

110<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 6623

To waive sovereign immunity and extend the otherwise applicable statute of limitations for certain actions under the USEC Privatization Act.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 24, 2008

Mr. WHITFIELD of Kentucky introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, 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

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## A BILL

To waive sovereign immunity and extend the otherwise applicable statute of limitations for certain actions under the USEC Privatization Act.

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. WAIVER OF SOVEREIGN IMMUNITY AND EXTEN-**  
2 **SION OF OTHERWISE APPLICABLE STATUTE**  
3 **OF LIMITATIONS FOR CERTAIN ACTIONS**  
4 **UNDER THE USEC PRIVATIZATION ACT.**

5 Section 3110(a)(7) of the USEC Privatization Act  
6 (42 U.S.C. 2297h-8(a)(7)) is amended by adding at the  
7 end the following new subparagraph:

8 “(D)(i) Any individual who, as of imme-  
9 diately before any transfer of plan assets and li-  
10 abilities as required by paragraph (2) to a pen-  
11 sion plan sponsored by the private corporation  
12 referred to in paragraph (2) which occurred on  
13 or before December 31, 2000, was an active or  
14 retired participant (or a beneficiary) under a  
15 pension plan maintained by an operating con-  
16 tractor of a gaseous diffusion plant referred to  
17 in paragraph (1) and who is an active or retired  
18 participant (or a beneficiary) under the pension  
19 plan to which such transfer was made may  
20 bring an action in any district court of the  
21 United States having jurisdiction over the par-  
22 ties, without regard to the amount in con-  
23 troversy or the citizenship of the parties,  
24 against the Department of Energy for relief de-  
25 scribed in clause (ii) from any grievance in con-  
26 nection with such a transfer.

1           “(ii) For purposes of clause (i), relief is a  
2 one-time lump sum payment, payable to such  
3 individual from the appropriation made by sec-  
4 tion 1304 of title 31, United States Code (pop-  
5 ularly known as the Judgment Fund), in an  
6 amount equal to not more than the amount  
7 which bears the same ratio to the total recover-  
8 able amount described in clause (iii) as the ac-  
9 tuarial present value of the accrued benefits of  
10 the individual under the pension plan from  
11 which the transfer was made (as of immediately  
12 before the transfer) bears to the actuarial  
13 present value of the accrued benefits of all indi-  
14 viduals described in this clause under the pen-  
15 sion plan from which the transfer was made (as  
16 of immediately before the transfer).

17           “(iii) For purposes of clause (ii), the total  
18 recoverable amount is an amount equal to the  
19 excess of—

20                   “(I) the actuarial present value of  
21 benefits that would have been accrued by  
22 all individuals described in clause (i) under  
23 the pension plan from which the transfer  
24 was made if the transfer had not occurred  
25 and if benefit increases had occurred, in

1 connection with the transferred liabilities,  
2 under such plan equivalent to benefit in-  
3 creases that have occurred under such plan  
4 in connection with the other liabilities  
5 under such plan, over

6 “(II) the actuarial present value of  
7 benefits accrued by all such individuals  
8 under the pension plan to which the trans-  
9 fer was made.

10 “(iv) For purposes of clause (iii), in an ac-  
11 tion authorized by this subparagraph, the court  
12 shall consider, with respect to the pension plan  
13 from which the transfer was made and the pen-  
14 sion plan to which the transfer was made, only  
15 benefits which have been accrued (or would  
16 have been accrued) as of the date of enactment  
17 of this subparagraph.

18 “(v) For purposes of this subparagraph,  
19 any actuarial present value of benefits deter-  
20 mined as of any time shall take into account  
21 reasonably anticipated subsequent adjustments  
22 to such benefits under plan provisions (as in ef-  
23 fect at such time) providing for cost-of-living-  
24 adjustments.

1           “(vi) For purposes of clauses (iii) and (iv),  
2 any reference to the pension plan from which  
3 the transfer was made shall include a reference  
4 to any successor to such plan (other than the  
5 pension plan to which the transfer required  
6 under paragraph (2) was made) if such suc-  
7 cessor plan received assets in excess of the actu-  
8 arial present value of accrued benefits under  
9 such plan upon succession.

10           “(vii) Notwithstanding section 1658 of title  
11 28, United States Code, an action authorized by  
12 this subparagraph may be brought on or before  
13 June 30, 2011.

14           “(viii) Notwithstanding section 3109(a)(4),  
15 the United States consents to any action com-  
16 menced under this subparagraph.

17           “(ix) Nothing in this subparagraph shall  
18 authorize an action against the Corporation or  
19 against any person or entity other than the De-  
20 partment of Energy.”.

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