

Calendar No. 244

104TH CONGRESS
1ST Session

S. 755

[Report No. 104-173]

A BILL

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

NOVEMBER 17 (legislative day, NOVEMBER 16), 1995
Reported with an amendment

Calendar No. 244104TH CONGRESS
1ST SESSION**S. 755****[Report No. 104-173]**

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

NOVEMBER 17 (legislative day, NOVEMBER 16), 1995

Reported by Mr. MURKOWSKI, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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”.

1 (b) REFERENCE.—Except as otherwise expressly pro-
 2 vided, whenever in this Act an amendment or repeal is
 3 expressed in terms of an amendment to, or repeal of, a
 4 section or other provision, the reference shall be consid-
 5 ered to be made to a section or other provision of the
 6 Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

7 **SEC. 2. PRODUCTION FACILITY.**

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

12 **SEC. 3. DEFINITIONS.**

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

14 (1) in paragraph (4), by inserting before the pe-
 15 riod the following: “and any successor corporation
 16 established through privatization of the Corpora-
 17 tion”;

18 (2) by redesignating paragraphs (10) through
 19 (13) as paragraphs (14) through (17), respectively,
 20 and by inserting after paragraph (9) the following
 21 new paragraphs:

22 “(10) The term ‘low-level radioactive waste’ has
 23 the meaning given such term in section 2(9) of the
 24 Low-Level Radioactive Waste Policy Act (42 U.S.C.
 25 2021b(9)).

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

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

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

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

13 “(18) The term ‘transition date’ means July 1,
14 1993.”; and

15 (4) by redesignating the unredesignated para-
16 graph (14) as paragraph (19).

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

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

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

1 in the performance of the functions vested in the
2 Corporation.

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

18 (b) ~~PARAGRAPH (4).~~—Paragraph (4) of section
19 ~~1305(e) (42 U.S.C. 2297b-4(e)(4))~~ is amended to read
20 as follows:

21 ~~“(4) BENEFITS OF TRANSFEREES.—~~

22 ~~“(A) Employees of the Corporation who~~
23 ~~were subject to either the Civil Service Retirement~~
24 ~~System (CSRS) or the Federal Employ-~~
25 ~~ees’ Retirement System (FERS) on the day im-~~

1 immediately preceding the privatization date pur-
2 suant to section 1305 as then in effect, shall
3 elect—

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

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

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

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

20 “(i) such employee deductions and
21 agency contributions as are required by
22 sections 8334, 8422, and 8423 of title 5,
23 United States Code, for those employees
24 who elect to retain their coverage under ei-

1 ther CSRS or FERS pursuant to subpara-
2 graph (A);

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

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

1 amounts shall be available to the Office of
2 Personnel Management as provided in sec-
3 tion ~~8348(a)(1)(B)~~ of title 5, United
4 States Code).

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

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

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

1 “(i) such employee deductions and
2 agency contributions as are required by
3 section 8906(a)–(f) of title 5, United
4 States Code, for those employees who elect
5 to retain their coverage under FEHBP
6 pursuant to subparagraph (D); and

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

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

1 performed for the Corporation after the privat-
2 ization date.”.

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

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

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

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

23 “(A) offering purchase terms that, in the
24 judgment of the Secretary, exceed the highest

1 qualifying bid received by the Department or its
2 marketing agent; or

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

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

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

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

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

1 “(C) between the Department and state or
2 local agencies and nonprofit, charitable or edu-
3 cational institutions for use other than for the
4 generation of electricity for commercial use.

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

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

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

1 Agreement Between the Government of the
2 United States of America and the Government
3 of the Russian Federation Concerning the Dis-
4 position of Highly Enriched Uranium Extracted
5 from Nuclear Weapons.

6 ~~“(5) RIGHT TO CANCEL PROPOSED SALE.—~~

7 Nothing in this section shall be interpreted to pre-
8 clude the Secretary from canceling a proposed sale
9 for any reason.

10 ~~“(6) URANIUM INVENTORY REPORT.—180 days~~
11 ~~prior to any sale under this section, the Secretary~~
12 ~~shall submit to Congress a current uranium inven-~~
13 ~~tory report including updated information with re-~~
14 ~~spect to the items listed in section 2296b-5 of title~~
15 ~~42 United States Code, together with information~~
16 ~~regarding the proposed sale or transfer.~~

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

20 ~~(b) TRANSFER OF CONTRACTS.—Section 1401(b) (42~~
21 ~~U.S.C. 2297e(b)) is amended—~~

22 ~~(1) in paragraph (2)(B), by adding at the end~~
23 ~~the following: “The privatization of the Corporation~~
24 ~~shall not affect the terms of, or the rights or obliga-~~

1 tions of the parties to, any such power purchase con-
2 tract.”; and

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

4 “(3) EFFECT OF TRANSFER.—

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

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

24 “(C) After the privatization date, upon any
25 material amendment, modification, extension,

1 revision, replacement, or termination of any
2 contract, agreement, or lease transferred under
3 paragraph (1); the United States shall be re-
4 leased from further obligation under such con-
5 tract, agreement, or lease, except that such ac-
6 tion shall not release the United States from
7 obligations arising under such contract, agree-
8 ment, or lease prior to such time.

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

16 (e) ~~LOW-LEVEL RADIOACTIVE WASTE.~~—Section
17 1403 (42 U.S.C. 2297e-2) is amended by adding at the
18 end the following:

19 “(h) ~~OBLIGATION OF THE DEPARTMENT TO ACCEPT~~
20 ~~LOW-LEVEL RADIOACTIVE WASTE.~~—

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

24 “(A) by the Corporation as a result of the
25 operation of the facilities and related property

1 leased by the Corporation pursuant to sub-
2 section (a); and

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

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

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

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

1 (d) TRANSFER OF URANIUM.—Title II (42 U.S.C.
2 2297 et seq.) is amended by redesignating section 1408
3 as section 1409 and inserting after section 1407 the fol-
4 lowing:

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

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

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

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

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

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

12 **SEC. 6. PURCHASE OF HIGHLY ENRICHED URANIUM FROM**
13 **FORMER SOVIET UNION.**

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

16 “(a) IN GENERAL.—The Government of the United
17 States, may, at any time after the privatization date,
18 change the Executive Agent pursuant to Article III of the
19 Agreement Between the Government of the United States
20 of America and the Government of the Russian Federation
21 Concerning the Disposition of Highly Enriched Uranium
22 Extracted from Nuclear Weapons, dated February 18,
23 1993, upon 30 days written notice to the other Party.

24 “(b) EXECUTIVE AGENT ON PRIVATIZATION DATE.—
25 On the privatization date, the Executive Agent designated

1 by the Government of the United States pursuant to Arti-
2 cle III of the Agreement Between the Government of the
3 United States of America and the Government of the Rus-
4 sian Federation Concerning the Disposition of Highly En-
5 riched Uranium Extracted from Nuclear Weapons, dated
6 February 18, 1993, shall be the Corporation.

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

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

1 ment component of such low-enriched uranium, the Execu-
2 tive Agent of the United States shall deliver an amount
3 of uranium hexafluoride equivalent to the natural uranium
4 component of such low-enriched uranium to the Executive
5 Agent of the Russian Federation. The quantity of such
6 uranium hexafluoride delivered to the Executive Agent of
7 the Russian Federation shall be based on a 0.30 w/o tails
8 assay.

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

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

1 “(4) Beginning January 1, 2002, uranium
2 hexafluoride delivered to the Executive Agent of the Rus-
3 sian Federation pursuant to subparagraph (d)(1), may be
4 delivered for consumption by end users in the United
5 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

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

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

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

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

17 “(a) ESTABLISHMENT.—

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

1 ~~“(A) To help maintain a reliable and eco-~~
2 ~~nomical domestic source of uranium enrichment~~
3 ~~services.~~

4 ~~“(B) To undertake any and all activities as~~
5 ~~provided in its corporate charter.~~

6 ~~“(2) AUTHORITIES.—Subject to applicable li-~~
7 ~~ensing, certification, or other requirements under~~
8 ~~this Act, the corporation established pursuant to~~
9 ~~paragraph (1) shall be authorized to—~~

10 ~~“(A) enrich uranium, provide for uranium~~
11 ~~to be enriched by others, or acquire enriched~~
12 ~~uranium (including low-enriched uranium de-~~
13 ~~rived from highly enriched uranium);~~

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

21 ~~“(C) enter into transactions regarding ura-~~
22 ~~nium, enriched uranium, or depleted uranium~~
23 ~~with—~~

1 “(i) persons licensed under section 53,
2 63, 103, or 104 in accordance with the li-
3 censes held by those persons;

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

7 “(iii) persons otherwise authorized by
8 law to enter into such transactions;

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

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

20 “(F) take any and all such other actions as
21 are permitted by law of the jurisdiction of in-
22 corporation of the corporation.

23 “(3) TRANSFER OF ASSETS.—For purposes of
24 implementing the privatization, the Corporation may
25 transfer some or all of its assets and obligations and

1 records to the corporation established pursuant to
2 this section, including—

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

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

14 “(C) all of the Corporation’s rights to pur-
15 chase power from the Secretary under the
16 power purchase contracts covered by section
17 1401(b)(2)(B); and

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

24 “(E) all of the Corporation’s records, in-
25 cluding all of the papers and other documentary

1 materials, regardless of physical form or char-
2 acteristics, made or received by the Corpora-
3 tion.

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

22 “(5) TAX TREATMENT OF PRIVATIZATION.—

23 “(A) TRANSFER OF ASSETS OR MERGER.—

24 No income, gain, or loss shall be recognized by
25 any person by reason of the transfer of the Cor-

1 poration's assets to, or the Corporation's merg-
2 er with, the corporation established pursuant to
3 subsection (a)(1) in connection with the privat-
4 ization.

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

11 “(6) ACTIVITIES PRIOR TO PRIVATIZATION.—
12 Prior to privatization, the activities of the corpora-
13 tion established pursuant to subsection (a)(1) shall
14 be limited to those contemplated by the privatization
15 plan approved by the President under section
16 1502(b).

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

1 tive regulatory authorities shall apply to the corporation
2 as if the corporation were a Nuclear Regulatory Commis-
3 sion licensee.

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

5 “(1) NOT FEDERAL AGENCY.—The corporation
6 established pursuant to subsection (a)(1) shall not
7 be an agency of the United States Government and
8 shall not be a Government corporation or Govern-
9 ment-controlled corporation. For purposes of United
10 States antitrust laws, the performance by the cor-
11 poration established pursuant to subsection (a)(1) of
12 a ‘matched import’ contract shall be considered to
13 have occurred prior to the privatization date, if at
14 the time of privatization, such contract had been
15 agreed to by the parties in all material terms and
16 confirmed by the United States Department of Com-
17 merce under the Amendment to the Agreement Sus-
18 pending the Antidumping Investigation on Uranium
19 from the Russian Federation, Department of Com-
20 merce Investigation No. A-821-802, dated March
21 11, 1994.

22 “(2) NO RECOURSE AGAINST UNITED
23 STATES.—Obligations of the corporation established
24 pursuant to subsection (a)(1) shall not be obliga-
25 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 (c) 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(c) 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(e)(2) (42 U.S.C. 2297f(e)(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 ~~icense 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 (e), and
13 by moving the margins 2-ems to the left.

14 **SECTION 1. SHORT TITLE.**

15 *This Act may be cited as the “USEC Privatization*
16 *Act”.*

17 **SEC. 2. PURPOSE.**

18 *The purpose of this chapter is to transfer the interest*
19 *of the United States in the United States Enrichment Cor-*
20 *poration to the private sector in a manner that provides*
21 *for the long-term viability of the Corporation, provides for*
22 *the continuation by the Corporation of the operation of the*
23 *Department of Energy’s gaseous diffusion plants, provides*
24 *for the protection of the public interest in maintaining a*
25 *reliable and economical domestic source of uranium mining*

1 *and enrichment services, and, to the extent not inconsistent*
2 *with such purposes, secures the maximum proceeds to the*
3 *United States.*

4 **SEC. 3. DEFINITIONS.**

5 *For purposes of this title:*

6 (1) *The term “AVLIS” means atomic vapor laser*
7 *isotope separation technology.*

8 (2) *The term “Corporation” means the United*
9 *States Enrichment Corporation and, unless the con-*
10 *text otherwise requires, includes the private corpora-*
11 *tion and any successor thereto following privatiza-*
12 *tion.*

13 (3) *The term “gaseous diffusion plants” means*
14 *the Paducah Gaseous Diffusion Plant at Paducah,*
15 *Kentucky and the Portsmouth Gaseous Diffusion*
16 *Plant at Piketon, Ohio.*

17 (4) *The term “highly enriched uranium” means*
18 *uranium enriched to 20 percent or more of the ura-*
19 *anium-235 isotope.*

20 (5) *The term “low-enriched uranium” means*
21 *uranium enriched to less than 20 percent of the ura-*
22 *anium-235 isotope, including that which is derived*
23 *from highly enriched uranium.*

24 (6) *The term “low-level radioactive waste” has*
25 *the meaning given such term in section 2(9) of the*

1 *Low-Level Radioactive Waste Policy Act (42 U.S.C.*
2 *2021b(9)).*

3 (7) *The term “private corporation” means the*
4 *corporation established under section 5.*

5 (8) *The term “privatization” means the transfer*
6 *of ownership of the Corporation to private investors.*

7 (9) *The term “privatization date” means the*
8 *date on which 100 percent of the ownership of the*
9 *Corporation has been transferred to private investors.*

10 (10) *The term “public offering” means an under-*
11 *written offering to the public of the common stock of*
12 *the private corporation pursuant to section 4.*

13 (11) *The “Russian HEU Agreement” means the*
14 *Agreement Between the Government of the United*
15 *States of America and the Government of the Russian*
16 *Federation Concerning the Disposition of Highly En-*
17 *riched Uranium Extracted from Nuclear Weapons,*
18 *dated February 18, 1993.*

19 (12) *The term “Secretary” means the Secretary*
20 *of Energy.*

21 (13) *The “Suspension Agreement” means the*
22 *Agreement to Suspend the Antidumping Investigation*
23 *on Uranium from the Russian Federation, as amend-*
24 *ed.*

1 (14) *The term “uranium enrichment” means the*
2 *separation of uranium of a given isotopic content*
3 *into 2 components, 1 having a higher percentage of a*
4 *fissile isotope and 1 having a lower percentage.*

5 **SEC. 4. SALE OF THE CORPORATION.**

6 (a) *AUTHORIZATION.*—*The Board of Directors of the*
7 *Corporation, with the approval of the Secretary of the*
8 *Treasury, shall transfer ownership of the assets and obliga-*
9 *tions of the Corporation to the private corporation estab-*
10 *lished under section 5 (which may be consummated through*
11 *a merger or consolidation effected in accordance with, and*
12 *having the effects provided under, the laws of the state of*
13 *incorporation of the private corporation, as if the Corpora-*
14 *tion were incorporated thereunder).*

15 (b) *BOARD DETERMINATION.*—*The Board, with the*
16 *approval of the Secretary of the Treasury, shall select the*
17 *method of transfer and establish terms and conditions for*
18 *the transfer that will provide the maximum proceeds to the*
19 *Treasury of the United States and will provide for the long-*
20 *term viability of the private corporation, the continued op-*
21 *eration of the gaseous diffusion plants, and the public inter-*
22 *est in maintaining a reliable and economical domestic ura-*
23 *nium mining and enrichment industries.*

24 (c) *APPLICATION OF SECURITIES LAWS.*—*Any offering*
25 *or sale of securities by the private corporation shall be sub-*

1 *ject to the Securities Act of 1933 (15 U.S.C. 77a et seq.),*
2 *the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),*
3 *and the provisions of the Constitution and laws of any*
4 *State, territory, or possession of the United States relating*
5 *to transactions in securities.*

6 (d) *PROCEEDS.*—*Proceeds from the sale of the United*
7 *States' interest in the Corporation shall be—*

8 (1) *deposited in the general fund of the Treasury;*

9 (2) *included in the budget baseline required by*
10 *the Balanced Budget and Emergency Deficit Control*
11 *Act of 1985; and*

12 (3) *counted as an offset to direct spending for*
13 *purposes of section 252 of such Act, notwithstanding*
14 *section 257(e) of such Act.*

15 (e) *EXPENSES.*—*Expenses of privatization shall be*
16 *paid from Corporation revenue accounts in the United*
17 *States Treasury.*

18 **SEC. 5. ESTABLISHMENT OF PRIVATE CORPORATION.**

19 (a) *INCORPORATION.*—(1) *The directors of the Cor-*
20 *poration shall establish a private for-profit corporation*
21 *under the laws of a state for the purpose of receiving the*
22 *assets and obligations of the Corporation at privatization*
23 *and continuing the business operations of the Corporation*
24 *following privatization.*

1 (2) *The directors of the Corporation may serve as*
2 *incorporators of the private corporation and shall take all*
3 *steps necessary to establish the private corporation, includ-*
4 *ing the filing of articles of incorporation consistent with*
5 *the provisions of this Act.*

6 (3) *Employees and officers of the Corporation (includ-*
7 *ing members of the Board of Directors) acting in accordance*
8 *with this section on behalf of the private corporation shall*
9 *be deemed to be acting in their official capacities as employ-*
10 *ees or officers of the Corporation for purposes of 18 U.S.C.*
11 *205.*

12 (b) *STATUS OF THE PRIVATE CORPORATION.—(1) The*
13 *private corporation shall not be an agency, instrumentality,*
14 *or establishment of the United States, a Government cor-*
15 *poration, or a Government-controlled corporation.*

16 (2) *Except as otherwise provided by this Act, financial*
17 *obligations of the private corporation shall not be obliga-*
18 *tions of, or guaranteed as to principal or interest by, the*
19 *Corporation or the United States, and the obligations shall*
20 *so plainly state.*

21 (3) *No action under section 1491 of title 28, United*
22 *States Code, shall be allowable against the United States*
23 *based on actions of the private corporation.*

24 (c) *APPLICATION OF POST-GOVERNMENT EMPLOYMENT*
25 *RESTRICTIONS.—Beginning on the privatization date, the*

1 *restrictions of 18 U.S.C. 207 (a), (b), (c), and (d) shall not*
2 *apply to the acts of an individual done in carrying out*
3 *official duties as a director, officer, or employee of the pri-*
4 *vate corporation, if the individual was an officer or em-*
5 *ployee of the Corporation (including a director) continu-*
6 *ously during the 45 days prior to the privatization date.*

7 *(d) DISSOLUTION.—In the event that the privatization*
8 *does not occur, the Corporation will provide for the dissolu-*
9 *tion of the private corporation within 1 year of the private*
10 *corporation's incorporation unless the Secretary of the*
11 *Treasury or his delegate, upon the Corporation's request,*
12 *agrees to delay any such dissolution for an additional year.*

13 **SEC. 6. TRANSFERS TO THE PRIVATE CORPORATION.**

14 *Concurrent with privatization, the Corporation shall*
15 *transfer to the private corporation—*

16 *(1) the lease of the gaseous diffusion plants in*
17 *accordance with section 7,*

18 *(2) all personal property and inventories of the*
19 *Corporation,*

20 *(3) all contracts, agreements, and leases under*
21 *section 8(a),*

22 *(4) the Corporation's right to purchase power*
23 *from the Secretary under section 8(b),*

24 *(5) such funds in accounts of the Corporation*
25 *held by the Treasury or on deposit with any bank or*

1 *other financial institution as approved by the Sec-*
2 *retary of the Treasury, and*

3 *(6) all of the Corporation's records, including all*
4 *of the papers and other documentary materials, re-*
5 *gardless of physical form or characteristics, made or*
6 *received by the Corporation.*

7 **SEC. 7. LEASING OF GASEOUS DIFFUSION FACILITIES.**

8 *(a) TRANSFER OF LEASE.—Concurrent with privat-*
9 *ization, the Corporation shall transfer to the private cor-*
10 *poration the lease of the gaseous diffusion plants and relat-*
11 *ed property for the remainder of the term of such lease in*
12 *accordance with the terms of such lease.*

13 *(b) RENEWAL.—The private corporation shall have the*
14 *exclusive option to lease the gaseous diffusion plants and*
15 *related property for additional periods following the expira-*
16 *tion of the initial term of the lease.*

17 *(c) EXCLUSION OF FACILITIES FOR PRODUCTION OF*
18 *HIGHLY ENRICHED URANIUM.—The Secretary shall not*
19 *lease to the private corporation any facilities necessary for*
20 *the production of highly enriched uranium but may, subject*
21 *to the requirements of the Atomic Energy Act of 1954 (42*
22 *U.S.C. 2011 et seq.), grant the Corporation access to such*
23 *facilities for purposes other than the production of highly*
24 *enriched uranium.*

1 (d) *DOE RESPONSIBILITY FOR PREEXISTING CONDI-*
2 *TIONS.—The payment of any costs of decontamination and*
3 *decommissioning, response actions, or corrective actions*
4 *with respect to conditions existing before July 1, 1993, at*
5 *the gaseous diffusion plants shall remain the sole respon-*
6 *sibility of the Secretary.*

7 (e) *ENVIRONMENTAL AUDIT.—For purposes of sub-*
8 *section (d), the conditions existing before July 1, 1993, at*
9 *the gaseous diffusion plants shall be determined from the*
10 *environmental audit conducted pursuant to section 1403(e)*
11 *of the Atomic Energy Act of 1954 (42 U.S.C. 2297c–2(e)).*

12 (f) *TREATMENT UNDER PRICE-ANDERSON PROVI-*
13 *SIONS.—Any lease executed between the Secretary and the*
14 *Corporation or the private corporation, and any extension*
15 *or renewal thereof, under this section shall be deemed to*
16 *be a contract for purposes of section 170d. of the Atomic*
17 *Energy Act of 1954 (42 U.S.C. 2210(d)).*

18 (g) *WAIVER OF EIS REQUIREMENT.—The execution or*
19 *transfer of the lease between the Secretary and the Corpora-*
20 *tion or the private corporation, and any extension or re-*
21 *newal thereof, shall not be considered a major Federal ac-*
22 *tion significantly affecting the quality of the human envi-*
23 *ronment for purposes of section 102 of the National Envi-*
24 *ronmental Policy Act of 1969 (42 U.S.C. 4332).*

1 **SEC. 8. TRANSFER OF CONTRACTS.**

2 (a) *TRANSFER OF CONTRACTS.*—Concurrent with pri-
3 vatization, the Corporation shall transfer to the private cor-
4 poration all contracts, agreements, and leases, including all
5 uranium enrichment contracts, that were—

6 (1) *transferred by the Secretary to the Corpora-*
7 *tion pursuant to section 1401(b) of the Atomic En-*
8 *ergy Act of 1954 (42 U.S.C. 2297c(b)), or*

9 (2) *entered into by the Corporation before the*
10 *privatization date.*

11 (b) *NONTRANSFERABLE POWER CONTRACTS.*—The
12 Corporation shall transfer to the private corporation the
13 right to purchase power from the Secretary under the power
14 purchase contracts for the gaseous diffusion plants executed
15 by the Secretary before July 1, 1993. The Secretary shall
16 continue to receive power for the gaseous diffusion plants
17 under such contracts and shall continue to resell such power
18 to the private corporation at cost during the term of such
19 contracts.

20 (c) *EFFECT OF TRANSFER.*—(1) *Notwithstanding sub-*
21 *section (a), the United States shall remain obligated to the*
22 *parties to the contracts, agreements, and leases transferred*
23 *under subsection (a) for the performance of its obligations*
24 *under such contracts, agreements, or leases during their*
25 *terms. Performance of such obligations by the private cor-*

1 *poration shall be considered performance by the United*
2 *States.*

3 *(2) If a contract, agreement, or lease transferred under*
4 *subsection (a) is terminated, extended, or materially*
5 *amended after the privatization date—*

6 *(A) the private corporation shall be responsible*
7 *for any obligation arising under such contract, agree-*
8 *ment, or lease after any extension or material amend-*
9 *ment, and*

10 *(B) the United States shall be responsible for*
11 *any obligation arising under the contract, agreement,*
12 *or lease before the termination, extension, or material*
13 *amendment.*

14 *(3) The private corporation shall reimburse the United*
15 *States for any amount paid by the United States under*
16 *a settlement agreement entered into with the consent of the*
17 *private corporation or under a judgment, if the settlement*
18 *or judgment—*

19 *(A) arises out of an obligation under a contract,*
20 *agreement, or lease transferred under subsection (a),*
21 *and*

22 *(B) arises out of actions of the private corpora-*
23 *tion between the privatization date and the date of a*
24 *termination, extension, or material amendment of*
25 *such contract, agreement, or lease.*

1 (d) *PRICING.*—*The Corporation may establish prices*
2 *for its products, materials, and services provided to cus-*
3 *tomers on a basis that will allow it to attain the normal*
4 *business objectives of a profitmaking corporation.*

5 **SEC. 9. LIABILITIES.**

6 (a) *LIABILITY OF THE UNITED STATES.*—(1) *Except*
7 *as otherwise provided in this Act, all liabilities arising out*
8 *of the operation of the uranium enrichment enterprise be-*
9 *fore July 1, 1993, shall remain the direct liabilities of the*
10 *Secretary.*

11 (2) *Except as provided in subsection (a)(3) or other-*
12 *wise provided in a memorandum of agreement entered into*
13 *by the Corporation and the Office of Management and*
14 *Budget prior to the privatization date, all liabilities arising*
15 *out of the operation of the Corporation between July 1,*
16 *1993, and the privatization date shall remain the direct*
17 *liabilities of the United States.*

18 (3) *All liabilities arising out of the disposal of depleted*
19 *uranium generated by the Corporation between July 1,*
20 *1993, and the privatization date shall become the direct li-*
21 *abilities of the Secretary.*

22 (4) *Any stated or implied consent for the United*
23 *States, or any agent or officer of the United States, to be*
24 *sued by any person for any legal, equitable, or other relief*

1 *with respect to any claim arising out of, or resulting from,*
2 *the privatization of the Corporation is hereby withdrawn.*

3 (5) *To the extent that any claim against the United*
4 *States under this section is of the type otherwise required*
5 *by federal statute or regulation to be presented to a federal*
6 *agency or official for adjudication or review, such claim*
7 *shall be presented to the Department of Energy in accord-*
8 *ance with procedures to be established by the Secretary.*
9 *Nothing in this paragraph shall be construed to impose on*
10 *the Department of Energy liability to pay any claim pre-*
11 *sented pursuant to this paragraph.*

12 (6) *The Attorney General shall represent the United*
13 *States in any action seeking to impose liability under this*
14 *subsection.*

15 (b) *LIABILITY OF THE CORPORATION.—Notwithstand-*
16 *ing any provision of any agreement to which the Corpora-*
17 *tion is a party, the Corporation shall not be considered in*
18 *breach, default, or violation of any agreement because of*
19 *the transfer of such agreement to the private corporation*
20 *under section 8 or any other action the Corporation is re-*
21 *quired to take under this Act.*

22 (c) *LIABILITY OF THE PRIVATE CORPORATION.—Ex-*
23 *cept as provided in this Act, the private corporation shall*
24 *be liable for any liabilities arising out of its operations after*
25 *the privatization date.*

1 (d) *LIABILITY OF OFFICERS AND DIRECTORS.*—(1) *No*
2 *officer, director, employee, or agent of the Corporation shall*
3 *be liable in any civil proceeding to any party in connection*
4 *with any action taken in connection with the privatization*
5 *if, with respect to the subject matter of the action, suit, or*
6 *proceeding, such person was acting within the scope of his*
7 *employment.*

8 (2) *This subsection shall not apply to claims arising*
9 *under the Securities Act of 1933 (15 U.S.C. 77a. et seq.),*
10 *the Securities Exchange Act of 1934 (15 U.S.C. 78a. et seq.),*
11 *or under the Constitution or laws of any State, territory,*
12 *or possession of the United States relating to transactions*
13 *in securities.*

14 **SEC. 10. EMPLOYEE PROTECTIONS.**

15 (a) *CONTRACTOR EMPLOYEES.*—(1) *Privatization*
16 *shall not diminish the accrued, vested pension benefits of*
17 *employees of the Corporation's operating contractor at the*
18 *two gaseous diffusion plants.*

19 (2) *In the event that the private corporation termi-*
20 *nates or changes the contractor at either or both of the gase-*
21 *ous diffusion plants, the plan sponsor or other appropriate*
22 *fiduciary of the pension plan covering employees of the*
23 *prior operating contractor shall arrange for the transfer of*
24 *all plan assets and liabilities relating to accrued pension*
25 *benefits of such plan's participants and beneficiaries from*

1 *such plant to a pension plan sponsored by the new contrac-*
2 *tor or the private corporation or a joint labor-management*
3 *plan, as the case may be.*

4 *(3) In addition to any obligations arising under the*
5 *National Labor Relations Act (29 U.S.C. 151 et seq.), any*
6 *employer (including the private corporation if it operates*
7 *a gaseous diffusion plant without a contractor or any con-*
8 *tractor of the private corporation) at a gaseous diffusion*
9 *plant shall—*

10 *(A) abide by the terms of any unexpired collec-*
11 *tive bargaining agreement covering employees in bar-*
12 *gaining units at the plant and in effect on the privat-*
13 *ization date until the stated expiration or termi-*
14 *nation date of the agreement; or*

15 *(B) in the event a collective bargaining agree-*
16 *ment is not in effect upon the privatization date, have*
17 *the same bargaining obligations under section 8(d) of*
18 *the National Labor Relations Act (29 U.S.C. 158(d))*
19 *as it had immediately before the privatization date.*

20 *(4) If the private corporation replaces its operating*
21 *contractor at a gaseous diffusion plant, the new employer*
22 *(including the new contractor or the private corporation if*
23 *it operates a gaseous diffusion plant without a contractor)*
24 *shall—*

1 (A) offer employment to non-management em-
2 ployees of the predecessor contractor to the extent that
3 their jobs still exist or they are qualified for new jobs,
4 and

5 (B) abide by the terms of the predecessor contrac-
6 tor's collective bargaining agreement until the agree-
7 ment expires or a new agreement is signed.

8 (5) In the event of a plant closing or mass layoff (as
9 such terms are defined in section 2101(a)(2) and (3) of title
10 29, United States Code) at either of the gaseous diffusion
11 plants, the Secretary of Energy shall treat any adversely
12 affected employee of an operating contractor at either plant
13 who was an employee at such plant on July 1, 1993, as
14 a Department of Energy employee for purposes of sections
15 3161 and 3162 of the National Defense Authorization Act
16 for Fiscal Year 1993 (42 U.S.C. 7274h-7274i).

17 (6)(A) The Secretary and the private corporation shall
18 cause the post-retirement health benefits plan provider (or
19 its successor) to continue to provide benefits for persons em-
20 ployed by an operating contractor at either of the gaseous
21 diffusion plants in an economically efficient manner and
22 at substantially the same level of coverage as eligible retirees
23 are entitled to receive on the privatization date.

24 (B) Person eligible for coverage under subparagraph
25 (A) shall be limited to—

1 (i) persons who retired from active employment
2 at one of the gaseous diffusion plants on or before the
3 privatization date as vested participants in a pension
4 plan maintained either by the Corporation's operat-
5 ing contractor or by a contractor employed prior to
6 July 1, 1993, by the Department of Energy to operate
7 a gaseous diffusion plant; and

8 (ii) persons who are employed by the Corpora-
9 tion's operating contractor on or before the privatiza-
10 tion date and are vested participants in a pension
11 plan maintained either by the Corporation's operat-
12 ing contractor or by a contractor employed prior to
13 July 1, 1993, by the Department of Energy to operate
14 a gaseous diffusion plant.

15 (C) The Secretary shall fund the entire cost of post-
16 retirement health benefits for persons who retired from em-
17 ployment with an operating contractor prior to July 1,
18 1993.

19 (D) The Secretary and the Corporation shall fund the
20 cost of post-retirement health benefits for persons who retire
21 from employment with an operating contractor on or after
22 July 1, 1993, in proportion to the retired person's years
23 and months of service at a gaseous diffusion plant under
24 their respective management.

1 (7)(A) *Any suit under this subsection alleging a viola-*
2 *tion of an agreement between an employer and a labor orga-*
3 *nization shall be brought in accordance with section 301*
4 *of the Labor Management Relations Act (29 U.S.C. 185).*

5 (B) *Any charge under this subsection alleging an un-*
6 *fair labor practice violative of section 8 of the National*
7 *Labor Relations Act (29 U.S.C. 158) shall be pursued in*
8 *accordance with section 10 of the National Labor Relations*
9 *Act (29 U.S.C. 160).*

10 (C) *Any suit alleging a violation of any provision of*
11 *this subsection, to the extent it does not allege a violation*
12 *of the National Labor Relations Act may be brought in any*
13 *district court of the United States having jurisdiction over*
14 *the parties, without regard to the amount in controversy*
15 *or the citizenship of the parties.*

16 (b) *FORMER FEDERAL EMPLOYEES.—(1)(A) An em-*
17 *ployee of the Corporation that was subject to either the Civil*
18 *Service Retirement System (CSRS) or the Federal Employ-*
19 *ees' Retirement System (FERS) on the day immediately*
20 *preceding the privatization date shall elect—*

21 (i) *to retain their coverage under either CSRS or*
22 *FERS, as applicable, in lieu of coverage by the Cor-*
23 *poration's retirement system, or*

1 (ii) to receive a deferred annuity or lump-sum
2 benefit payable to a terminated employee under
3 CSRS or FERS, as applicable.

4 (B) An employee that makes the election under sub-
5 paragraph (A)(ii) shall have the option to transfer the bal-
6 ance in their Thrift Savings Plan account to a defined con-
7 tribution plan under the Corporation's retirement system,
8 consistent with applicable law and the terms of the Cor-
9 poration's defined contribution plan.

10 (2) The Corporation shall pay to the Civil Service Re-
11 tirement and Disability Fund—

12 (A) such employee deductions and agency con-
13 tributions as are required by sections 8334, 8422, and
14 8423 of title 5, United States Code, for those employ-
15 ees who elect to retain their coverage under either
16 CSRS or FERS pursuant to paragraph (1);

17 (B) such additional agency contributions as are
18 determined necessary by the Office of Personnel Man-
19 agement to pay, in combination with the sums under
20 subparagraph (A), the "normal cost" (determined
21 using dynamic assumptions) of retirement benefits for
22 those employees who elect to retain their coverage
23 under CSRS pursuant to paragraph (1), with the
24 concept of "normal cost" being used consistent with

1 *generally accepted actuarial standards and prin-*
2 *ciples; and*

3 *(C) such additional amounts, not to exceed two*
4 *percent of the amounts under subparagraphs (A) and*
5 *(B), as are determined necessary by the Office of Per-*
6 *sonnel Management to pay the cost of administering*
7 *retirement benefits for employees who retire from the*
8 *Corporation after the privatization date under either*
9 *CSRS or FERS, for their survivors, and for survivors*
10 *of employees of the Corporation who die after the pri-*
11 *vatization date (which amounts shall be available to*
12 *the Office of Personnel Management as provided in*
13 *section 8348(a)(1)(B) of title 5, United States Code).*

14 *(3) The Corporation shall pay to the Thrift Savings*
15 *Fund such employee and agency contributions as are re-*
16 *quired by section 8432 of title 5, United States Code, for*
17 *those employees who elect to retain their coverage under*
18 *FERS pursuant to paragraph (1).*

19 *(4) Any employee of the Corporation who was subject*
20 *to the Federal Employee Health Benefit Program (FEHBP)*
21 *on the day immediately preceding the privatization date*
22 *and who elects to retain coverage under either CSRS or*
23 *FERS pursuant to paragraph (1) shall have the option to*
24 *receive health benefits from a health benefit plan established*
25 *by the Corporation or to continue without interruption cov-*

1 erage under the FEHBP, in lieu of coverage by the Corpora-
2 tion's health benefit system.

3 (5) The Corporation shall pay to the Employees Health
4 Benefits Fund—

5 (A) such employee deductions and agency con-
6 tributions as are required by section 8906(a)–(f) of
7 title 5, United States Code, for those employees who
8 elect to retain their coverage under FEHBP pursuant
9 to paragraph (4); and

10 (B) such amounts as are determined necessary
11 by the Office of Personnel Management under para-
12 graph (6) to reimburse the Office of Personnel Man-
13 agement for contributions under section 8906(g)(1) of
14 title 5, United States Code, for those employees who
15 elect to retain their coverage under FEHBP pursuant
16 to paragraph (4).

17 (6) The amounts required under paragraph (5)(B)
18 shall pay the Government contributions for retired employ-
19 ees who retire from the Corporation after the privatization
20 date under either CSRS or FERS, for survivors of such re-
21 tired employees, and for survivors of employees of the Cor-
22 poration who die after the privatization date, with said
23 amounts prorated to reflect only that portion of the total
24 service of such employees and retired persons that was per-
25 formed for the Corporation after the privatization date.

1 **SEC. 11. OWNERSHIP LIMITATIONS.**

2 *No director, officer, or employee of the Corporation*
3 *may acquire any securities, or any rights to acquire any*
4 *securities of the private corporation on terms more favor-*
5 *able than those offered to the general public—*

6 *(1) in a public offering designed to transfer own-*
7 *ership of the Corporation to private investors,*

8 *(2) pursuant to any agreement, arrangement, or*
9 *understanding entered into before the privatization*
10 *date, or*

11 *(3) before the election of the directors of the pri-*
12 *vate corporation.*

13 **SEC. 12. URANIUM TRANSFERS AND SALES.**

14 *(a) TRANSFERS AND SALES BY THE SECRETARY.—The*
15 *Secretary shall not provide enrichment services or transfer*
16 *or sell any uranium (including natural uranium con-*
17 *centrates, natural uranium hexafluoride, or enriched ura-*
18 *nium in any form) to any person except as consistent with*
19 *this section.*

20 *(b) RUSSIAN HEU.—(1) On or before December 31,*
21 *1996, the United States Executive Agent under the Russian*
22 *HEU Agreement shall transfer to the Secretary without*
23 *charge title to an amount of uranium hexafluoride equiva-*
24 *lent to the natural uranium component of low-enriched ura-*
25 *nium derived from at least 18 metric tons of highly enriched*
26 *uranium purchased from the Russian Executive Agent*

1 *under the Russian HEU Agreement. The quantity of such*
2 *uranium hexafluoride delivered to the Secretary shall be*
3 *based on a tails assay of 0.30 U²³⁵. Uranium hexafluoride*
4 *transferred to the Secretary pursuant to this paragraph*
5 *shall be deemed under United States law, for all purposes*
6 *to be of Russian origin.*

7 (2) *Within 7 years of the date of enactment of this*
8 *Act, the Secretary shall sell, and receive payment for, the*
9 *uranium hexafluoride transferred to the Secretary pursuant*
10 *to paragraph (1). Such uranium hexafluoride shall be*
11 *sold—*

12 (A) *at any time for use in the United States for*
13 *the purpose of overfeeding;*

14 (B) *at any time for end use outside the United*
15 *States; or,*

16 (C) *in calendar year 2001 for consumption by*
17 *end users in the United States not prior to January*
18 *1, 2002, in volumes not to exceed 3,000,000 pounds*
19 *U₃O₈ equivalent per year.*

20 (3) *With respect to all enriched uranium delivered to*
21 *the United States Executive Agent under the Russian HEU*
22 *Agreement on or after January 1, 1997, the United States*
23 *Executive Agent shall, upon request of the Russian Execu-*
24 *tive Agent, enter into an agreement to deliver concurrently*
25 *to the Russian Executive Agent an amount of uranium*

1 hexafluoride equivalent to the natural uranium component
2 of such uranium. An agreement executed pursuant to a re-
3 quest of the Russian Executive Agent, as contemplated in
4 this paragraph, may pertain to any deliveries due during
5 any period remaining under the Russian HEU Agreement.
6 The quantity of such uranium hexafluoride delivered to the
7 Russian Executive Agent shall be based on a tails assay
8 of 0.30 U²³⁵. Title to uranium hexafluoride delivered to the
9 Russian Executive Agent pursuant to this paragraph shall
10 transfer to the Russian Executive Agent upon delivery of
11 such material to the Russian Executive Agent, with such
12 delivery to take place at a North American facility des-
13 ignated by the Russian Executive Agent. Uranium
14 hexafluoride delivered to the Russian Executive Agent pur-
15 suant to this paragraph shall be deemed under United
16 States law for all purposes to be of Russian origin. Such
17 uranium hexafluoride may be sold to any person or entity
18 for delivery and use in the United States only as permitted
19 in subsections (b)(5), (b)(6) and (b)(7) of this section.

20 (4) In the event that the Russian Executive Agent does
21 not exercise its right to enter into an agreement to take de-
22 livery of the natural uranium component of any low-en-
23 riched uranium, as contemplated in paragraph (3), within
24 90 days of the date such low-enriched uranium is delivered
25 to the United States Executive Agent, then the United

1 *States Executive Agent shall engage an independent entity*
2 *through a competitive selection process to auction an*
3 *amount of uranium hexafluoride or U₃O₈ (in the event that*
4 *the conversion component of such hexafluoride has pre-*
5 *viously been sold) equivalent to the natural uranium com-*
6 *ponent of such low-enriched uranium. Such independent en-*
7 *tity shall sell such uranium hexafluoride in one or more*
8 *lots to any person or entity to maximize the proceeds from*
9 *such sales, for disposition consistent with the limitations*
10 *set forth in this subsection. The independent entity shall*
11 *pay to the Russian Executive Agent the proceeds of any*
12 *such auction less all reasonable transaction and other ad-*
13 *ministrative costs. The quantity of such uranium*
14 *hexafluoride auctioned shall be based on a tails assay of*
15 *0.30 U²³⁵. Title to uranium hexafluoride auctioned pursu-*
16 *ant to this paragraph shall transfer to the buyer of such*
17 *material upon delivery of such material to the buyer. Ura-*
18 *nium hexafluoride auctioned pursuant to this paragraph*
19 *shall be deemed under United States law for all purposes*
20 *to be of Russian origin.*

21 *(5) Except as provided in paragraphs (6) and (7), ura-*
22 *nium hexafluoride delivered to the Russian Executive Agent*
23 *under paragraph (3) or auctioned pursuant to paragraph*
24 *(4), may not be delivered for consumption by end users in*
25 *the United States either directly or indirectly prior to Jan-*

1 uary 1, 1998 and thereafter only in accordance with the
 2 following schedule:

Year	<i>Annual Maximum Deliveries to End Users (millions lbs. U₃O₈ equivalent)</i>
1998	2
1999	4
2000	6
2001	8
2002	10
2003	12
2004	14
2005	16
2006	17
2007	18
2008	19
2009 and each year thereafter	20

3 (6) Uranium hexafluoride delivered to the Russian Ex-
 4 ecutive Agent under paragraph (3) or auctioned pursuant
 5 to paragraph (4) may be sold at any time as Russian-ori-
 6 gin natural uranium in a matched sale pursuant to the
 7 Suspension Agreement, and in such case shall not be count-
 8 ed against the annual maximum deliveries set forth in
 9 paragraph (5).

10 (7) Uranium hexafluoride delivered to the Russian Ex-
 11 ecutive Agent under paragraph (3) or auctioned pursuant
 12 to paragraph (4) may be sold at any time for use in the
 13 United States for the purpose of overfeeding in the oper-
 14 ations of enrichment facilities.

15 (8) Nothing in this subsection (b) shall restrict the sale
 16 of the conversion component of such uranium hexafluoride.
 17 Material sold pursuant to paragraph (5) shall not be
 18 swapped, exchanged or loaned.

1 (9) *The Secretary of Commerce shall have responsibil-*
2 *ity for the administration and enforcement of the limita-*
3 *tions set forth in this subsection. The Secretary of Com-*
4 *merce may require any person to provide any certifications,*
5 *information, or take any action that may be necessary to*
6 *enforce these limitations. The United States Customs Serv-*
7 *ice shall maintain and provide any information required*
8 *by the Secretary of Commerce and shall take any action*
9 *requested by the Secretary of Commerce which is necessary*
10 *for the administration and enforcement of the uranium de-*
11 *livery limitations set forth in this section.*

12 (10) *The President shall monitor the actions of the*
13 *United States Executive Agent under the Russian HEU*
14 *Agreement and shall report to the Congress not later than*
15 *December 31 of each year on the effect the low-enriched ura-*
16 *nium delivered under the Russian HEU Agreement is hav-*
17 *ing on the domestic uranium mining, conversion, and en-*
18 *richment industries, and the operation of the gaseous diffu-*
19 *sion plants. Such report shall include a description of ac-*
20 *tions taken or proposed to be taken by the President to pre-*
21 *vent or mitigate any material adverse impact on such in-*
22 *dustries or any loss of employment at the gaseous diffusion*
23 *plants as a result of the Russian HEU Agreement.*

24 (c) *TRANSFERS TO THE CORPORATION.—*

1 (1) *The Secretary shall transfer to the Corpora-*
2 *tion without charge up to 50 metric tons of enriched*
3 *uranium and up to 7,000 metric tons of natural ura-*
4 *nium from the Department of Energy's stockpile, sub-*
5 *ject to the restrictions in subsection (c)(2).*

6 (2) *The Corporation shall not deliver for com-*
7 *mercial end use in the United States—*

8 (A) *any of the uranium transferred under*
9 *this subsection before January 1, 1998;*

10 (B) *more than 10 percent of the uranium*
11 *(by uranium hexafluoride equivalent content)*
12 *transferred under this subsection or more than*
13 *4,000,000 pounds, whichever is less, in any cal-*
14 *endar year after 1997; or*

15 (C) *more than 800,000 separative work*
16 *units contained in low-enriched uranium trans-*
17 *ferred under this subsection in any calendar*
18 *year.*

19 (d) *INVENTORY SALES.—(1) In addition to the trans-*
20 *fers authorized under subsections (c) and (e), the Secretary*
21 *may, from time to time, sell natural and low-enriched ura-*
22 *nium (including low-enriched uranium derived from highly*
23 *enriched uranium) from the Department of Energy's stock-*
24 *pile.*

1 (2) *Except as provided in subsections (b), (c), and (e),*
2 *no sale or transfer of natural or low-enriched uranium shall*
3 *be made unless—*

4 (A) *the President determines that the material is*
5 *not necessary to national security needs,*

6 (B) *the Secretary determines that the sale of the*
7 *material will not have material adverse impact on the*
8 *domestic uranium mining, conversion, or enrichment*
9 *industry, taking into account the sales of uranium*
10 *under the Russian HEU Agreement and the Suspen-*
11 *sion Agreement, and*

12 (C) *the price paid to the Secretary will not be*
13 *less than the fair market value of the material.*

14 (e) *GOVERNMENT TRANSFERS.—Notwithstanding sub-*
15 *section (d)(2), the Secretary may transfer or sell enriched*
16 *uranium—*

17 (1) *to a federal agency if the material is trans-*
18 *ferred for the use of the receiving agency without any*
19 *resale or transfer to another entity and the material*
20 *does not meet commercial specifications;*

21 (2) *to any person for national security purposes,*
22 *as determined by the Secretary; or*

23 (3) *to any state or local agency or nonprofit,*
24 *charitable, or educational institution for use other*
25 *than the generation of electricity for commercial use.*

1 (f) *SAVINGS PROVISION.*—*Nothing in this Act shall be*
2 *read to modify the terms of the Russian HEU Agreement.*

3 **SEC. 13. LOW-LEVEL WASTE.**

4 (a) *RESPONSIBILITY OF DOE.*—(1) *The Secretary, at*
5 *the request of the generator, shall accept for disposal low-*
6 *level radioactive waste, including depleted uranium if it*
7 *were ultimately determined to be low-level radioactive*
8 *waste, generated by—*

9 (A) *the Corporation as a result of the operations*
10 *of the gaseous diffusion plants or as a result of the*
11 *treatment of such wastes at a location other than the*
12 *gaseous diffusion plants, or*

13 (B) *any person licensed by the Nuclear Regu-*
14 *latory Commission to operate a uranium enrichment*
15 *facility under sections 53, 63, and 193 of the Atomic*
16 *Energy Act of 1954 (42 U.S.C. 2073, 2093, and*
17 *2243).*

18 (2) *Except as provided in paragraph (3), the generator*
19 *shall reimburse the Secretary for the disposal of low-level*
20 *radioactive waste pursuant to paragraph (1) in an amount*
21 *equal to the Secretary's costs, including a pro rata share*
22 *of any capital costs, but in no event more than an amount*
23 *equal to that which would be charged by commercial, State,*
24 *regional, or interstate compact entities for disposal of such*
25 *waste.*

1 (3) *In the event depleted uranium were ultimately de-*
2 *termined to be low-level radioactive waste, the generator*
3 *shall reimburse the Secretary for the disposal of depleted*
4 *uranium pursuant to paragraph (1) in an amount equal*
5 *to the Secretary's costs, including a pro rata share of any*
6 *capital costs.*

7 (b) *AGREEMENTS WITH OTHER PERSONS.*—*The gen-*
8 *erator may also enter into agreements for the disposal of*
9 *low-level radioactive waste subject to subsection (a) with*
10 *any person other than the Secretary that is authorized by*
11 *applicable laws and regulations to dispose of such wastes.*

12 (c) *STATE OR INTERSTATE COMPACTS.*—*Notwith-*
13 *standing any other provision of law, no State or interstate*
14 *compact shall be liable for the treatment, storage, or dis-*
15 *posal of any low-level radioactive waste (including mixed*
16 *waste) attributable to the operation, decontamination, and*
17 *decommissioning of any uranium enrichment facility.*

18 **SEC. 14. AVLIS.**

19 (a) *EXCLUSIVE RIGHT TO COMMERCIALIZE.*—*The*
20 *Corporation shall have the exclusive commercial right to de-*
21 *ploy and use any AVLIS patents, processes, and technical*
22 *information owned or controlled by the Government, upon*
23 *completion of a royalty agreement with the Secretary.*

24 (b) *TRANSFER OF RELATED PROPERTY TO CORPORA-*
25 *TION.*—

1 (1) *IN GENERAL.*—*To the extent requested by the*
2 *Corporation and subject to the requirements of the*
3 *Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.),*
4 *the President shall transfer without charge to the Cor-*
5 *poration all of the right, title, or interest in and to*
6 *property owned by the United States under control or*
7 *custody of the Secretary that is directly related to and*
8 *materially useful in the performance of the Corpora-*
9 *tion’s purposes regarding AVLIS and alternative*
10 *technologies for uranium enrichment, including—*

11 (A) *facilities, equipment, and materials for*
12 *research, development, and demonstration activi-*
13 *ties; and*

14 (B) *all other facilities, equipment, mate-*
15 *rials, processes, patents, technical information of*
16 *any kind, contracts, agreements, and leases.*

17 (2) *EXCEPTION.*—*Facilities, real estate, improve-*
18 *ments, and equipment related to the gaseous diffusion,*
19 *and gas centrifuge, uranium enrichment programs of*
20 *the Secretary shall not transfer under paragraph*
21 *(1)(B).*

22 (3) *EXPIRATION OF TRANSFER AUTHORITY.*—
23 *The President’s authority to transfer property under*
24 *this subsection shall expire upon the privatization*
25 *date.*

1 (c) *LIABILITY FOR PATENT AND RELATED CLAIMS.*—
2 *With respect to any right, title, or interest provided to the*
3 *Corporation under subsection (a) or (b), the Corporation*
4 *shall have sole liability for any payments made or awards*
5 *under section 157b.(3) of the Atomic Energy Act of 1954*
6 *(42 U.S.C. 2187(b)(3)), or any settlements or judgments in-*
7 *volving claims for alleged patent infringement. Any royalty*
8 *agreement under subsection (a) of this section shall provide*
9 *for a reduction of royalty payments to the Secretary to off-*
10 *set any payments, awards, settlements, or judgments under*
11 *this subsection.*

12 **SEC. 15. GASEOUS DIFFUSION TECHNOLOGY.**

13 (a) *TRANSFER OF RIGHTS.*—*The Corporation shall*
14 *have the exclusive commercial rights for both uranium en-*
15 *richment and non-uranium enrichment uses of any patents,*
16 *patent applications, trade secrets, and other technical infor-*
17 *mation related to the gaseous diffusion technology owned*
18 *or controlled by the Department of Energy, or by the United*
19 *States but under control or custody of the Department of*
20 *Energy. The Corporation shall enter into an exclusive li-*
21 *censing agreement with the Department of Energy provid-*
22 *ing for—*

23 (1) *the payment of royalties of 3% of the gross,*
24 *pre-tax revenues realized by the Corporation from its*
25 *non-uranium enrichment commercial uses of such*

1 *patents, patent applications, trade secrets, and other*
2 *technical information,*

3 *(2) the reduction of such royalties to offset any*
4 *payments, awards, settlements, or judgments rendered*
5 *against the Corporation in its deployment or licens-*
6 *ing of the exclusive commercial rights under this sec-*
7 *tion, and*

8 *(3) the reservation of a non-exclusive, royalty-*
9 *free right to the United States Government to use*
10 *such patents, patent applications, trade secrets, and*
11 *other technical information solely for Governmental*
12 *purposes.*

13 *(b) IMPROVEMENTS.—New patents, trade secrets, and*
14 *other technical information developed for commercial appli-*
15 *cations that derive from the gaseous diffusion technology*
16 *initially licensed by the Corporation shall be at the Cor-*
17 *poration's expense and shall be free from royalties to the*
18 *Department of Energy.*

19 **SEC. 16. APPLICATION OF CERTAIN LAWS.**

20 *(a) OSHA.—(1) As of the privatization date, the pri-*
21 *vate corporation shall be subject to and comply with the*
22 *Occupational Safety and Health Act of 1970 (29 U.S.C.*
23 *651 et seq.).*

24 *(2) The Nuclear Regulatory Commission and the Occu-*
25 *pational Safety and Health Administration shall, within*

1 90 days after the date of enactment of this Act, enter into
2 a memorandum of agreement to govern the exercise of their
3 authority over occupational safety and health hazards at
4 the gaseous diffusion plants, including inspection, inves-
5 tigation, enforcement, and rulemaking relating to such haz-
6 ards.

7 (b) *ANTITRUST LAWS.*—For purposes of the antitrust
8 laws, the performance by the private corporation of a
9 “matched import” contract under the Suspension Agree-
10 ment shall be considered to have occurred prior to the pri-
11 vatization date, if at the time of privatization, such con-
12 tract had been agreed to by the parties in all material terms
13 and confirmed by the Secretary of Commerce under the Sus-
14 pension Agreement.

15 (c) *ENERGY REORGANIZATION ACT REQUIREMENTS.*—
16 (1) The private corporation and its contractor shall be sub-
17 ject to the provisions of section 211 of the Energy Reorga-
18 nization Act of 1974 (42 U.S.C. 5851) to the same extent
19 as an employer subject to such section.

20 (2) With respect to the operation of the facilities leased
21 by the private corporation, section 206 of the Energy Reor-
22 ganization Act of 1974 (42 U.S.C. 5846) shall apply to the
23 directors and officers of the private corporation.

1 **SEC. 17. AMENDMENTS TO THE ATOMIC ENERGY ACT.**

2 (A) *REPEAL.*—(1) *Chapters 22 through 26 of the*
3 *Atomic Energy Act of 1954 (42 U.S.C. 2297–2297e–7) are*
4 *repealed as of the privatization date.*

5 (2) *The table of contents of such Act is amended as*
6 *of the privatization date by striking the items referring to*
7 *sections repealed by paragraph (1).*

8 (b) *NRC LICENSING.*—

9 (1) *Section 11v. of the Atomic Energy Act of*
10 *1954 (42 U.S.C. 2014v.) is amended by striking “or*
11 *the construction and operation of a uranium enrich-*
12 *ment facility using Atomic Vapor Laser Isotope Sepa-*
13 *ration technology”.*

14 (2) *Section 193 of the Atomic Energy Act of*
15 *1954 (42 U.S.C. 2243) is amended by adding at the*
16 *end the following:*

17 “(f) *LIMITATION.*—*No license or certificate of compli-*
18 *ance may be issued to the United States Enrichment Cor-*
19 *poration or its successor under this section or sections 53,*
20 *63, or 1701, if in the opinion of the Commission, the issu-*
21 *ance of such a license or certificate of compliance—*

22 *“(1) would be inimical to the common defense*
23 *and security of the United States; or*

24 *“(2) would be inimical to the maintenance of a*
25 *reliable and economical domestic source of enrichment*
26 *services because of the nature and extent of the owner-*

1 *ship, control, or domination of the Corporation by a*
2 *foreign corporation or a foreign government or any*
3 *other relevant factors or circumstances.”.*

4 (3) *Section 1701(c)(2) of the Atomic Energy Act*
5 *of 1954 (42 U.S.C. 2297f(c)(2)) is amended to read*
6 *as follows:*

7 “(2) *PERIODIC APPLICATION FOR CERTIFICATE*
8 *OF COMPLIANCE.—The Corporation shall apply to the*
9 *Nuclear Regulatory Commission for a certificate of*
10 *compliance under paragraph (1) periodically, as de-*
11 *termined by the Commission, but not less than every*
12 *5 years. The Commission shall review any such appli-*
13 *cation and any determination made under subsection*
14 *(b)(2) shall be based on the results of any such re-*
15 *view.”*

16 (4) *Section 1702(a) of the Atomic Energy Act of*
17 *1954 (42 U.S.C. 2297f-1(a)) is amended—*

18 (1) *by striking “other than” and inserting*
19 *“including”, and*

20 (2) *by striking “sections 53 and 63” and*
21 *inserting “sections 53, 63, and 193”.*

22 (c) *JUDICIAL REVIEW OF NRC ACTIONS.—Section*
23 *189b. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(b))*
24 *is amended to read as follows:*

1 “(b) *The following Commission actions shall be subject*
2 *to judicial review in the manner prescribed in chapter 158*
3 *of title 28, United States Code and chapter 7 of title 5,*
4 *United States Code:*

5 “(1) *Any final order entered in any proceeding*
6 *of the kind specified in subsection (a).*

7 “(2) *Any final order allowing or prohibiting a*
8 *facility to begin operating under a combined con-*
9 *struction and operating license.*

10 “(3) *Any final order establishing by regulation*
11 *standards to govern the Department of Energy’s gase-*
12 *ous diffusion uranium enrichment plants, including*
13 *any such facilities leased to a corporation established*
14 *under the USEC Privatization Act.*

15 “(4) *Any final determination relating to whether*
16 *the gaseous diffusion plants, including any such fa-*
17 *ilities leased to a corporation established under the*
18 *USEC Privatization Act, are in compliance with the*
19 *Commission’s standards governing the gaseous diffu-*
20 *sion plants and all applicable laws.”.*

21 (d) *CIVIL PENALTIES.—Section 234a. of the Atomic*
22 *Energy Act of 1954 (42 U.S.C. 2282(a)) is amended by—*

23 (1) *striking “any licensing provision of section*
24 *53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109”*
25 *and inserting “any licensing or certification provi-*

1 *sion of section 53, 57, 62, 63, 81, 82, 101, 103, 104,*
 2 *107, 109, or 1701”;* and

3 (2) *by striking “any license issued thereunder”*
 4 *and inserting “any license or certification issued*
 5 *thereunder”.*

6 (e) *REFERENCES TO THE CORPORATION.—Following*
 7 *the privatization date, all references in the Atomic Energy*
 8 *Act of 1954 to the United States Enrichment Corporation*
 9 *shall be deemed to be references to the private corporation.*

10 **SEC. 18. AMENDMENTS TO OTHER LAWS.**

11 (a) *DEFINITION OF GOVERNMENT CORPORATION.—As*
 12 *of the privatization date, section 9101(3) of title 31, United*
 13 *States Code, is amended by striking subparagraph (N) as*
 14 *added by section 902(b) of Public Law 102–486.*

15 (b) *DEFINITION OF THE CORPORATION.—Section*
 16 *1018(1) of the Energy Policy Act of 1992 (42 U.S.C. 2296b–*
 17 *7(1)) is amended by inserting “or its successor” before the*
 18 *period.*

S 755 RS—2

S 755 RS—3

S 755 RS—4