

104TH CONGRESS
1ST SESSION

H. R. 1216

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 1995

Mr. BLILEY introduced the following bill; which was referred to the Committee
on Commerce

A BILL

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

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 of title I (42 U.S.C. 2014
5 v.) is amended by striking “or the construction and oper-
6 ation of a uranium enrichment production facility using
7 Atomic Vapor Laser Isotope Separation technology”.

8 **SEC. 3. DEFINITIONS.**

9 Section 1201 of title II (42 U.S.C. 2297) is
10 amended—

11 (1) in paragraph (4), by inserting before the pe-
12 riod the following: “and any successor corporation
13 thereto, including as contemplated in chapter 25”;

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 102(9) of
20 the Low-Level Radioactive Waste Policy Amend-
21 ments Act of 1985 (42 U.S.C. 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 ownership of the Cor-
6 poration has been transferred to private investors.”;

7 (3) by inserting after paragraph (17) (as redesi-
8 gnated) the following new paragraph:

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

11 (4) by redesignating paragraph (14) as para-
12 graph (19).

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

14 Paragraph (4) of section 1305(e) of title II (42
15 U.S.C. 2297b-4(e)(4)) is amended—

16 (1) by striking “AND DETAILEES” in the head-
17 ing;

18 (2) by striking the first sentence;

19 (3) in the second sentence, by inserting “from
20 other Federal employment” after “transfer to the
21 Corporation”; and

22 (4) by striking the last sentence.

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

24 (a) EXCLUSIVE MARKETING AGENT.—Section 1401
25 (42 U.S.C. 2297c) is amended—

1 (1) effective on the privatization date (as de-
2 fined in section 1201(11) of the Atomic Energy Act
3 of 1954), by repealing subsection (a), and

4 (2) in subsection (b)—

5 (A) by striking “(b) TRANSFER OF CON-
6 TRACTS.—”,

7 (B) by redesignating paragraphs (1), (2),
8 and (3) as subsections (a), (b), and (c), respec-
9 tively, and

10 (C) by redesignating subparagraphs (A),
11 (B) and (C) of subsections (b) and (c) (as so
12 redesignated) as paragraphs (1), (2), and (3),
13 respectively.

14 (b) TRANSFER OF CONTRACTS.—Section 1401(b) of
15 title II (42 U.S.C. 2297c(b)) is amended—

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

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

22 “(3) EFFECT OF TRANSFER.—

23 “(A) As a result of the transfer pursuant
24 to paragraph (1), all rights, privileges, and ben-
25 efits under such contracts, agreements, and

1 leases, including the right to amend, modify, ex-
2 tend, revise, or terminate any of such contracts,
3 agreements, or leases were irrevocably assigned
4 to the Corporation for its exclusive benefit.

5 “(B) Notwithstanding the transfer pursu-
6 ant to paragraph (1), the United States shall
7 remain obligated to the parties to the contracts,
8 agreements, and leases transferred thereby for
9 the performance of its obligations thereunder
10 during the term thereof. The Corporation shall
11 reimburse the United States for any amount
12 paid by the United States in respect of such ob-
13 ligations arising after the privatization date to
14 the extent such amount is a legal and valid obli-
15 gation of the Corporation then due.

16 “(C) After the privatization date, upon any
17 material amendment, modification, extension,
18 revision, replacement, or termination of any
19 contract, agreement, or lease transferred under
20 paragraph (1), the United States shall be re-
21 leased from further obligation under such con-
22 tract, agreement, or lease, provided further that
23 such action shall not release the United States
24 from obligations arising under such contract,
25 agreement, or lease prior to such time.”.

1 (b) PRICING.—Section 1402 of title II (42 U.S.C.
2 2297c-1) is amended to read as follows:

3 **“SEC. 1402. PRICING.**

4 “The Corporation shall establish prices for its prod-
5 ucts, materials, and services provided to customers on a
6 basis that will allow it to attain the normal business objec-
7 tives of a profitmaking corporation.”.

8 (c) LEASING OF GASEOUS DIFFUSION FACILITIES OF
9 DEPARTMENT.—Section 1403 of title II (42 U.S.C.
10 2297c-2) is amended by adding at the end the following:

11 “(h) LOW-LEVEL RADIOACTIVE WASTE AND MIXED
12 WASTE.—

13 “(1) RESPONSIBILITY OF THE DEPARTMENT;
14 COSTS.—(A) With respect to low-level radioactive
15 waste and mixed waste generated by the Corporation
16 as a result of the operations of the facilities and re-
17 lated property leased by the Corporation pursuant to
18 subsection (a) or as a result of treatment of such
19 wastes at a location other than the facilities and re-
20 lated property leased by the Corporation pursuant to
21 subsection (a), at the request of the Corporation, the
22 Department shall—

23 “(i) accept for treatment or disposal of all
24 such wastes for which treatment or disposal

1 technologies and capacities exist, whether with-
2 in the Department or elsewhere; and

3 “(ii) accept for storage (or ultimately
4 treatment or disposal) all such wastes for which
5 treatment and disposal technologies or capac-
6 ities do not exist, pending development of such
7 technologies or availability of such capacities for
8 such wastes.

9 “(B) All low-level wastes and mixed wastes that
10 the Department accepts for treatment, storage, or
11 disposal pursuant to subparagraph (A) shall for the
12 purpose of any permits, licenses, authorizations,
13 agreements, or orders involving the Department and
14 other Federal agencies or State or local governments
15 be deemed to be generated by the Department and
16 the Department shall handle such wastes in accord-
17 ance with any such permits, licenses, authorizations,
18 agreements, or orders. The Department shall obtain
19 any additional permits, licenses, or authorizations
20 necessary to handle such wastes, shall amend any
21 such agreements or orders as necessary to handle
22 such wastes, and shall handle such wastes in accord-
23 ance therewith.

24 “(C) The Corporation shall reimburse the De-
25 partment for the treatment, storage, or disposal of

1 low-level radioactive waste or mixed waste pursuant
2 to subparagraph (A) in an amount equal to the De-
3 partment's costs but in no event greater than an
4 amount equal to that which would be charged by
5 commercial, State, regional, or interstate compact
6 entities for treatment, storage, or disposal of such
7 waste.

8 “(2) ACCEPTANCE BY OTHER PERSONS.—The
9 Corporation may also enter into agreements for the
10 treatment, storage, or disposal of low-level radio-
11 active waste and mixed waste generated by the Cor-
12 poration as a result of the operation of the facilities
13 and related property leased by the Corporation pur-
14 suant to subsection (a) with any person other than
15 the Department that is authorized by applicable laws
16 and regulations to treat, store, or dispose of such
17 wastes.”.

18 (d) LIABILITIES.—

19 (1) Subsection (a) of section 1407 (as redesignig-
20 nated) (42 U.S.C. 2297c-5(a)) is amended—

21 (A) by inserting “AND PRIVATIZATION”
22 after “TRANSITION” in the heading; and

23 (B) by adding at the end the following:
24 “As of the privatization date, all liabilities at-
25 tributable to the operation of the Corporation

1 from the transition date to the privatization
2 date shall be direct liabilities of the United
3 States.”.

4 (2) Subsection (b) of such section 1407 (42
5 U.S.C. 2297c-5(b)) is amended—

6 (A) by inserting “AND PRIVATIZATION”
7 after “TRANSITION” in the heading; and

8 (B) by adding at the end the following:
9 “As of the privatization date, any judgment en-
10 tered against the Corporation imposing liability
11 arising out of the operation of the Corporation
12 from the transition date to the privatization
13 date shall be considered a judgment against the
14 United States.”.

15 (3) Subsection (d) of such section 1407 (42
16 U.S.C. 2297c-5(d)) is amended—

17 (A) by inserting “AND PRIVATIZATION”
18 after “TRANSITION” in the heading; and

19 (B) by striking “the transition date” and
20 inserting “the privatization date (or, in the
21 event the privatization date does not occur, the
22 transition date)”.

23 (e) TRANSFER OF URANIUM.—Title II (42 U.S.C.
24 2297 et seq.) is amended—

1 (1) by inserting after section 1408 (as redesignig-
2 nated) the following:

3 **“SEC. 1409. TRANSFER OF URANIUM.**

4 “The Secretary may transfer to the Corporation with-
5 out charge raw uranium, low-enriched uranium, and high-
6 ly enriched uranium.”; and

7 (2) by redesignating the subsequent sections ac-
8 cordingly.

9 **SEC. 6. PRIVATIZATION OF THE CORPORATION.**

10 (a) ESTABLISHMENT OF PRIVATE CORPORATION.—
11 Chapter 25 of title II (42 U.S.C. 2297d et seq.) is amend-
12 ed by adding at the end the following new section:

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

14 “(a) ESTABLISHMENT.—

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

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

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

1 “(2) AUTHORITIES.—The corporation estab-
2 lished pursuant to this section shall be authorized
3 to—

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

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

15 “(C) enter into transactions regarding ura-
16 nium, enriched uranium, or depleted uranium
17 with—

18 “(i) persons licensed under section 53,
19 63, 103, or 104 in accordance with the li-
20 censes held by those persons;

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

24 “(iii) persons otherwise authorized by
25 law to enter into such transactions;

1 “(D) enter into contracts with persons li-
2 censed under section 53, 63, 103, or 104 for as
3 long as the corporation considers necessary or
4 desirable, to provide uranium or uranium en-
5 richment and related services;

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

12 “(F) take any and all such other actions as
13 are permitted by the law of the jurisdiction of
14 incorporation of the corporation.

15 “(3) TRANSFER OF ASSETS.—For purposes of
16 implementing the privatization, the Corporation may
17 transfer some or all of its assets and obligations to
18 the corporation established pursuant to this section,
19 including—

20 “(A) all of the Corporation’s assets, includ-
21 ing all contracts, agreements, and leases, in-
22 cluding all uranium enrichment contracts and
23 power purchase contracts;

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

4 “(C) all of the Corporation’s rights, duties,
5 and obligations, accruing subsequent to the pri-
6 vatization date, under the power purchase con-
7 tracts covered by section 1401(b)(2)(B); and

8 “(D) all of the Corporation’s rights, duties,
9 and obligations, accruing subsequent to the pri-
10 vatization date, under the lease agreement be-
11 tween the Department and the Corporation exe-
12 cuted by the Department and the Corporation
13 pursuant to section 1405.

14 “(4) MERGER OR CONSOLIDATION.—For pur-
15 poses of implementing the privatization, the Cor-
16 poration may merge or consolidate with the corpora-
17 tion established pursuant to this section if such ac-
18 tion is contemplated by the plan for privatization ap-
19 proved by the President. The Board shall have ex-
20 clusive authority to approve such merger or consoli-
21 dation and to take all further actions necessary to
22 consummate such merger or consolidation, and no
23 action by or in respect of shareholders shall be re-
24 quired. The merger or consolidation shall be effected
25 in accordance with, and have the effects of a merger

1 or consolidation under, the laws of the jurisdiction
2 of incorporation of the surviving corporation, and all
3 rights and benefits provided under this title to the
4 Corporation shall apply to the surviving corporation
5 as if it were the Corporation.

6 “(5) TAX TREATMENT OF PRIVATIZATION.—

7 “(A) TRANSFER OF ASSETS OR MERGER.—

8 No income, gain, or loss shall be recognized by
9 any person by reason of the transfer of the Cor-
10 poration’s assets to, or the Corporation’s merg-
11 er with, the corporation established pursuant to
12 this section in connection with the privatization.

13 “(B) CANCELLATION OF DEBT AND COM-
14 MON STOCK.—No income, gain, or loss shall be
15 recognized by any person by reason of any can-
16 cellation of any obligation or common stock of
17 the Corporation in connection with the privat-
18 ization.

19 “(b) OSHA REQUIREMENTS.—For purposes of the
20 regulation of radiological and nonradiological hazards
21 under the Occupational Safety and Health Act of 1970,
22 the corporation established pursuant to this section shall
23 be treated in the same manner as other employers licensed
24 by the Nuclear Regulatory Commission. Any interagency
25 agreement entered into between the Nuclear Regulatory

1 Commission and the Occupational Safety and Health
2 Agency governing the scope of their respective regulatory
3 authorities shall apply to the corporation, as if the cor-
4 poration were a Nuclear Regulatory Commission licensee.

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

6 “(1) NOT FEDERAL AGENCY.—The corporation
7 established pursuant to this section shall not be an
8 agency, instrumentality, or establishment of the
9 United States Government and shall not be a Gov-
10 ernment corporation or Government-controlled cor-
11 poration.

12 “(2) NO RECOURSE AGAINST UNITED
13 STATES.—Obligations of the corporation established
14 pursuant to this section shall not be obligations of,
15 or guaranteed as to principal or interest by, the Cor-
16 poration or the United States, and the obligations
17 shall so plainly state.

18 “(3) NO CLAIMS COURT JURISDICTION.—No ac-
19 tion under section 1491 of title 28, United States
20 Code, shall be allowable against the United States
21 based on the actions of the corporation established
22 pursuant to this section.

23 “(d) In the event that the privatization is imple-
24 mented by means of a public offering, an election of the
25 members of the board of directors of the Corporation by

1 the shareholders shall be conducted before the end of the
2 1-year period beginning the date shares are first offered
3 to the public pursuant to such public offering.”.

4 (b) OWNERSHIP LIMITATIONS.—Chapter 25 of title
5 II (as amended by subsection (a)) is amended by adding
6 at the end the following new section:

7 **“SEC. 1504. OWNERSHIP LIMITATIONS.**

8 “(a) In the event that the privatization is imple-
9 mented by means of a public offering, during a period of
10 3 years beginning on the privatization date, no person, di-
11 rectly or indirectly, may acquire or hold securities rep-
12 resenting more than 10 percent of the total votes of all
13 outstanding voting securities of the Corporation.

14 “(b) Subsection (a) shall not apply—

15 “(1) to any employee stock ownership plan of
16 the Corporation,

17 “(2) to underwriting syndicates holding shares
18 for resale, or

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

22 “(c)(1) In the event that the privatization is imple-
23 mented by means of a public offering and notwithstanding
24 any other provision of law which has the effect of restrict-
25 ing the authority of the Securities and Exchange Commis-

1 sion to prescribe regulations, the Commission shall pre-
2 scribe regulations which limit—

3 “(A) the extent to which inside persons can
4 benefit from such privatization by reason of their
5 being inside persons; and

6 “(B) the amount of control inside persons can
7 acquire over the Corporation by reason of the privat-
8 ization.

9 “(2) For purposes of this subsection—

10 “(A) the term ‘Commission’ means the Securi-
11 ties and Exchange Commission; and

12 “(B) ‘inside person’ means—

13 “(i) any individual who is a director, offi-
14 cer, employee, or agent of the Corporation at
15 any time during the period beginning 1 year be-
16 fore the date of the enactment of this section
17 and ending at such time after the first shares
18 of the Corporation are offered to the public as
19 the Commission determines to be appropriate to
20 carry out the purposes of this subsection; and

21 “(ii) any other person associated with any
22 individual described in clause (i) or any group
23 of persons which includes any such individual.

24 “(3) The regulations prescribed by the Commission
25 pursuant to paragraph (1) shall include the following:

1 “(A) A limitation on the percentage of shares
2 of the Corporation that may be acquired by inside
3 persons, including any stock option plan or any
4 management or employee stock benefit plan, before
5 and during the public offering, subject to such ex-
6 ceptions as the Commission may determine to be ap-
7 propriate.

8 “(B) A requirement prohibiting any inside per-
9 son from acquiring any share of the Corporation be-
10 fore or during the public offering at a price which
11 is less than the price at which shares are offered to
12 the public.

13 “(C) A limitation on the amount of shares of
14 the Corporation, if any, which inside persons, includ-
15 ing any stock option plan or any management or
16 employee stock benefit plan, may acquire during
17 such period of time after the privatization of the
18 Corporation is complete as the Commission may de-
19 termine to be appropriate, subject to such exceptions
20 as the Commission may determine to be appropriate.

21 “(D) A limitation or prohibition on the imple-
22 mentation by the Corporation, without stockholder
23 approval, of any stock option plan or any manage-
24 ment or employee stock benefit plan during such pe-
25 riod after the privatization of the Corporation is

1 complete as the Commission may determine to be
2 appropriate, subject to such exceptions as the Com-
3 mission may determine to be appropriate.

4 “(E) A limitation or prohibition on the sale by
5 an inside person, including any stock option plan or
6 any management or employee stock benefit plan, of
7 any stock of the Corporation during such period
8 after the privatization of the Corporation is complete
9 as the Commission may determine to be appropriate,
10 subject to such exceptions as the Commission may
11 determine to be appropriate.

12 “(4)(A) The provisions of this subsection, and regula-
13 tions prescribed under this subsection, shall be enforced
14 under the Securities Act of 1933 and the Securities Ex-
15 change Act of 1934 by the Commission.

16 “(B) For purposes of applying the Securities Act of
17 1933 and the Securities Exchange Act of 1934 in accord-
18 ance with subparagraph (A), a violation of this subsection,
19 or any regulation prescribed under this subsection, shall
20 be treated as a violation of such Acts.”.

21 (c) EXEMPTION FROM LIABILITY.—Chapter 25 of
22 title II (as amended by subsection (b)) is amended by add-
23 ing at the end the following new section:

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

2 “(a) IN GENERAL.—No director, officer, employee, or
3 agent of the Corporation 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.—This section shall not apply to
11 claims arising out of the Securities Act of 1933, the Secu-
12 rities Exchange Act of 1934, or the Constitution or laws
13 of any State, territory, or possession of the United States
14 relating to transactions in securities, which claims are in
15 connection with a public offering implementing the privat-
16 ization.”.

17 (d) RESOLUTION OF CERTAIN ISSUES.—Chapter 25
18 of title II (as amended by subsection (c)) is amended by
19 adding at the end the following new section:

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

21 “(a) CORPORATION ACTIONS.—The Corporation shall
22 not be considered to be in breach, default, or violation of
23 any agreement to which it is a party, notwithstanding any
24 provision of such agreement, because of any provision of
25 this chapter or any action the Corporation is required to
26 take under this chapter.

1 of the Atomic Energy Act of 1954 shall no longer be oper-
2 ative:

3 “(1) Section 1202.

4 “(2) Sections 1301 through 1304.

5 “(3) Section 1305 (except subsection (e)(4)).

6 “(4) Sections 1306 through 1316.

7 “(5) Sections 1405 and 1406.

8 “(6) Section 1601.

9 “(7) Sections 1603 through 1607.

10 “(b) STATUTORY MODIFICATIONS TO TAKE EF-
11 FECT.—As of the privatization date, the following statu-
12 tory modifications shall take effect:

13 “(1) For purposes of title I, all references in
14 this Act to the ‘United States Enrichment Corpora-
15 tion’ shall be deemed to be references to the corpora-
16 tion established pursuant to section 1503.

17 “(2) Section 1018(1) of the Energy Policy Act
18 of 1992 (42 U.S.C. 2296b–7(1)) is amended by
19 striking ‘the United States’ and all that follows
20 through the period and inserting ‘the corporation re-
21 ferred to in section 1201(4) of the Atomic Energy
22 Act of 1954.’.

23 “(3) Section 9101(3) of title 31, United States
24 Code, is amended by striking subparagraph (N).”.

1 **SEC. 7. PERIODIC CERTIFICATION OF COMPLIANCE.**

2 Section 1701(c)(2) of chapter 27 of title II (42
3 U.S.C. 2297f) is amended by striking “ANNUAL APPLICA-
4 TION FOR CERTIFICATE OF COMPLIANCE.—The Corpora-
5 tion shall apply annually to the Nuclear Regulatory Com-
6 mission for a certificate of compliance under paragraph
7 (1).” and inserting “PERIODIC APPLICATION FOR CER-
8 TIFICATE OF COMPLIANCE.—The Corporation shall apply
9 to the Nuclear Regulatory Commission for a certificate of
10 compliance under paragraph (1) periodically, as deter-
11 mined by the Nuclear Regulatory Commission, but not less
12 than every 5 years.”.

13 **SEC. 8. LICENSING OF OTHER TECHNOLOGIES.**

14 Subsection (a) of section 1702 of title 27 of title II
15 (42 U.S.C. 2297f-1(a)) is amended by striking “other
16 than” and inserting “including”.

○

HR 1216 IH—2