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Legislative Proposals Concerning DOE's Uranium Enrichment Program

Statement of
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Before the
Subcommittee on Energy Research and Development
Committee on Science, Space and Technology
House of Representatives

Madam Chairman and Members of the Subcommittee:

We appreciate the opportunity to present our views on the future of the Department of Energy's (DOE) uranium enrichment program, which was established to promote national energy security goals while recovering government costs. My testimony today focuses on the Uranium Enrichment Reorganization Act (H.R.2480). I will also offer some comments on S.83, a similar bill that was passed by the Senate last week. Both bills would restructure the enrichment program as a government corporation; S.83 would also provide support to the depressed domestic uranium mining industry.

We believe that the Congress needs to reevaluate the enrichment program in light of the current business environment, establish clear objectives for the program, and address its many problems. H.R.2480 and S.83 would restructure the enrichment program as a government corporation subject to the Government Corporation Control Act. In general, we see merit to these proposals because they would enable the corporation to operate in a more business-like manner with clear objectives and a flexible pricing strategy. However, we believe the cost recovery provisions in the proposed legislation could be strengthened, and the proposed legislation could better assign decommissioning and environmental cleanup costs and responsibilities.

As you know, Madam Chairman, the Atomic Energy Act requires that the government's costs associated with producing enriched uranium be recovered over a reasonable period of time. At the end of fiscal year 1988, DOE had not recovered about $9.6 billion from its customers for past costs, including imputed interest. Both H.R.2480 and S.83 would limit the recovery of past costs to the (1) repayment of $364 million plus interest (initial debt), (2) dividends to be paid on stock issued by the new corporation to the federal government, and (3) proceeds from the sale of the stock to the public, if and when the corporation is privatized. If the corporation repays the $364 million by 1999, as proposed by H.R.2480, interest expense could total about $218 million.

Whether the government would receive more than the $364 million plus interest will depend on the corporation's management decisions to pay future dividends and its ability to overcome several problems, such as obtaining licenses from the Nuclear Regulatory Commission, in order to privatize. Although DOE projections for the new corporation do not include any investment beyond 1992 in a new enrichment technology, the atomic vapor laser isotope separation process (AVLIS), or the payment of dividends, they show that the corporation would earn over $3 billion in net income by the year 2000 and over $8 billion by the year 2008. Therefore, we believe that the Congress should set a higher cost recovery goal rather than relying on unspecified dividend receipts and uncertain stock sales. We would also suggest that the Congress

provide certain flexibility to the corporation in meeting the higher cost recovery goal, such as suspending interest payments and/or "stretching out" the repayment period. Such measures may be needed if substantial investments are needed in new technology or environmental costs increase more than expected.

At the same time, we recognize that the new corporation will face the challenge of paying billions of dollars to decommission the three enriched uranium production facilities (Oak Ridge, Tennessee; Portsmouth, Ohio; and Paducah, Kentucky) and bring the three sites into compliance with existing environmental requirements. Both proposals would establish decommissioning funds to pay for the commercial share of costs that could reach $3 billion (1988 dollars). However, neither proposal states that the corporation will pay for (1) the commercial share of environmental cleanup, surveillance, and maintenance activities at Oak Ridge--totaling about $500 million--and (2) cleanup costs for the abandoned centrifuge facilities--expected to total about $187 million. Further, both proposals exempt DOE from (1) notifying the corporation about all previously stored, released, or disposed of radioactive and hazardous materials and (2) committing to take future cleanup actions at the three enrichment facilities. We believe the proposals should specifically state the corporation's cost responsibilities. We also seriously question the need to exempt DOE from these environmental requirements.

Finally, although H.R.2480 does not include any programs aimed at aiding the domestic uranium industry, S.83 would provide for a "voluntary" utility ore purchase program and help pay for cleaning up mill tailings generated under government contracts. We believe the voluntary program is an improvement over an earlier proposal that would have required the new corporation to purchase $750 million of unneeded uranium. Since this is a relatively new proposal, we have not evaluated its impacts. However, we have long supported the need for the government to meet its financial obligation to help clean up tailings generated under pre-1970 defense contracts.

Before I discuss these issues in detail, I will briefly describe DOE's enrichment activities and the proposed legislation.

OVERVIEW OF THE URANIUM ENRICHMENT PROGRAM

The federal government has enriched uranium for national defense purposes and commercial nuclear power plants for over 30 years at three gaseous diffusion plants located in Oak Ridge, Portsmouth, and Paducah. Throughout the 1970s, the anticipated growth of nuclear power led DOE to expand the enriched uranium production capacity at its three plants and begin construction of a large-scale gas centrifuge enrichment plant at Portsmouth that was expected to use less electricity during production operations. However, the anticipated demand for U.S. enrichment services did

not materialize, and foreign suppliers cut into DOE's domestic and foreign markets. In 1985 DOE halted construction of the gas centrifuge plant and shut down the Oak Ridge plant. By 1986 the program was beset by many problems that left it facing a bleak financial future. The problems included (1) multibillion dollar payments for electricity not used under long-term "take or pay" contracts with the Tennessee Valley Authority (TVA) and (2) market uncertainties due to ongoing litigation with domestic uranium producers over possible restrictions on DOE's enrichment of foreign uranium ore.

These two problems have since been resolved. On December 31, 1987, TVA and DOE agreed to set the costs for unused power at about $1.8 billion through 1994, when the contracts expire. In addition, earlier this year domestic uranium producers dropped their lawsuit against DOE following (1) a U.S. Supreme Court ruling that DOE has to restrict the enrichment of foreign uranium ore only if the restriction would make the domestic uranium industry viable and (2) passage of the U.S.-Canada Free Trade Agreement that calls for no import restrictions on Canadian ore. However, several other problems continue. DOE faces multibillion dollar environmental and decommissioning costs and increasing foreign competition. In addition, DOE's responsibility for past costs has not yet been defined.

PRINCIPAL FEATURES OF
THE PROPOSED LEGISLATION

H.R.2480 proposes, among other things, to do the following:

-- Restructure DOE's enrichment program as a government corporation subject to the Government Corporation Control Act.

-- Require the corporation to issue capital stock initially valued at $3 billion to the United States.

-- Require the corporation to repay $364 million plus interest to the federal government through 1999. The $364 million (initial debt), dividends paid on the stock issued by the corporation, and the value of that stock would represent recovery by the federal government of past costs.

-- Authorize the corporation to borrow up to $2.5 billion from the private sector by issuing bonds that would not be government obligations or would not be guaranteed by the government.

-- Establish a decontamination and decommissioning fund for the three enrichment plants.

-- Require the corporation to seek licenses from the Nuclear Regulatory Commission (NRC) for the Portsmouth and Paducah plants and any new enrichment facility.

The Senate bill has these same provisions with some minor variations. It would also establish a voluntary uranium purchase program and help pay for the cleanup of mill tailings generated under government contracts.

GAO'S VIEWS ON THE PROPOSED LEGISLATION

We believe that the Congress must answer three key questions while deciding the future of the enrichment program.

1. What is the appropriate organizational structure for the program?

2. What amount of past costs should be recovered?

3. What should DOE (or the new corporation) do for the domestic uranium mining industry?

We would like to discuss our views on H.R.2480 and S.83 as they relate to these three questions and suggest some modifications for your consideration.

Future Structure of the Enrichment Program

The administration believes that the enrichment program should be restructured as a government corporation. DOE contends that this structure would (1) allow the enterprise to operate in a competitive, business-like manner with clearer objectives, (2) free it from government budgetary and other limitations, and (3) permit more flexible relations with its customers. We agree with these arguments in part because the program as now structured has forced DOE to take cost-cutting actions to meet annual budget restrictions that may threaten the program's ability to be competitive in the future. For example, in fiscal year 1987, DOE cut production costs by meeting demand from enriched uranium inventories. When this inventory was depleted, DOE was forced to meet demand by operating at higher production levels that used large amounts of electricity. Presently, DOE is rapidly using its uranium ore inventory in an effort to keep current electricity costs under budget instead of retaining the inventory for future use when electricity costs may be higher.

In addition, H.R.2480 would require an independent accounting firm to audit the financial statements of the corporation. S.83 would require an independent audit in those years when the General Accounting Office (GAO) does not perform an audit. Both proposals would require GAO to review the accounting firm's audits. We strongly support the use of independent audits that are conducted

in accordance with generally accepted government auditing standards. However, we recommend that the legislation require (1) either GAO or an independent accounting firm to audit the financial statements and (2) GAO to review the accounting firm's audits at GAO's discretion rather than being required to do so.

Past Unrecovered Costs

Although present legislation requires the recovery of all government costs, we recognize that the existing program cannot expect to generate revenues sufficient to pay past costs that we calculate to total about $9.6 billion at the end of fiscal year 1988. Because we recognize that full cost recovery is not feasible, we recommended in an October 1987 report, Uranium Enrichment: Congressional Action Needed to Revitalize the Program (GAO/RCED-88-18), that the Congress allow DOE to write off the costs associated with unproductive program assets, such as the gas centrifuge facilities. This action, although requiring a change in existing legislation, follows generally accepted accounting principles and would provide a practical approach to help resolve the problem of unrecovered costs. DOE wrote off unproductive assets in 1984 and 1985 (without legal authority), which left unrecovered costs at that time of about $3.4 billion. Since that time, DOE has repaid about $100 million annually to the Treasury and is now pricing its enrichment services to recover the remaining $3 billion over the next 12 years. However, DOE's revenue base is

declining. Over the past few years, at least 15 domestic utilities operating about 40 nuclear power plants have not extended their contracts with DOE. DOE's ability to continue to recover costs and fund other needed requirements is predicated on its ability to continue to retain and/or capture a significant portion of the enriched uranium market.

DOE expects that a corporation with a flexible pricing strategy would stimulate demand among utilities, particularly those who have not renewed their contracts because they are waiting to see where the program is headed. DOE projects that the corporation would generate over $3 billion in net income by the year 2000 and over $8 billion by 2008. Although the projection does not include any investment in AVLIS (at least $1 billion) or any estimate of the amount of dividends to be paid on the corporation's stock, it illustrates the considerable earning power remaining in the current production facilities. Therefore, we believe that the Congress should set the repayment amount higher than $364 million rather than relying on the receipt of unspecified dividends and/or uncertain stock sales. We would also suggest that the Congress provide certain flexibility to the corporation in meeting the higher cost recovery goal, such as suspending interest payments and/or "stretching out" the repayment period. Such measures may be needed if substantial investments are needed in new technology or environmental costs increase more than expected.

Feasibility of Privatization

We have several concerns about the prospects for privatization, which DOE believes would result in the federal government receiving a fair value for its past investment. Let me mention just a few:

-- Licensing: Before the enrichment corporation could be privatized, it would have to obtain a license for each of its operating plants from NRC. No enrichment facility has ever been licensed in this country, and unforeseen problems may exist since the two existing facilities are 30 to 40 years old.

-- Environmental and decommissioning costs: These are largely undefined, but they could total almost $6 billion (1988 dollars) over the next 20 years. Further, DOE has not completely identified or characterized enrichment plant waste sites, and past experience indicates that such costs increase as more information becomes available.

-- Increasing competition: An oversupply of enrichment capacity exists worldwide, which will make the lucrative U.S. market a "battleground" for international suppliers in the 1990s. In particular, the Soviet Union has been and is expected to become even more active in the world market,

following recent announcements that it is cutting back on the production of nuclear weapons. DOE believes that the Soviet Union has offered enriched uranium for about one-half of DOE's price and estimates that Soviet sales between 1986 and 1988 resulted in $170 million in lost sales by DOE. Further, Japan, which expects to purchase over 75 percent of its 1989 requirements from DOE, plans to supply its own needs by the year 2000. Finally, DOE reports that China is becoming much more aggressive in the U.S. marketplace.

Decommissioning and Environmental Cleanup Costs

We have long said that decommissioning costs should be paid by the beneficiaries of the services provided, in this case DOE's commercial and government customers. Both legislative proposals would require the corporation to establish a fund for the eventual decontamination and decommissioning of all three existing enrichment plants, including the already shut down Oak Ridge plant. This is an improvement from previous proposals that did not address costs to decommission Oak Ridge.

However, neither H.R.2480 nor S.83 specifies whether the corporation would be responsible for the commercial share of environmental cleanup, surveillance, and maintenance activities at Oak Ridge or the cost to clean up centrifuge facilities at

Portsmouth and Oak Ridge. These costs are expected to total over $680 million between now and 2010. In addition, both proposals would exempt DOE from (1) notifying the corporation of all radioactive and hazardous materials previously stored, released, or disposed of and (2) committing to take future cleanup actions at the enrichment facilities. Under H.R.2480, the same exemption would apply to the corporation when and if privatization occurs. We seriously question whether a private investor would purchase this stock without some guarantee that these costs would be the government's responsibility.

U.S. Uranium Industry

Section 161(v) of the Atomic Energy Act requires DOE to restrict the enrichment of foreign uranium to the extent necessary to ensure a viable U.S. uranium mining industry. Since 1980, the industry has fallen on hard times because of the slowdown in nuclear power plant construction and foreign competition. Since 1984, DOE has concluded that the industry is not viable but has not taken any action to revive it, such as restricting the enrichment of cheaper foreign uranium ore. DOE has stated that such action would not be sufficient to revive the industry and could cause its customers to turn from DOE to foreign enriched uranium suppliers.

In December 1984, several uranium producers filed suit asking the U.S. District Court in Colorado to order DOE to, among other

things, limit imports of foreign uranium to ensure the U.S. uranium industry's viability. The court ruled in favor of the producers, but on June 15, 1988, the U.S. Supreme Court ruled that DOE has to restrict the enrichment of foreign uranium ore only if such restrictions would make the domestic uranium industry viable. Following passage of the U.S.-Canada Free Trade Agreement, which removes all restrictions on Canadian uranium ore imports, the producers dropped the lawsuit.

S.83 would provide two programs to aid the miners. The first is a volunteer ore purchase program aimed at current domestic producers. Utilities would have the option of purchasing domestic ore in order to "overfeed" DOE enrichment plans and in return receive a credit for electricity saved. We believe this program is an improvement over earlier proposals that would have had the new corporation purchasing $750 million of unneeded ore from domestic miners. Since this is a relatively new proposal, we have not evaluated its impacts. The second program would help pay for cleaning up process wastes (mill tailings) generated under government contract at currently licensed uranium mill sites. Since 1979, we have said that the government should pay its share of the cleanup costs associated with the production of uranium under pre-1970 defense contracts.

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In summary, we believe that H.R.2480 and S.83 provide a mechanism to establish clear objectives for the enrichment program and would allow the new corporation to better operate as a business entity. However, formation of an enrichment corporation does not relieve the program from resolving several long-term issues that, in our view, seriously challenge its future. These include the need to pay billions of dollars in environmental and decommissioning costs at a time when competition is expected to increase and more than $1 billion may be needed for AVLIS. On the other hand, DOE believes that the corporation would stimulate additional business resulting in over $3 billion in cumulative net income over the next 10 years.

In light of this, Madam Chairman, we suggest that you and the Subcommittee consider establishing a higher cost recovery goal rather than relying on unspecified dividend receipts and uncertain stock sales. Further, to ensure that the corporation pays for the commercial share of environmental, surveillance, maintenance, and centrifuge cleanup costs at Oak Ridge and centrifuge cleanup costs at Portsmouth, we suggest that the legislation clearly specify the corporation's responsibilities. Finally, we question the need or advisability of exempting DOE and the corporation from declaring responsibility for the cleanup of radioactive and hazardous wastes disposed of at the enrichment facilities before transfer of the enterprise.

We hope our views and suggestions are useful to you in the legislative process. We would be pleased to respond to any questions you or other Members of the Subcommittee may have.