrichment Corporation shall
13 indicate the effects that the purchase and resale of
14 the converted Russian HEU by the United States
15 Executive Agent under the Russian HEU Agreement
16 are having on its long-term viability, including its
17 operations, costs, sales and profitability, and in par-
18 ticular any reduction in the levels of enrichment
19 services and employment at the gaseous diffusion
20 plants or threat thereof. The United States Enrich-
21 ment Corporation shall also certify what actions it
22 has taken or may be required to take to mitigate
23 such effects of the purchases and resales of the con-
24 verted Russian HEU under the Russian HEU

1 Agreement when combined with other effects and
2 causes in the marketplace.

3 “(C) Within 30 days of the certification by the
4 United States Enrichment Corporation under sub-
5 paragraphs (A) and (B), the Secretary shall review
6 that certification and make a report to the President
7 which shall include any recommendation for the Sec-
8 retary to purchase directly, or from the United
9 States Executive Agent, and hold a sufficient
10 amount of converted Russian HEU under the Rus-
11 sian HEU Agreement to assure that the national se-
12 curity objectives of the Russian HEU Agreement are
13 met and that the United States Enrichment Cor-
14 poration is able to meet its obligations under this
15 Act to provide for the long-term viability of the Cor-
16 poration, the continuation by the Corporation of the
17 operation of the Department of Energy’s gaseous
18 diffusion plants, and for the protection of the public
19 interest in maintaining a reliable and economical do-
20 mestic source of uranium mining, conversion, and
21 enrichment services. The Secretary shall deliver a
22 copy of the report to the Senate Committee on En-
23 ergy and Natural Resources and the House of Rep-
24 resentatives Committee on Commerce and shall pub-
25 lish it in the Federal Register. The Secretary shall

1 not publicly disclose essential proprietary informa-
2 tion of the United States Enrichment Corporation or
3 the United States Executive Agent, as determined
4 by regulations promulgated by the Secretary, con-
5 sistent with providing the greatest amount of infor-
6 mation to the public, particularly in the communities
7 directly affected, and to all parties in interest in the
8 enrichment of uranium at the gaseous diffusion
9 plants and shareholders or stakeholders in the
10 United States Enrichment Corporation and the
11 United States Executive Agent.

12 “(D) The President shall thereafter direct the
13 Secretary to acquire such amounts of converted Rus-
14 sian HEU under the Russian HEU Agreement as
15 the President determines necessary for these pur-
16 poses from funds available for such purposes. The
17 President shall also request appropriations from the
18 Congress for current and future acquisitions of such
19 amount of such converted Russian HEU as the
20 President determines necessary for these purposes.
21 Within 10 days of receipt of the report by the Sec-
22 retary, the President shall request an investigation
23 under section 332 of the Tariff Act of 1930 (19
24 U.S.C. 1332) of the impact of the Russian HEU
25 Agreement on the operations and employment at the

1 gaseous diffusion plants and the uranium mining,
2 enrichment, and conversion industries in the United
3 States. Such investigation shall be completed within
4 3 months of such request and the Commission shall
5 report the results to the President and the Congress.

6 “(E) As directed by the President, the Sec-
7 retary shall acquire such amounts of converted Rus-
8 sian HEU under the Russian HEU Agreement in
9 such manner and at such prices as authorized under
10 the Russian HEU Agreement and shall withhold
11 such amounts from resale into the private markets
12 of the United States or elsewhere until such time as
13 it is determined, pursuant to regulations promul-
14 gated by the Secretary, that the United States En-
15 richment Corporation is producing enrichment serv-
16 ices measured in SWU at the gaseous diffusion
17 plants for a consecutive 12-month period that equals
18 or exceeds 110 percent of the average annual enrich-
19 ment in SWU for the period 1992 through 1997.

20 “(F) Upon the determination referred to in
21 subparagraph (E), the Secretary may then, pursuant
22 to regulations promulgated by the Secretary, auction
23 for resale an amount of converted Russian HEU ac-
24 quired under this Act which is not more than the
25 amount in excess of 100 percent of the average an-

1 nual enrichment in SWU for the period 1992
2 through 1997. Such amounts of converted Russian
3 HEU shall not be sold in any manner that would
4 have a material adverse impact on the domestic ura-
5 nium mining, conversion, or enrichment industry
6 and shall not be sold directly to end-users in direct
7 competition with the United States Enrichment Cor-
8 poration. Such amounts of converted Russian HEU
9 shall not be sold at prices less than current market
10 prices for comparable sales, but in no event may
11 such sale prices by the Secretary be less than the
12 amount paid for any such lot or lots, plus the ex-
13 penses of holding and sale by the Secretary. Pur-
14 chasers at such auction may not sell to end-users at
15 any price that is less than the price, including ex-
16 penses of the Secretary, paid to the Secretary at
17 such auction. The term ‘material adverse impact’, as
18 used in this Act, shall have the same meaning as
19 ‘material injury’ under section 771(7) of the Tariff
20 Act of 1930 (19 U.S.C. 1677(7)) and the Secretary
21 shall consider the impacts and relevant factors af-
22 fecting the domestic industry as enumerated in sub-
23 paragraphs (B) and (C) of such section.

24 “(G) The regulations required to be promul-
25 gated by the Secretary under subparagraphs (E)

1 and (F) shall be subject to the administrative proce-
2 dures required by chapter 5 of title 5, United States
3 Code, shall be proposed within 90 days of the date
4 of the enactment of the Assisting Acquisition of
5 Russian Material Act, allow not less than a 90-day
6 comment period, and shall become final no less than
7 one year from the date of the enactment of such
8 Act. Such regulations shall—

9 “(i) establish the procedures for the deter-
10 mination of maximum allowable amount of con-
11 verted Russian HEU eligible for sale under sub-
12 paragraph (F);

13 “(ii) establish the criteria for determining
14 the current market price at the time of sale,
15 and the minimum price which is the sum of the
16 Secretary’s acquisition, holding, and sales costs
17 of each lot acquired, except that the Secretary
18 may provide for the separate payment of the
19 costs of sale by successful bidders by a percent-
20 age commission of the sale price or otherwise;

21 “(iii) provide for the qualifications of buy-
22 ers to assure they are authorized to handle the
23 nuclear materials and are not end-users;

24 “(iv) provide for not less than 45 days no-
25 tice of a sale, which notice shall set out the

1 maximum allowable amounts of converted Rus-
2 sian HEU eligible for sale and the minimum
3 price calculated for each lot offered for sale and
4 the basis for such determinations;

5 “(v) shall allow for comment on such no-
6 tice, the purpose of which is to avoid any mate-
7 rial adverse impact on the domestic uranium
8 mining, conversion, or enrichment industries
9 from such sale;

10 “(vi) provide for a determination that less
11 than the maximum allowable amount of mate-
12 rial may be offered for sale in order to avoid
13 any material adverse impact and that a sale
14 may be made in installments to avoid such im-
15 pact; and

16 “(vii) provide procedures for determining
17 that the resales by buyers from the Secretary
18 were made to eligible end-users at prices in ac-
19 cord with subparagraph (F) and the require-
20 ments of this Act.

21 “(H) Any action alleging a violation of any pro-
22 vision of this Act may be brought in any district
23 court of the United States having jurisdiction over
24 the parties (except in those instances where another
25 law specifically requires a different venue) without

1 regard to the amount in controversy or the citizen-
2 ship of the parties.”.

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