The original documents are located in Box 19, folder "Nuclear Fuel Assurance Act: General (4)" of the Loen and Leppert Files at the Gerald R. Ford Presidential Library.

UNITED STATES
ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION
WASHINGTON, D.C. 20545

FILE.
URANIUM
ENRICHMENT

February 23, 1976

Honorable John O. Pastore, Chairman
Joint Committee on Atomic Energy

Dear Mr. Chairman:

During the course of the Joint Committee's recent hearings on the President's proposed Nuclear Fuel Assurance Act of 1975 (S.2035), you and other members of the Committee expressed concern that the proposed Act did not provide sufficient opportunity for Congressional oversight of cooperative agreements negotiated pursuant to the Act. You proposed that additional Congressional review and approval requirements be included in the Act which would be comparable to those provided for in the case of Agreements for Cooperation in Section 123(d) of the Atomic Energy Act, as amended.

Subsequently, ERDA staff met with JCAE staff to review language that would accomplish this objective. We understand that the proposed language would, in brief, provide that each unsigned cooperative arrangement be submitted for a 60-day period of Congressional consideration. The 60-day period would allow 30 days for JCAE review and recommendations to each House of Congress and also require action within an additional 30-day period by each House in the form of a concurrent resolution of approval or disapproval. A comparative draft of the original and the revised S.2035 showing the revisions is attached.

I am pleased to advise you that the amendments you proposed are acceptable. I would like to commend the JCAE staff for their constructive approach to the development of the revised language. They made an important contribution to the removal of the remaining obstacle to action on this bill which is of great importance to the Nation.

We are looking forward to favorable Committee action on the revised bill at the earliest possible date.

Sincerely,

S/
Robert C. Seamans, Jr.
Administrator

Attachment:
Revised Bill

COMPARATIVE DRAFT

S. 2035, REVISED

To authorize cooperative arrangements with private enterprise for the provision of facilities for the production and enrichment of uranium enriched in the isotope-235, to provide for authorization of contract authority therefor, to provide a procedure for prior congressional review and disapproval of proposed arrangements, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, J. 63-057 That this Act may be cited as the "Nuclear Fuel Assurance Act of 1975".

SEC. 2. Chapter 5 (production of special nuclear material) of the Atomic Energy Act of 1954, as amended, is amended by adding at the end thereof the following section.

"SEC. 45. COOPERATIVE ARRANGEMENTS FOR PRIVATE PROJECTS TO PROVIDE URANIUM ENRICHMENT SERVICES.—

"a. The Administrator of Energy Research and Development ~~Administration~~ is authorized, subject to the prior congressional review procedure set forth in subsection b. of this section without regard to the provisions of section 169 of this Act, to enter into cooperative arrangements with any person or persons for such periods of time as the Administrator of ~~the Energy Research and Development Administration~~ may deem necessary or desirable for the purpose providing such Government

cooperation and assurances as the Administrator may deem appropriate and necessary to encourage the development of a competitive private uranium enrichment industry and to facilitate the design, construction, ownership, and operation by private enterprise of facilities for the production and enrichment of uranium enriched in the isotope-235 in such amounts as will contribute to the common defense and security and encourage development and utilization of atomic energy to the maximum extent consistent with the common defense and security and with the health and safety of the public; including, inter alia, in the discretion of the Administrator,

"(1) furnishing technical assistance, information, inventions and discoveries, enriching services, materials, and equipment on the basis of recovery of costs and appropriate royalties for the use thereof;

"(2) providing warranties for materials and equipment furnished;

"(3) providing facility performance assurances;

"(4) purchasing enriching services;

"(5) undertaking to acquire the assets or interest of such person, or any of such persons, in an enrichment facility, and to assume obligations and liabilities (including debt) of such person, or any of such persons, arising out of the design, construction, ownership, or operation for a defined period of such enrichment facility in the

event such person or persons cannot complete that enrichment facility or bring it into commercial operation: Provided, That any undertaking, pursuant to this subsection (5), to acquire equity or pay off debt, shall apply only to ~~individuals~~ investors or lenders who are citizens of the United States, or ~~to any~~ are a corporation or other entity organized for a common business purpose, which is owned or effectively controlled by citizens of the United States; and

"(6) determining to modify, complete, and operate that enrichment facility as a Government facility or to dispose of the facility at any time, as the interest of the Government may appear, subject to the other provisions of this Act.

"b. ~~Before the Administrator enters into any arrangement or amendment thereto under the authority of this section, or before the Administrator determines to modify, or complete and operate any facility or to dispose thereof, the basis for the proposed arrangement or amendment thereto which the Administrator proposes~~

to execute (including the name of the proposed participating person or persons with whom the arrangement is to be made, a general description of the proposed facility, the estimate amount of cost to be incurred by the participating person or persons, the incentives imposed by the agreement on the person or persons to complete the facility as planned and operate it successfully for a defined-period, and the general features of the proposed arrangement or amendment), or the plan for such modification, completion, operation, or disposal by the Administrator, as appropriate, shall be submitted to the Joint Committee on Atomic Energy, and a period of forty five days shall elapse while Congress is in session (in computing such forty five days, there shall be excluded the days on which either House is not in session because of adjournment for more than three days) unless the Joint Committee by resolution in writing waives the conditions of, or all or any portion of, such forty five day period: Provided, however, That any such arrangement or amendment thereto, or such plan, shall be entered into in accordance with the basis for the arrangement or plan, as appropriate, submitted as provided herein".

"b. The Administrator shall not enter into any arrangement or amendment thereto under the authority of this section, modify, or complete and operate any facility or dispose thereof, until the proposed arrangement or amendment thereto which the Administrator proposes to execute, or the plan for such modification, completion, operation or disposal by the Administrator, as appropriate, has been submitted to the Joint Committee on Atomic Energy, and a period of sixty days has elapsed while Congress is in session without passage by the Congress of a concurrent resolution stating in substance that it does not favor such proposed arrangement or amendment or plan for such modification, completion, operation, or disposal (in computing such sixty days, there shall be excluded the days on which either House is not in session because of adjournment for more than three days).": Provided, That prior to the elapse of the first thirty days of any such sixty-day period the Joint Committee shall submit a report to the Congress of its views and recommendations respecting the proposed arrangement, amendment or plan and an accompanying proposed concurrent resolution stating in substance that the Congress favors, or does not favor, as the case may be, the proposed arrangement, amendment or plan. Any such concurrent

resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) within twenty-five days and shall be voted on within five calendar days thereafter, unless such House shall otherwise determine.

SEC. 3. The Administrator of ~~the~~ Energy Research and Development ~~Administration~~ is hereby authorized to enter into contracts for cooperative arrangements; without fiscal year limitation, pursuant to section 45 of the Atomic Energy Act of 1954, as amended, in an amount not to exceed in the aggregate $8,000,000,000 ~~as may be approved in an appropriation Act;~~ but in no event to exceed the amount provided therefor in a prior appropriation Act: Provided, That the timing, interest rate, and other terms and conditions of any notes, bonds, or other similar obligations secured by any such arrangements shall be subject to the approval of the Administrator with the concurrence of the Secretary of the Treasury. In the event that liquidation of part or all of any financial obligations incurred under such cooperative arrangements should become necessary, the Administrator ~~of the Energy Research and Development Administration~~ is authorized to issue to the Secretary of the Treasury notes or other obligations up to the levels of contract authority approved in an appropriation Act pursuant to the first sentence of this section in such form and denomination, bearing such maturity and subject to such terms and conditions as may be prescribed by the Administrator with the

approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturity at the time of issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and, for that purpose, he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. There are authorized to be appropriated to the Administrator such sums as may be necessary to pay the principal and interest on the notes or obligations issued by him to the Secretary of the Treasury.

SEC. 4. The Administrator of ~~the~~ Energy Research and Development ~~Administration~~ is hereby authorized to initiate construction planning and design activities for expansion of an existing uranium enrichment facility. There ~~is~~ are hereby authorized to be appropriated such sums as may be necessary for this purpose.

MEMORANDUM OF CALL

TO: Charlie

☐ YOU WERE CALLED BY— ☐ YOU WERE VISITED BY—

John Ondeley

OF (Organization)

McCormack

☒ PLEASE CALL → PHONE NO. CODE/EXT. X9291

☐ WILL CALL AGAIN ☐ IS WAITING TO SEE YOU

☐ RETURNED YOUR CALL ☒ WISHES AN APPOINTMENT

MESSAGE

Re: Uranium Enrichment

meeting next week. Needs to talk to you about it

RECEIVED BY	DATE	TIME
	2/26	3:45

STANDARD FORM 63
REVISED AUGUST 1967
GSA FPMR (41 CFR) 101-11.6

GPO : 1969—048—16—80341-1 332-389

63-108

THE WHITE HOUSE
WASHINGTON

2/9/76 - Charlie

Re: Meeting w/Cong. Mike McCormack on Uranium Enrichment - Lunch at WH w/Leppert, Connor and Schleede

Cong. McCormack cannot possibly meet with you until March 3. He is out of town all this week and his calendar is such that he cannot make it until March.

Neta

Dead issue but needs to be done
~~both cascade additions~~
would support anything got
done in Center but not
likely this year.

Molly 225-5816

THE WHITE HOUSE
WASHINGTON

March 1, 1976

TO: CHARLIE LEPPERT

FROM: GLENN SCHLEEDE

THE WHITE HOUSE

WASHINGTON

March 1, 1976

MEMORANDUM FOR: JIM CANNON

FROM: GLENN R. SCHLEEDE

SUBJECT: URANIUM ENRICHMENT -- STATUS REPORT AND NEXT STEPS

This memorandum and its attachments:

- Report on the status of numerous activities underway with respect to the legislation and appropriations, ERDA negotiations with private firms, and the Government-owned back-up plant.

- Identify several issues and problems that must be dealt with soon within the Administration, possibly this week.

- Suggest next steps.

TAB A is a status report on the activities underway and the pending issues and problems. Briefly it covers:

A. Legislation and appropriations:

1. Status of the Nuclear Fuel Assurance Act (NFAA).
2. JCAE members' positions (ERDA Summary at Tab B).
3. Conveying an understanding of the three-step Congressional approval process.
4. An Appropriations Bill to implement the NFAA.
5. Resolving the question of whether the contingent liability in the President's plan is "Budget Authority."

B. ERDA negotiations with private firms.

C. Actions on a Government-owned back-up plant:

1. Should supplemental appropriations be requested for FY 1976 and the transition quarter?
2. Should ERDA solicit proposals for additional A-E work and for a construction contractor?

RECOMMENDATIONS FOR NEXT STEPS

I recommend that:

- OMB proceed with the letters to the Chairmen of the Senate and House Budget Committees which seek resolution of the question of whether or not the contingent liability contemplated in the appropriations bill is budget authority (discussed in detail in point A-5, Tab A). Apparently, these letters will be ready by Tuesday, March 2.

- OMB finish preparations for an authorization bill and a supplemental budget request for FY 1976 and the transition quarter together with a Presidential cover letter, but that this not be transmitted until:

  a. ERDA commits to discussions with UEA leading to an agreement that UEA would take over any equipment and materials that would be useful on a stand-alone plant if UEA proceeds. An agreement should be completed before any of the procurement monies are obligated.

  b. We have a decision meeting with Connor, Lynn, Cannon and Friedersdorf on the matter.

  c. We await the outcome of the Baker-Seamans meeting before recommending specific Presidential actions.

  d. Depending on the results of the Baker meeting, that we recommend the President meet with all or some of the following:

     . Senator Pastore
     . Senator Baker
     . Senator Pearson, if Baker does not decide to work for the bill.

A background paper containing details of points the President could make in preparation for such a meeting is attached at Tab C. This could be reduced to talking points.

Attachments

STRATEGIES AND ACTIONS UNDERWAY

A. Legislation and Appropriations - The President's NFAA

1. Status of the Nuclear Fuel Assurance Act (NFAA)

- Administration witnesses have completed testimony and all questions posed by the JCAE have been answered. The Committee has been notified that revisions in the bill to strengthen Congressional review are acceptable to the Administration. The action needed now is to get the Committee to report out the bill. This is discussed more below.

2. JCAE Members' Positions

The memo from Holly Cantus of ERDA at TAB B assesses the attitude of the 18 members of the JCAE. It is clear from this that Senator Pastore (and/or Staff Director George Murphy) are the key.

- If Pastore were to act favorably there is little doubt that the bill will be reported out.

- Senator Baker could be helpful but he has not been thus far. He is meeting with Bob Seamans on Wednesday, March 3 and may be prepared to reconsider his position -- in response to a direct request from Congressman John Anderson. To date, Senator Baker has said that:

  - he would support the bill if the Administration commits itself irrevocably to build one more increment of capacity.

  - without this commitment, he would not work in support of the bill but will note vote against it.

3. Conveying an Understanding of the Three-Step Approval Process

- We must make clear to the Congress that the private industry aspects of the Presidential proposal involves:
  - The Nuclear Fuel Assurance Act which enables ERDA to proceed with (but not sign) cooperative agreements and authorizes design work on a government plan as a contingency measure.
  - An appropriations bill to cover the contingent liability of $8 billion of the government for one diffusion plant and three centrifuge plants.
  - Submission of individual cooperative agreements for 60-day periods of Congressional review and approval.
- A good understanding of the three-step process is necessary so that it will be clear that passage of the NFAA does not mean that Congress is approving a contract with UEA or any other private venture. We have a long way to go in making this clear.
- The next step on this will be the OMB letter to Budget Committees discussed in No. 5 below.

4. Appropriations bill to implement the NFAA

We have not sent up the necessary appropriations bill to implement the NFAA because:

- We don't have the NFAA in hand.
- There is some question (discussed in No. 5 below) as to whether the contingent liability involved in the appropriations act must be considered "budget authority" and thus covered by a concurrent resolution under the Budget Reform Act.
- Most importantly, an appropriations bill could give an outspoken opponent of private industry, Congressman Joe Evins of Tennessee, a platform to attack the President's proposal. However, OMB is prepared to transmit the appropriation bill on very short notice.

5. Does the Contingency Liability have to be covered by a Budget Resolution?

- If the Congress decides that the contingent liability covered by the Appropriations Bill referred to above is budget authority, it will have to be covered in the concurrent budget resolutions required under the Budget Reform Act. OMB is taking the position that the contingent liability outlined in the planned appropriations bill is not budget authority and therefore need not be covered in the budget resolutions. If the Congress decides otherwise, we could be prevented from proceeding even when the NFAA is passed because the $8 billion contemplated is not covered by FY 1976 resolution. On the other hand, it is possible that the $8 billion could be covered in the transition quarter or FY 1977 resolutions if that becomes necessary.

- This matter must be resolved soon and OMB has in near final form a letter to the Chairmen of of the Budget Committees which gives the OMB position and seeks resolution of the question.

6. Industry Activities to Inform Members about Uranium Enrichment.

The American Nuclear Energy Council (ANEC) headed by Craig Hosmer has organized a rather quiet but thorough effort to inform the key energy staff people of each member of the House and Senate about the importance of increasing the Nation's uranium enrichment capacity. As of February 27, more than half of the members (i.e., a member of the staff) had been covered. The people conducting the briefings are urging approval of the NFAA but are not taking a strong position that private industry must build the next increment -- because of the opposition in some places on the Hill to UEA.

B. ERDA Negotiations with Private Firms

1. ERDA Contract Negotiations with UEA.

- Negotiations are continuing with essentially all issues resolved except ERDA's desire to increase the risk borne by equity partners. ERDA's proposal is the subject of negotiations which will be resumed in the next few days. Seamans apparently believes UEA has accepted

all the ERDA proposals but ERDA staff believe that significant problems remain. Negotiations now planned at the staff level will reveal whether there are problems.

2. ERDA Negotiations with Private Centrifuge Groups

. ERDA will be presenting to us this week a status report on this and will outline their proposed negotiating position. Negotiations should begin shortly. Two of the three centrifuge ventures are having difficulty staying together because of the long delays on the NFAA (Centar and Garrett Corporation).

C. Actions on a Government-Owned Plant as a Back-up Measure.

1. Should Supplemental Appropriations be requested for FY 1976 and the Transition Quarter for Work on a Government-Owned Plant as a Back-up Measure?

. We indicated in the President's 1977 Budget that $6 million would be needed in FY 1976 and $35 million in the transition quarter to keep the preparations for a back-up, Government-owned, plant on schedule. These estimates were developed by ERDA and submitted to OMB. OMB is now nearly finished with its review and we could send up the necessary authorization and appropriation request soon. If supplementals are sent, we should act quickly because the House appropriations committee is closing the door on further FY 1976 supplementals.

. Both these steps must be managed carefully because:

- Every move we have made thus far on a Government-owned plant has been interpreted here and abroad as another signal that the President is getting closer to the point of giving up on the goal of a private, competitive industry.

- When ERDA signs contracts for resources for the back-up plan (e.g., engineering and design talent, equipment, etc.) private ventures may have more difficulty in proceeding.

- The JCAE Chairman and/or Staff Director seem to be delaying action on NFAA in the hope of forcing the Administration to get more and more committed to a Government-owned plant. The JCAE staff is now using the absence of a supplemental as the basis for a charge that the Administration isn't maintaining the President's commitment to maintain a viable back-up plan.

- OMB, with the reluctant help of ERDA, is developing an authorization bill, a FY 1976 and transition quarter supplemental and a Presidential letter to transmit them. The objective would be to seek the money without weakening our chances of getting the NFAA. We need to decide this week:

  - Whether to send up the requests or to play "hard ball" and join in the JCAE waiting game.

  - How to present request so that it will do the least damage to the chances of the NFAA, if we decide they must be transmitted. Briefly, the options are:

    #1. Not send up anything -- a move that runs the risk of a charge that we are not maintaining a viable back up plan.

    #2. Reprogram money within ERDA to continue design work -- but not proceed with advanced procurement of equipment.

    #3. Send up the request with a Presidential cover letter which makes very clear the relative budget impacts of the private industry approach vs. the Government-owned plant approach -- with the hope that the magnitude of the Federal funding would jar the JCAE and the Congress into favorable action on NFAA.

    #4. Sending up an authorization bill for the full escalated costs if the Federal Government were to build the next increment of enrichment capacity. The amount probably would be in the neighborhood of $10-15 billion. One risk in this approach is that the JCAE might pass the bill.

2. Should ERDA proceed with solicitation for proposals for more A-E work and for a construction contractor for an add-on plant?

We and OMB have gone along with ERDA solicitations for proposals for power supply and for the first of seven architect-engineering packages. When these were announced they were interpreted as signals that the Administration was giving up on private enrichment.

We now have pending proposed solicitations for:

- More A-E work.
- A construction contractor for the add-on plant.

We should decide these soon along with other elements of the overall strategy.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION
WASHINGTON, D.C. 20545

February 27, 1976

MEMORANDUM FOR: Glenn R. Schleede
Domestic Council

FROM: H. Hollister Cantus
Director of Congressional Relations

SUBJECT: NFAA STATUS REPORT; MEMBERS' VIEWS

Per your request, this memorandum will up-date the memo of September 26, 1975 on the present views of the members of the Joint Committee on Atomic Energy with regard to the proposed Nuclear Fuel Assurance Act.

Senator Pastore remains silently inactive at a time when action is required to consider the implementing legislation. Our best information is that, even with the staff-to-staff negotiations completed and confirmed in writing by ERDA, he would prefer that this proposal would just go away. He supports the government-owned and government-operated concept and is aware that delay operates somewhat to his advantage. A strong push appears essential if the Chairman is to take up the bill and mark it up within the next few weeks.

Senator Jackson remains generally favorable to the bill in concept but has been involved in other activities and has not focused on the new version (negotiated with the JCAE staff). The changes should make the bill even more to his liking and I would hazard a guess that he will support prompt consideration and passage.

Senator Symington is still hung up on the extent of Federal guarantees but should support prompt passage of the enabling legislation once he realizes the JCAE's review role has been strengthened.

Senator Montoya will favor passage of the revised bill if the Chairman's opposition is less than total.

Senator Baker appears to be about to reconsider his previous position. We should know more on this after Administrator Seamans meets with him Wednesday afternoon (at Baker's request). It may take a Presidential phone call to give him the necessary inertia to climb that fence.

Senator Case is hung up on the guarateed profit aspect of the bill but, once he fully realizes the difference between the bill and the actual contracts, he will probably support passage.

OFFICIAL USE ONLY

Senator Pearson supports the bill and, if Baker cannot, he will lead the Minority side for the Senate, if asked.

Senator Buckley fully supports the bill and its rapid enactment.

Rep. Price has agreed to urge the Chairman to hold prompt mark-up sessions on the bill but is still ambivalent as to his ultimate position. My feeling is that he will support the bill.

Rep. Roncalio is okay on this one.

Rep. McCormack will not oppose prompt consideration of the bill but has doubts that it could be enacted this year. If you note that this does not mention his position, you will recognize the problem we face. Mike is basically opposed to the concept but will, in the end, go with the majority of the Committee as long as it isn't close. If it is close, he will probably oppose the bill. That's our best guess.

Rep. Moss should be no problem on the enabling legislation.

Rep. Anderson is the bill's strongest supporter.

Rep. Horton will probably support prompt mark-up of the enabling legislation but may be a problem when it comes to the individual contracts.

Senator Tunney, Rep. Lujan and Rep. Hinshaw have not expressed themselves on this bill but are not believed to pose any problems. I cannot place Rep. Young of Texas in either camp. As the probable next Chairman of the JCAE, he is playing it a bit cozy. My feeling is that he personally supports the bill but will wait to see how many members follow the Chairman's lead. Mr. Young is influenced by George Murphy who is taking his cue from the Chairman.

DETAILS OF THE POINTS THE PRESIDENT COULD MAKE DURING DISCUSSIONS WITH SENATOR PASTORE AND/OR SENATOR BAKER

1. The Administration's uranium enrichment proposal contemplates three stages of Congressional approval.

   . The Nuclear Fuel Assurance Act (NFAA) submitted on June 26, 1975, which:

   - enables ERDA to proceed with negotiations with private firms interested in building plants -- but not to sign contracts.

   - authorizes appropriations to cover the contingent liability involved in cooperative agreements.

   - authorizes design and construction planning to proceed for a Government-owned plant -- as a backup measure.

   . An appropriation bill which sets the upper limit on contingent liability covering the unlikely event that the Government had to assume a firm's domestic assets and liabilities. (No expenditures for this purpose are expected.) This language would be sent up as soon as the NFAA is passed.

   . The individual cooperative agreements.

2. All Administration witnesses requested by the Committee have testified and all followup questions have been answered in detail. (The President could present the Chairman with another copy of our 2-inch notebook containing all the material presented to the Committee.)

3. The Administration has accepted the JCAE's proposal for revisions in the bill to provide more Congressional review of contracts, specifically 60-day review with a concurrent resolution of approval or disapproval.

4. I am aware that you and other members of the JCAE have reservations about the proposal from UEA, but I want to point out that:

   a. Approval of the NFAA does not commit the JCAE or the Congress to approve a contract with UEA.

b. ERDA and others in the Administration have some concerns about the UEA proposal and until these are resolved no contract with UEA would presented for approval. A principal objective of the negotiations is to increase the risk borne by equity partners (Bechtel, Goodyear, and Williams Company) so as to provide an incentive for holding down plant and product costs.

c. There will be ample opportunity to reject a contract with UEA if that proves to be the right course of action.

5. Prompt action is needed so that:

- The U.S. can again become a reliable supplier of uranium enrichment services, compete with foreign suppliers, and exert safeguard controls.

- A lack of uranium enrichment capacity is not a deterrent to domestic utility commitments to use nuclear power.

- The four private firms submitting proposals to ERDA cannot be expected to hold on indefinitely.

6. I am convinced that the private approach is the best one:

- A commitment of billions of Federal dollars to expand enrichment capacity:

  - is not practicable in the face of continuing budget constraints;

  - could prevent us from devoting more Federal attention to the real problems at the back end of the fuel cycle (reprocessing and waste management) -- where there are technical hurdles to overcome and where Federal involvement may be essential.

  - would provide more ammunition for the growing criticism that the Federal government is spending too much on nuclear energy and not enough on other energy sources.

- ERDA now recognizes that a private plant could be built and brought on line as soon and probably sooner than a Government plant.

- The cost of the product from a Government owned add-on plant is almost certain to be higher than from a stand alone plant -- because a stand alone plant would use lower cost nuclear power while the add-on plant would use coal-fired electrical power.

7. We should make the move now because the conditions are right:

   - The technology is available.

   - Four firms are ready and willing to go and are already competing with each other for customers.

   - The market is here -- both domestic and foreign.

   - The need for more capacity is clear.

8. We will continue to maintain a viable plan for bringing on line a Government-owned plant in time to fulfill need -- in the unlikely event that private ventures cannot proceed.

9. I recognize that we still have a job ahead -- after the JCAE reports out the bill -- in convincing other members of the House and Senate that the NFAA is the right course of action. I am confident that we can work closely with the JCAE on that and be successful.

THE WHITE HOUSE
WASHINGTON

March 10, 1976

TO: VERN LOEN

FROM: GLENN SCHLEEDE

Here are two recent letters to the Congress on the Nuclear Fuel Assurance Act that you should be aware of.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION
WASHINGTON, D.C. 20545

3/1/76

February 23, 1976

1 copy
file E-PET

Honorable John O. Pastore, Chairman
Joint Committee on Atomic Energy

Dear Mr. Chairman:

During the course of the Joint Committee's recent hearings on the President's proposed Nuclear Fuel Assurance Act of 1975 (S.2035), you and other members of the Committee expressed concern that the proposed Act did not provide sufficient opportunity for Congressional oversight of cooperative agreements negotiated pursuant to the Act. You proposed that additional Congressional review and approval requirements be included in the Act which would be comparable to those provided for in the case of Agreements for Cooperation in Section 123(d) of the Atomic Energy Act, as amended.

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I am pleased to advise you that the amendments you proposed are acceptable. I would like to commend the JCAE staff for their constructive approach to the development of the revised language. They made an important contribution to the removal of the remaining obstacle to action on this bill which is of great importance to the Nation.

We are looking forward to favorable Committee action on the revised bill at the earliest possible date.

Sincerely,

S/

Robert C. Seamans, Jr.
Administrator

Attachment:
Revised Bill

COMPARATIVE DRAFT

S. 2035, REVISED

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"a. The Administrator of Energy Research and Development ~~Administration~~ is authorized, subject to the prior congressional review procedure set forth in subsection b. of this section without regard to the provisions of section 169 of this Act, to enter into cooperative arrangements with any person or persons for such periods of time as the Administrator of ~~the Energy Research and Development Administration~~ may deem necessary or desirable for the purpose providing such Government

cooperation and assurances as the Administrator may deem appropriate and necessary to encourage the development of a competitive private uranium enrichment industry and to facilitate the design, construction, ownership, and operation by private enterprise of facilities for the production and enrichment of uranium enriched in the isotope-235 in such amounts as will contribute to the common defense and security and encourage development and utilization of atomic energy to the maximum extent consistent with the common defense and security and with the health and safety of the public; including, inter alia, in the discretion of the Administrator,

"(1) furnishing technical assistance, information, inventions and discoveries, enriching services, materials, and equipment on the basis of recovery of costs and appropriate royalties for the use thereof;

"(2) providing warranties for materials and equipment furnished;

"(3) providing facility performance assurances;

"(4) purchasing enriching services;

"(5) undertaking to acquire the assets or interest of such person, or any of such persons, in an enrichment facility, and to assume obligations and liabilities (including debt) of such person, or any of such persons, arising out of the design, construction, ownership, or operation for a defined period of such enrichment facility in the

event such person or persons cannot complete that enrichment facility or bring it into commercial operation: Provided, That any undertaking, pursuant to this subsection (5), to acquire equity or pay off debt, shall apply only to ~~individuals~~ investors or lenders who are citizens of the United States, or ~~to any~~ are a corporation or other entity organized for a common business purpose, which is owned or effectively controlled by citizens of the United States; and

"(6) determining to modify, complete, and operate that enrichment facility as a Government facility or to dispose of the facility at any time, as the interest of the Government may appear, subject to the other provisions of this Act.

"b. ~~Before the Administrator enters into any arrangement or amendment thereto under the authority of this section, or before the Administrator determines to modify, or complete and operate any facility or to dispose thereof, the basis for the proposed arrangement or amendment thereto which the Administrator proposes~~

to execute (including the name of the proposed participating person or persons with whom the arrangement is to be made; a general description of the proposed facility; the estimate amount of cost to be incurred by the participating person or persons; the incentives imposed by the agreement on the person or persons to complete the facility as planned and operate it successfully for a defined-period; and the general features of the proposed arrangement or amendment); or the plan for such modification, completion, operation, or disposal by the Administrator, as appropriate, shall be submitted to the Joint Committee on Atomic Energy, and a period of forty five days shall elapse while Congress is in session (in computing such forty five days, there shall be excluded the days on which either House is not in session because of adjournment for more than three days) unless the Joint Committee by resolution in writing waives the conditions of, or all or any portion of, such forty five day period: Provided, however, That any such arrangement or amendment thereto, or such plan, shall be entered into in accordance with the basis for the arrangement or plan, as appropriate, submitted as provided herein".

"b. The Administrator shall not enter into any arrangement or amendment thereto under the authority of this section, modify, or complete and operate any facility or dispose thereof, until the proposed arrangement or amendment thereto which the Administrator proposes to execute, or the plan for such modification, completion, operation or disposal by the Administrator, as appropriate, has been submitted to the Joint Committee on Atomic Energy, and a period of sixty days has elapsed while Congress is in session without passage by the Congress of a concurrent resolution stating in substance that it does not favor such proposed arrangement or amendment or plan for such modification, completion, operation, or disposal (in computing such sixty days, there shall be excluded the days on which either House is not in session because of adjournment for more than three days).": Provided, That prior to the elapse of the first thirty days of any such sixty-day period the Joint Committee shall submit a report to the Congress of its views and recommendations respecting the proposed arrangement, amendment or plan and an accompanying proposed concurrent resolution stating in substance that the Congress favors, or does not favor, as the case may be, the proposed arrangement, amendment or plan. Any such concurrent

resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) within twenty-five days and shall be voted on within five calendar days thereafter, unless such House shall otherwise determine.

SEC. 3. The Administrator of ~~the~~ Energy Research and Development ~~Administration~~ is hereby authorized to enter into contracts for cooperative arrangements; without fiscal year limitation, pursuant to section 45 of the Atomic Energy Act of 1954, as amended, in an amount not to exceed in the aggregate $8,000,000,000 ~~as may be approved in an appropriation Act.~~ but in no event to exceed the amount provided therefor in a prior appropriation Act: Provided, That the timing, interest rate, and other terms and conditions of any notes, bonds, or other similar obligations secured by any such arrangements shall be subject to the approval of the Administrator with the concurrence of the Secretary of the Treasury. In the event that liquidation of part or all of any financial obligations incurred under such cooperative arrangements should become necessary, the Administrator ~~of the Energy Research and Development Administration~~ is authorized to issue to the Secretary of the Treasury notes or other obligations up to the levels of contract authority approved in an appropriation Act pursuant to the first sentence of this section in such form and denomination, bearing such maturity and subject to such terms and conditions as may be prescribed by the Administrator with the

approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturity at the time of issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and, for that purpose, he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. There are authorized to be appropriated to the Administrator such sums as may be necessary to pay the principal and interest on the notes or obligations issued by him to the Secretary of the Treasury.

SEC. 4. The Administrator of the Energy Research and Development Administration is hereby authorized to initiate construction planning and design activities for expansion of an existing uranium enrichment facility. There is are hereby authorized to be appropriated such sums as may be necessary for this purpose.

PY-5/1

MAR 5 - 1976

Honorable Edmund S. Muskie
United States Senate
Chairman, Committee on the Budget
Washington, D. C. 20510

Dear Mr. Chairman:

The Administration intends shortly to propose to the Congress additional FY 1976 appropriation language for the Energy Research and Development Administration to implement the pending Nuclear Fuel Assurance Act (the NFAA, H.R. 3401 and S. 2035). Action on this appropriation language is the second vital step in a three-step congressional review and approval process to make it possible for private industrial firms to finance, build, own and operate additional uranium enrichment plants needed by the Nation.

- The first step is enactment of the NFAA which provides ERDA a basis for proceeding with the negotiation of cooperative agreements with private firms that wish to build uranium enrichment plants. (Under the proposed NFAA, cooperative agreements could not be signed until steps 2 and 3 below are completed.)

- The second step is the passage of appropriation language which sets an upper limit on the U.S. Government's liabilities in the unlikely event that it were necessary for the Government to assume the domestic assets and liabilities of firms covered by cooperative agreements. The practical effect of this step is to provide a basis for private firms to obtain necessary debt financing in the commercial capital market. It would permit completion of negotiations between ERDA and private firms.

- The third step is the submission of unsigned cooperative agreements to the Congress for final review and approval.

When this three-step process is completed and cooperative agreements are signed a contingent liability would be assumed by the U.S. Government. This contingent liability could amount to $8 billion. Such an amount would cover the domestic portion (40%) of a large gaseous diffusion plant ($1.5 billion) and three smaller centrifuge plants ($3 billion) as well as provide for contingencies ($3.6 billion) including escalation.

I must emphasize that it is the Administration's firm expectation that none of this contingent liability would result in Federal expenditures for the assumption of private ventures because of the high degree of assurance discussed below, that commercial firms will be successful.

The purpose of this letter is to inform you of our plans and to explain why we do not consider the $3 billion contingent liability to be budget authority under provisions of the Congressional Budget Act of 1974. We want to be sure that your Budget Committee accepts this conclusion so that disagreements do not arise at a later date when they might slow up the Congressional approval of the appropriation language mandated by the NFAA.

By way of additional background, uranium enriching--a service essential to the production of nuclear fuel--is now a fully developed production activity carried out in the U.S. solely by ERDA. This large ERDA production activity could be capable of supplying enrichment services to as much as 329,000 MWe of nuclear generating capacity by the early 80's. This capacity, however, is now fully contracted to domestic and foreign utilities. The pending Nuclear Fuel Assurance Act and the proposed appropriation language are intended to assure that: (1) the next increments of uranium enrichment capacity will be built and operating when needed to supply the growing demand for fuel for nuclear powered electricity generating plants; (2) all future capacity increments will be built, financed and operated by private industry, thus ending the current Government monopoly and drain on the Federal Budget; (3) the Government will receive appropriate compensation for the use of its inventions and discoveries; and (4) all necessary domestic and international controls on nuclear materials and classified technologies will be maintained as they would be if the Government itself were to own the new plants.

The construction of new U.S. uranium enrichment plants required by the year 2000 is estimated to cost $30-50 billion (in 1976 dollars). If the Government had to build these plants, the capital costs of the new plants would by 1985 exceed revenues for these plants by about $9 billion (in 1976 dollars, i.e. escallation is not taken into consideration). Even the construction by the Government of only the next increment of new enrichment capacity would have a major budgetary impact for the next ten years.

In contrast, this financial burden would, under the President's proposal outlined above, be borne by the private sector which is ready and willing to do so. Ideally, industry would assume the entire responsibility for building succeeding increments of capacity. without even the limited assurances provided for in the President's Plan. However, it has not been possible for private firms to obtain the necessary debt financing for such ventures because of the special circumstances involving uranium enrichment which are not commonly faced in the business environments.

Specifically: (1) the very large size of an enrichment project; (2) the use of technologies that are classified; (3) regulatory uncertainties associated with a first of a kind venture; and (4) the current financial difficulties of some of the utilities that would be the customers for uranium enrichment services.

The limited cooperation and temporary assurances contemplated in the NFAA are designed specifically to overcome these obstacles and make the risk that is involved for potential lenders of debt money more nearly comparable with the risk associated with other investment opportunities available to them.

Under the President's proposal outlined above, the Federal Government would incur a contingent liablity when a cooperative arrangement is entered into by ERDA pursuant to the Nuclear Fuel Assurance Act. The major Government contingent liability is based on the possible need to acquire the domestic assets and assume liabilities (including debt) of a private enrichment project in the unlikely event that the venture were unable to proceed (Section 2 of the proposed Nuclear Fuel Assurance Act). Again, it must be stressed that we do not expect any expenditure of funds for the assumption of assets and liabilities of a private uranium enrichment venture. We are confident in this view because the technology has been thoroughly demonstrated over the past 30 years and because of the oversight role ERDA will play with respect to these private enrichment firms.

Since it is unlikely that future outlays will be incurred, we believe that the $8 billion to be included in appropriation language should be treated as financial assurances and that the limitation on cooperative arrangements ($8 billion) made by ERDA pursuant to the Nuclear Fuel Assurance Act, should not be considered as new budget authority. We base this interpretation on Section 3(a)(2) and 401(c)(2) of the Congressional Budget Act of 1974 (P.L. 93-344).

Section 3(a)(2) of P.L. 93-344 states:

> "The term "budget authority" means authority provided by law to enter into obligations which <u>will</u> result in immediate or future outlays involving Government funds...". (emphasis added).

Since the $8 billion to be included in appropriation language pursuant to the NFAA in all likelihood <u>will not</u> result in immediate or future outlays, we believe it does not conform to this definition of budget authority.

In the unlikely event that conditions were to arise in the future where it appeared that contingent liabilities would require liquidation, an appropriate amount of budget authority and outlays would be estimated

in the President's budget for that year. Specifically, the estimate of budget authority would be in the amount of the borrowing from the Treasury needed to cover the necessary liquidation. This is similar to other Federal Programs containing contingent liabilities assumed by the Federal Government (e.g., government insurance programs).

I suggest that it might be desirable for my staff to meet with yours to discuss further the Nuclear Fuel Assurance Act and the appropriations language mandated by the Act. This can be arranged through my office.

I would personally appreciate any comments you may have on this matter.

With best personal regards,

Sincerely yours,

(Signed) Jim

James T. Lynn
Director

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UNITED STATES
ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION
WASHINGTON, D.C. 20545

FILE
NUCLEAR FUELS
ASSURANCE
Ltr

APR 13 1976

Honorable John O. Pastore
Chairman, Joint Committee
on Atomic Energy
Congress of the United States

Dear Senator Pastore:

I understand that there may be confusion among some members of your Committee with respect to the use of revenues from existing uranium enrichment plants, and that this has led some to conclude that by using these revenues the Federal Government could pay for an add-on plant without significant impact on the Federal Budget. In fact, a decision to build additional Government-owned capacity, rather than relying on industry, would have a significant budgetary impact. This letter is to explain why this is the case.

The revenues from existing plants are already being applied against ERDA's total budget requirements, thus lessening the new appropriations that need to be requested each fiscal year. Setting aside revenues from existing plants to pay for an add-on plant would have the effect of requiring that such diverted revenues be replaced by additional appropriations.

The best way of assessing the Federal budgetary impact of the alternative approaches (i.e., Government vs. private financing) for adding new enrichment capacity is to look at the costs and the revenues associated only with the new capacity. The Government financing alternative involves substantial additional outlays which would not be incurred under the President's proposal. We would be pleased to provide you additional information on the budgetary impact of the two alternatives, if it would be useful to your Committee.

In summary, we do not believe it is valid to assume that revenues from existing enriching plants would offset the budgetary impact of a Government financed add-on plant. The orderly transfer of enriching activities to the private sector, under reasonable and appropriate terms, offers the best hope, we think, of avoiding substantial additional Government investment costs and budget impact in future years. Again, I urge the Committee to act promptly and favorably on the President's proposed Nuclear Fuel Assurance Act.

Sincerely,

Robert C. Seamans, Jr.
Administrator

FILE
URANIUM ENRICHMENT

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April 27, 1976

COPY

Mr. Leo E. Diehl
Administrative Assistant to
The Honorable T.P. O'Neill
Room H-148
The Capitol
Washington, D.C. 20510

Dear Leo:

Enclosed are copies of letters we have sent to Chairman Price, John Young of Texas, Teno Roncalio, Mike McCormack, and John Moss.

Truly, for the members to support this bill, they are not necessarily committing themselves to support the total program, but merely to see if the total program is feasible when a contract is presented for the Congress to review, which contract cannot be finalized without the Committee and Congressional approval.

If you can see your way clear to be of some assistance with these members, it will, of course, be most appreciated.

Very truly yours,

RAGAN & MASON

William F. Ragan

Enclosures

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April 27, 1976

The Honorable Melvin Price
U.S. House of Representatives
2468 Rayburn House Office Building
Washington, D.C. 20515

COPY

Dear Mr. Chairman:

H.R. 8401, and its companion bill, S. 2036, will probably come before the Joint Committee on Atomic Energy for mark-up, perhaps Thursday of this week or the following Tuesday.

It is believed the Committee will amend the legislation as suggested by Senator Pastore, so that the bill, rather than give ERDA a blank check to enter into a contract for the construction of a private uranium enrichment plant will require that before the contract can become effective, it be presented to the Committee and the Congress for their approval.

Consequently, the bill is not a commitment at this time, to the privatization of uranium enrichment, but merely sets the stage for the Congress to make an in depth review of the various programs.

This office acts as counsel for Uranium Enrichment Associates, a group which hopes to build a gaseous diffusion plant. It is the purpose of this letter to most respectfully ask your support for the legislation, with such amendments as Senator Pastore or others deem appropriate. We truly believe it is in the best interest of the United States to have a complete review of the options that this legislation will create.

Very truly yours,

RAGAN & MASON

William F. Ragan

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April 27, 1976

The Honorable John Young
2204 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Young:

We believe that H.R. 8401, and its companion bill, S. 2036, will probably come before the Joint Committee on Atomic Energy for mark-up on Thursday, or perhaps the following Tuesday.

Needless to say, we, of course, sincerely hope the bill will be reported and we do favor the suggestions made by Senator Pastore and the Committee that it will be amended so that no contracts under the bill can become effective until the Committee and the Congress have approved it.

As you know, this office acts as counsel for Uranium Enrichment Associates. We sincerely believe that this approach will give to the Congress a full review of the potential options between privatization, add-on, gaseous diffusion, centrifuge, etc. It is our understanding the bill as so amended would not be a commitment at this time to privatization, but would set the stage for Congress to make its final decision.

We sincerely believe such program to be in the best interest of the United States. We hope you can see your way clear to voting to report the bill as so amended.

I am personally very appreciative of the time you have afforded us over the last several weeks.

Very truly yours,

RAGAN & MASON

William F. Ragan

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April 27, 1976

The Honorable Teno Roncalio
1529 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Roncalio:

We understand H.R. 8401, and its companion bill, S. 2036, will probably come before the Joint Committee on Atomic Energy for mark-up either Thursday of this week, or the following Tuesday.

As you know, Senator Pastore and the Committee is recommending, and it is understood the Administration is agreed, that the bill should be amended in such a way that no contract can become effective under the bill unless specifically approved by the Committee and the Congress. This approach truly gives the Committee and the Congress a full opportunity to review as to what is the best interest of the United States.

The bill merely constitutes the authority to proceed, but does not give ERDA a blank check to enter into any particular contract. We hope you can see your way clear to support this legislation when it comes up before the Committee.

Very truly yours,

RAGAN & MASON

William F. Ragan

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April 27, 1976

The Honorable Mike McCormack
1502 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman McCormack:

H.R. 8401, and its companion bill, S. 2036, will probably come before the Joint Committee on Atomic Energy for mark-up, perhaps Thursday of this week or the following Tuesday.

It is believed the Committee will amend the legislation as suggested by Senator Pastore, so that the bill, rather than give ERDA a blank check to enter into a contract for the construction of a private uranium enrichment plant will require that before the contract can become effective, it be presented to the Committee and the Congress for their approval.

Consequently, the bill is not a commitment at this time, to the privatization of uranium enrichment, but merely sets the stage for the Congress to make an in depth review of the various programs.

This office acts as counsel for Uranium Enrichment Associates, a group which hopes to build a gaseous diffusion plant. It is the purpose of this letter to most respectfully ask your support for the legislation, with such amendments as Senator Pastore or others deem appropriate. We truly believe it is in the best interest of the United States to have a complete review of the options that this legislation will create.

Very truly yours,

RAGAN & MASON

William F. Ragan

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April 27, 1976

The Honorable John E. Moss
2354 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Moss:

H.R. 8401, and its companion bill, S. 2036, will probably come before the Joint Committee on Atomic Energy for mark-up, perhaps Thursday of this week or the following Tuesday.

It is believed the Committee will amend the legislation as suggested by Senator Pastore, so that the bill, rather than give ERDA a blank check to enter into a contract for the construction of a private uranium enrichment plant will require that before the contract can become effective, it be presented to the Committee and the Congress for their approval.

Consequently, the bill is not a commitment at this time, to the privatization of uranium enrichment, but merely sets the stage for the Congress to make an in depth review of the various programs.

This office acts as counsel for Uranium Enrichment Associates, a group which hopes to build a gaseous diffusion plant. It is the purpose of this letter to most respectfully ask your support for the legislation, with such amendments as Senator Pastore or others deem appropriate. We truly believe it is in the best interest of the United States to have a complete review of the options that this legislation will create.

Very truly yours,

RAGAN & MASON

William F. Ragan

UNITED STATES
ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION
WASHINGTON, D.C. 20545

File
Nuclear Fuels
Assurance

MAY 5 1976

Mr. Marvin Arrowsmith, Chief of Bureau
The Associated Press
2021 K Street, N.W.
Washington, D. C. 20006

Dear Mr. Arrowsmith:

I am writing with respect to an April 22 article by Stan Benjamin of the Associated Press concerning the President's program for expanding capacity in the United States to enrich uranium needed for commercial nuclear power plants. The article, for the most part, is inaccurate, misleading and presents false or distorted conclusions. It quotes ERDA officials out of context and in an incomplete manner.

I will not attempt to address each of the statements; rather I will concentrate on those issues that are most important to the public's understanding of the President's proposal. Before dealing with these issues, it is important to understand the underlying reasons for the proposal:

-- First, domestic and foreign demand for uranium enrichment services could require the construction in the United States by the year 2000 of between 9 and 12 plants. Each plant will have a capacity roughly equivalent to each of the 3 existing U.S. plants.

-- Second, the 3 existing plants, which are owned by the Federal Government are fully committed for the remainder of their useful life.

-- Third, a firm commitment to expand capacity must be made soon so that the next plant will be on-line when needed in the mid-1980s.

-- Fourth, the production of enriched uranium is a commercial industrial process which the Government should not have to provide -- particularly in light of the many competing demands for Federal funds. Further, private industry is ready, willing, and able to provide the expanded capacity with only limited and temporary assurances and cooperation from the Federal Government. The limited assistance and temporary assurances are necessary to overcome existing obstacles to establishing new competitive enterprises. These obstacles involve the difficulties of securing long-term financing for very large-scale projects from banks, pension funds, insurance firms, and other normal sources of private financing when: (a) the technology is classified and has been developed by the Government; (b) the plants must be very large in order to be economic; (c) no commercial experience is available; and (d) uranium enrichment production is now a Federal Government monopoly.

-- Fifth, the private undertaking of uranium enrichment activities would avoid a multi-billion dollar Federal budget outlay for new capacity ($40 to $50 billion by the year 2000) and also avoid unnecessary expansion in the Federal establishment.

-- More information related to the President's program is contained in Administrator Seamans testimony of December 2, 1975 before the Joint Committee on Atomic Energy.

There is an overall implication in the article that the taxpayer or consumer would be paying more by the privatization of uranium enrichment as contrasted to keeping it within the Government. This is just not so. The following points address this implication as well as points in need of correction.

-- The article gives the impression that the Administration is dealing with only one private firm -- the Uranium Enrichment Associates (UEA) -- that wishes to provide additional uranium enrichment capacity. This is totally false. In fact, ERDA is now negotiating with four private firms that wish to build uranium enrichment plants. Concluding cooperative agreements with these four firms would be a major step toward the objectives of creating a private competitive uranium enrichment industry and ending the Government's monopoly.

-- The article also states that the UEA project would require "so much Federal support that nuclear fuel costs would rise some $700 million a year, or 34 percent," with electricity consumers paying the bill. This is not true. The statement appears to be based on a misunderstanding of several points. In fact, the cost of uranium enrichment services (and thus cost to electrical consumers) from the proposed privately owned diffusion plant is estimated to be equal to or less than the cost of product from the addition of similar capacity to a Government-owned plant. Also, Federal support would not affect electrical costs to consumers. Finally, under the President's proposal, the temporary assurances are not expected to lead to any net cost to the Government.

-- The article further asserts that the taxpayers would have to invest up to one billion dollars (for stockpiling of enriched uranium) to launch the UEA project and that the savings would thus be a billion dollars "less than advertised." This statement is incorrect. The Government would, in some circumstances, purchase uranium enriching services. If this occurs, the enriched uranium would be a valuable asset for the Government -- which would be sold in the future when no longer needed in the U.S. stockpile, with all Government costs fully recovered.

-- Mr. Benjamin appears to have missed completely the point that the legislation being considered by the Congress provides only a framework for negotiating cooperative agreements with prospective private uranium enrichment firms. No contract could be signed with any of the four firms until the unsigned contract is presented to the Congress and a period of 60 days is provided for approval or disapproval. This extraordinary review will provide added assurance that the public interest is fully protected.

As I mentioned earlier, I have not attempted to respond to all of the assertions made by Mr. Benjamin but have dealt only with four points of misunderstanding of the President's proposal.

It is unfortunate that this complex issue, which requires a maximum of factual reporting and reasoned public debate, has been presented in such a misleading manner.

I would welcome an opportunity to sit down with you and Mr. Benjamin at your earliest convenience to discuss this important subject and clear up these misstatements.

Sincerely,

Signed by Richard W. Roberts

Richard W. Roberts
Assistant Administrator
for Nuclear Energy

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THE WHITE HOUSE
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Janet:

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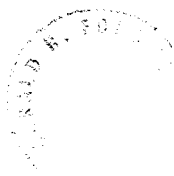
Impeachment File.

Chas.



ADMINISTRATIVELY ~~CONFIDENTIAL~~

THE WHITE HOUSE

WASHINGTON

May 13, 1976

MEMORANDUM FOR: JIM CANNON
JIM CONNOR
BILL KENDALL
CHARLIE LEPPERT
JIM MITCHELL
BOB FRI
BARRY ROTH

FROM: GLENN SCHLEEDE

SUBJECT: POSTURE ON THE JCAE VERSION OF NFAA

As I indicated by phone, the JCAE apparently is headed toward filing a report by Saturday. We still do not have access to a copy of the draft. I assume that Bill Kendall is still after one.

In accordance with our discussions yesterday, there are attached:

- Draft options paper. All that can be said for this is that it collects a number of views. It has a long way to go. Most of it has been reviewed by Barry Roth and parts by Hugh Loweth.

- Draft response to the Ohio Republican Delegation which seeks to describe the proposed committment to the add-on facility at Portsmouth. (Loweth has reviewed).

- Two draft Q&A's:

  . Are you committed to build an add-on plant?
  . Will you reopen the Government order book?

Other than described above, these papers haven't been reviewed or cleared with anyone.

Enclosures.

ADMINISTRATIVELY ~~CONFIDENTIAL~~

SUBJECT: Strategy for Dealing With the Nuclear Fuel Assurance Act as Reported by the JCAE on 5/11/76

Briefly, the Joint Committee on Atomic Energy (JCAE) made two significant changes before they ordered reported last Tuesday the Nuclear Fuel Assurance Act:

-- The Congressional review procedures were revised to require specifically a concurrent resolution of approval within 60 days in the case of each proposed contract before it could be signed. Language we had agreed to provided, in effect, that contracts could be signed unless the Congress passed a concurrent resolution of disapproval.

-- The section of the bill authorizing design and construction planning for a Government-owned add-on plant (as a contingency measure) was revised to authorize and direct ERDA to initiate design, construction planning, construction and operation of an add-on facility. An authorization of $230 million was provided.

ISSUES

-- The first issue is whether we should be so concerned about potential challenges on constitutional grounds by others to the new Congressional review procedures to warrant an attempt to obtain changes in the language. No.

-- The second issue is whether we should be so concerned about feasibility of getting Congressional approval of contracts within 60 days to warrant an attempt to get changes in the bill. No.

-- the third issue is whether we should be concerned about the change in language with respect to the proposed Government-owned add-on facility. NO.

Constitutionality. The so-called "committee vetoes," "one-House vetoes," "two-House vetoes," and other "coming into agreement" provisions generally raise at least two problems of constitutional dimensions. First, the Executive Branch traditionally argues that these provisions subvert the legislative process which is required by the Constitution. Secondly, we assert that these provisions encroach upon the President's constitutionally based veto powers. In addition to these two bases of objection, a third Constitutional defect on occasion surfaces in the context of Congressional attempts to limit exclusively Executive functions; e.g., the conduct of foreign affairs.

With respect to the current proposal, the White House Counsel advises that:

1. The proposal does not appear to interfere substantially with the President's veto powers since the Congress could require separate legislative authorization for each contract and the proposed power of approval is only permissive and not mandatory in nature;

2. There is not under consideration here any matter which is exclusively Executive in nature; and

3. The principal Constitutional defect raised by the proposal is that subsequently approved contracts based solely on a concurrent resolution would not be authorized as a matter of law.

Although such contracts would not be challenged by the Executive Branch on this last point, this point could be cited by someone opposed to the enrichment program in order to challenge the contract in court. It is unlikely that such a challenge would be successful, but it could cause some delay. This problem would be overcome if the Congress were to approve the contract by a joint resolution.

The Department of Justice has never taken a position on the constitutionality of such concurrent resolutions of approval. However, Justice notes that the present provision is substantially less objectionable on

on constitutional grounds than the concurrent resolution of disapproval. It is the opinion of the White House Counsel that the problem is whether acceptance of this review requirement could:

-- raise questions of consistency with your recent veto of the International Security Assistance Arms Exports Control Act of 1976.

-- serve as a precedent for future Congressional encroachment attempts.

Counsel further advises that you have the option of accepting the language without objecting or recommending instead a joint resolution of approval. A joint resolution would have the additional benefit of approving a contract by law even if more than 60 days had elapsed.

There is a potential that signaling acceptability of the JCAE-approved bill could impact negotiations toward an acceptable Arms Support Control bill (NSC staff and Congressional Relations, please check the following.) This potential has been considered and NSC staff and Max Friedersdorf advise that they do not believe that it is a significant problem even though the Assistance bill will not be resolved until early June.

Practicable Problem of Getting Contracts Approved. There is no question but that obtaining Congressional approval will be more difficult than avoiding disapproval. However, your advisers are split as to whether the new review requirement presents insurmountable problems:

-- Some feel that the time allowed on the bill (30 days for action by the JCAE and 30 days for Floor consideration) is not enough time and that disapproval through inaction is a virtual certainty.

-- Others believe that it will be possible to obtain Congressional approval (though more than 60 days may be needed) because the Administration will have an opportunity to make clear the budgetary impact if the Congress fails to approve a contract. Furthermore, any subsequent funding required for building a Government-owned plant in lieu of private plants would have to be accommodated within Congressional budget limitations.

Significance of the Language dealing with a Government add-on plant. Your advisers do not agree fully on the significance of the add-on plant language.

-- Some feel that it is of little significance because there are so many hurdles that must be crossed before the plant could become a reality, including: (a) the need for an environmental impact statement, (b) considerable uncertainty as to the availability of electric power, and (c) the need for additional Congressional authorization and appropriations in future years.

-- Others feel that the language is a problem because:

  . You are, in effect, being forced to make a good faith commitment to proceed with the construction and operation of an add-on plant.

  . Such a commitment can be avoided only by strenuous efforts to deep the commitment unclear.

  . The strong Congressional interest in building an add-on can still lead to some kind of binding requirement -- before Congressional action is completed -- to build the add-on plant before the private diffusion plant goes ahead.

Views of the Prospective Private Enrichment Firms. We have asked the four prospective firms to review the revised bill and give us their views. Of the three responses received thus far (UEA, Exxon Nuclear, Garrett Corporation), the views have been the same:

-- They do not like the new language because it will be more difficult to get approval.

-- The new approval procedure will not deter them from proceeding, or significantly impact their enthusiasm. You should recognize, however, that the incremental costs to the private firms who hold on for another four or five months is not that great.

-- They do not regard the language with respect to the add-on plant as a problem:

  . UEA does not regard it as a problem because they fully expect to have a plant on-line before a Government plant would be available. Further, UEA assumes that the Government will not reopen its order book. Thus, the prospective add-on plant would not be in competition with UEA.

- The two centrifuge firms that have responded have made it clear that they would object strongly if both the UEA plant and an add-on plant were constructed because it would interfere with their markets. However, they do not believe that both plants would get built and have indicated that they would oppose strongly any future appropriations for an add-on plant once the NFAA is approved and they are safely on their way with their own ventures.

ALTERNATIVES

Alt. #1. Work for passage of the bill as ordered reported by the JCAE. Do not attempt to obtain changes in the Congressional approval requirement with the Committee or on the Floor nor signal any Constitutional objections. Assume the add-on plant language is not a serious problem. Plan to sign the bill if it is passed by the Congress.

-- The advantage is that we would be most likely to get the bill passed following this approach.

-- The principal disadvantages are:

  - The uncertainty with respect to Congressional approval of individual contracts.

  - The potential need for you to make a good faith commitment to build an add-on plant at Portsmouth. (This disadvantage could be mitigated to some extent by an assurance that you would not have to commit to the size of the plant and that it might be satisfactory to proceed with some addition to Portsmouth if: (a) a source of supply for the currently overloaded order book, and (b) as a back up for private plants.)

Alt #2. Immediately notify the JCAE of objections to the Congressional review provision on grounds that: (a) it is an unreasonable requirement that could have the effect of preventing private enrichment and because it leaves too much uncertainty; and (b) it provides the potential for third parties to challenge contracts on Constitutional grounds. Recommend a substition of a joint (rather than concurrent) resolution of approval. Also seek some extension of the 60-day approval. Do not object to the language on the add-on plant. If the Congress makes no changes, plan to approve the legislation in its present form.

-- The advantages of this approach are that it would create the proper record, it maintains consistency in your position on the concurrent resolution, and permits Congress to act after the 60th day. It could conceivably result in a more acceptable approval requirement. The JCAE has come a long way in the whole issue and may now be approachable on this one remaining issue.

-- The disadvantages are that it would have no real impact on the practical problem of getting contracts approved. Further, it appears that Chairman Pastore was fully aware of the implications of the changes and would have no intention of making any changes.

Alt. #3. Notify the JCAE of the objections to the bill on the grounds identified in Alt. #2, plus objections to the add-on plant language.

-- The advantage of this approach is that if the JCAE were responsive, a better bill might result.

-- The principal disadvantage of this approach is that we are, for all practical purposes, already committed to continue work on an add-on plant -- though we are not committed to construction and operation of such a plant.

RECOMMENDATIONS AND DECISIONS

_____ Alt. #1. Raise no objection. Work for passage of the bill as ordered reported.

_____ Alt. #2. Seek changes in approval requirements. Make a record with the JCAE, but plan to sign the bill even if no changes.

_____ Alt. #3. Seek changes in approval requirement and add-on language before the bill is brought to the floor.

CAUTION: THIS LETTER ASSUMES WE WOULD ACCEPT THE BILL AS ORDERED REPORTED.

DRAFT
5/13/76

DRAFT RESPONSE TO OHIO REPUBLICAN DELEGATION - KEY POINT p. 3.

Dear _____:

Thank you very much for your recent letter to the President concerning the critical need to expand the capacity in the United States to provide uranium enrichment servifes that are required to supply fuel for commercial nuclear power plants here and abroad. The Administration agrees fully that this is a matter of utmost importance to the Nation and should be resolved quickly because of its importance for: (a) the continued expansion of nuclear power domestically; (b) the ability of the U.S. to continue to be a reliable supplier of uranium enrichment services to other countries; and (c) the importance of both these factors in achieving our Nation's energy, economic, and non-proliferation objectives.

An early decision on the matter is also important because of its potentially far-reaching implications. By the year 2000, domestic and foreign demand for uranium enrichment services could require the construction in the U.S. of additional capacity equivalent to between 9 and 12 plants roughly the size of each of the three existing plants. If these plants were financed and owned by the Federal Government, the budget outlay would be between $40 and $50 billion. It would take years before the investment made by the taxpayers would be returned through revenues from the enrichment plants.

I am sure that you will agree that it is highly questionable for the Federal Government to follow a path that would maintain the current Government monopoly in providing uranium enrichment services when:

-- The production of enriched uranium is a commercial, industrial process of the type normally provided by private industry -- not the Federal Government, particularly in light of the many competing demands for Federal funds.

-- Private industrial ventures are ready, willing and able to assume responsibility for financing, building, owning, and operating uranium enrichment plants subject only to the need for limited cooperation and temporary assurances by the Federal Government.

The Joint Committee on Atomic Energy (JCAE) conducted exhaustive hearings on the President's proposed Nuclear Fuel Assurance Act (NFAA) which he submitted to Congress on June 26, 1975. We are pleased that the JCAE, on May 11, 1976, ordered reported the NFAA with some changes from the President's proposal. The revised bill appears to be an acceptable approach for moving ahead, and one which deals in a very effective way with the interests you have expressed on behalf of the people of Ohio.

Briefly, the bill ordered reported by the JCAE provides the frameword for the Energy Research and Development Administration (ERDA) to negotiate cooperative agreements with prospective private enrichment firms and to bring each of those agreements to the Congress for review and approval. This approach would permit us to begin transition to the private, competitive industry. Of even greater importance to you, Section 4 of the bill authorizes and directs the Administrator of ERDA to initiate constructions planning and design, construction and operation activities for the expansion of an existing uranium enrichment facility. As you may know, ERDA already has work underway on the design and construction planning necessary for the construction of a major addition to the uranium enrichment plant located at Portsmouth, Ohio. The President recently asked the Congress to approve $12.6 million to continue this work during the balance of FY 1976 and the Transition Quarter. Section 4 of the bill makes clear that the Congress intends this work to continue. Assuming that the bill passes, I intend to submit to the Congress a budget amendment requesting $170 million for FY 1977 to continue work authorized by Section 4.

I should point out that some of the points made in the letter you signed with other members of the Ohio delegation about the President's proposal and the merits of the alternative approach are apparently based on some misunderstanding of

pertinent information. I am enclosing a brief paper which comments on the points you have made to help assure that there is no continuing misunderstanding that could interfer with prompt action of the legislation.

Sincerely,

Enclosure

ARE YOU FIRMLY COMMITTED TO BUILD AN ADD-ON PLANT AT PORTSMOUTH

Question

We still cannot tell from what you have said so far whether the Administration is really committed to build an add-on plant at Portsmouth or whether you are regarding that as a contingency -- to be built only if private ventures don't succeed.

Answer

The President is committed to proceed with the action authorized by Section 4 of the NFAA if the Congress passes the bill as reported. Design and construction planning work has been underway for some time. The President recently requested Congressional approval of $12. 6 million to continue the work during the remainder of FY 1976 and the transition quarter. If the Congress passes the NFAA, he is committed to request $170 million to continue the work necessary to the construction fo the plant.

As a practical matter, no one can make an irrevocable commitment at this time to build and operate an add-on enrichment plant at Portsmouth for several reasons. For example:

- A final decision to construct such a plant would have to be proceeded by full compliance with the National Environmental Policy Act (NEPA) including all the steps leading to a final Environmental Impact Statement (EIS). An appearance of a firm commitment at this time might prove to be grounds for later challenge as to whether NEPA had been observed.

- There are remaining uncertainties as to the cost and feasibility of proceeding with the add-on plant for such reasons as:

  - The continuing uncertainty about the availability of electrical power because it would be necessary to build two or more new coal fired or nuclear plants. Whether or when such plants could be built is unclear.

  - The plan to use a larger compressor-converter system which has heretofore not been demonstrated or produced.

REOPEN ORDER BOOK?

Question

Now that you plan to proceed with the steps necessary to build a Government-owned add-on enrichment plant at Portsmouth, Ohio, are you prepared to reopen the ERDA order book for uranium enrichment services?

Answer

We do not plan to reopen the Government order book. First, reopening the Government "order book" would be directly contrary to the spirit and intent of the NFAA -- which has as a major purpose the creation of a private competitive nuclear fuel industry.

A move by the Government to take orders would:

- put the Government in direct competition for foreign and domestic customers with the four private ventures that are prepared to finance, build, own and operate enrichment plants under the arrangements provided for in the NFAA.

- probably lead potential customers of the private ventures to hold off on placing commitments on the assumption that the Government would provide enrichment services at a lower, subsidized cost as in the case of present plants -- even though there is strong reason to believe that costs from a Government-owned add-on plant will be higher rather than lower than the proposed private stand-alone plant.

Furthermore, our latest assessments are that there is adequate demand available in the form of existing ERDA contract commitments -- if tails assay is reduced to the level that makes sense in light of today's uranium economics -- to utilize additional capacity that could be provided at Portsmouth.

Also, the output from an add-on at Portsmouth could be used to increase the Government stockpile of enriched uranium and also serve as a backup to private ventures without getting the Government in direct competition with private ventures.

Marked up.. cy

February 23, 1976

1 copy file E-PE

Honorable John O. Pastore, Chairman
Joint Committee on Atomic Energy

Dear Mr. Chairman:

During the course of the Joint Committee's recent hearings on the President's proposed Nuclear Fuel Assurance Act of 1975 (S.2035), you and other members of the Committee expressed concern that the proposed Act did not provide sufficient opportunity for Congressional oversight of cooperative agreements negotiated pursuant to the Act. You proposed that additional Congressional review and approval requirements be included in the Act which would be comparable to those provided for in the case of Agreements for Cooperation in Section 123(d) of the Atomic Energy Act, as amended.

Subsequently, ERDA staff met with JCAE staff to review language that would accomplish this objective. We understand that the proposed language would, in brief, provide that each unsigned cooperative arrangement be submitted for a 60-day period of Congressional consideration. The 60-day period would allow 30 days for JCAE review and recommendations to each House of Congress and also require action within an additional 30-day period by each House in the form of a concurrent resolution of approval or disapproval. A comparative draft of the original and the revised S.2035 showing the revisions is attached.

I am pleased to advise you that the amendments you proposed are acceptable. I would like to commend the JCAE staff for their constructive approach to the development of the revised language. They made an important contribution to the removal of the remaining obstacle to action on this bill which is of great importance to the Nation.

Appv 14

We are looking forward to favorable Committee action on the revised bill at the earliest possible date.

Sincerely,

S/

Robert C. Seamans, Jr.
Administrator

Attachment:
Revised Bill

To authorize cooperative arrangements with private enterprise for the provision of facilities for the production and enrichment of uranium enriched in the isotope-235, to provide for authorization of contract authority therefor, to provide a procedure for prior congressional review and disapproval of proposed arrangements, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, J. 63-057 That this Act may be cited as the "Nuclear Fuel Assurance Act of 1975".

SEC. 2. Chapter 5 (production of special nuclear material) of the Atomic Energy Act of 1954, as amended, is amended by adding at the end thereof the following section.

"SEC. 45. COOPERATIVE ARRANGEMENTS FOR PRIVATE PROJECTS TO PROVIDE URANIUM ENRICHMENT SERVICES.—

"a. The Administrator of Energy Research and Development ~~Administration~~ is authorized, subject to the prior congressional review procedure set forth in subsection b. of this section without regard to the provisions of section 169 of this Act, to enter into cooperative arrangements with any person or persons for such periods of time as the Administrator of ~~the Energy Research and Development Administration~~ may deem necessary or desirable for the purpose providing such Government

cooperation and assurances as the Administrator may deem appropriate and necessary to encourage the development of a competitive private uranium enrichment industry and to facilitate the design, construction, ownership, and operation by private enterprise of facilities for the production and enrichment of uranium enriched in the isotope-235 in such amounts as will contribute to the common defense and security and encourage development and utilization of atomic energy to the maximum extent consistent with the common defense and security and with the health and safety of the public; including, inter alia, in the discretion of the Administrator,

"(1) furnishing technical assistance, information, inventions and discoveries, enriching services, materials, and equipment on the basis of recovery of costs and appropriate royalties for the use thereof;

"(2) providing warranties for materials and equipment furnished;

"(3) providing facility performance assurances;

"(4) purchasing enriching services;

"(5) undertaking to acquire the assets or interest of such person, or any of such persons, in an enrichment facility, and to assume obligations and liabilities (including debt) of such person, or any of such persons, arising out of the design, construction, ownership, or operation for a defined period of such enrichment facility in the

event such person or persons cannot complete that enrichment facility or bring it into commercial operation: Provided, That any undertaking, pursuant to this subsection (5), to acquire equity or pay off debt, shall apply only to ~~individuals~~ investors or lenders who are citizens of the United States, or ~~to any~~ are a corporation or other entity organized for a common business purpose, which is owned or effectively controlled by citizens of the United States; and

"(6) determining to modify, complete, and operate that enrichment facility as a Government facility or to dispose of the facility at any time, as the interest of the Government may appear, subject to the other provisions of this Act.

"b. ~~Before the Administrator enters into any arrangement or amendment thereto under the authority of this section, or before the Administrator determines to modify, or complete and operate any facility or to dispose thereof, the basis for the proposed arrangement or amendment thereto which the Administrator proposes~~

to execute (including the name of the proposed participating person or persons with whom the arrangement is to be made, a general description of the proposed facility, the estimate amount of cost to be incurred by the participating person or persons, the incentives imposed by the agreement on the person or persons to complete the facility as planned and operate it successfully for a defined-period, and the general features of the proposed arrangement or amendment), or the plan for such modification, completion, operation, or disposal by the Administrator, as appropriate, shall be submitted to the Joint Committee on Atomic Energy, and a period of forty five days shall elapse while Congress is in session (in computing such forty five days, there shall be excluded the days on which either House is not in session because of adjournment for more than three days) unless the Joint Committee by resolution in writing waives the conditions of, or all or any portion of, such forty five day period: Provided, however, That any such arrangement or amendment thereto, or such plan, shall be entered into in accordance with the basis for the arrangement or plan, as appropriate, submitted as provided herein".

"b. The Administrator shall not enter into any arrangement or amendment thereto under the authority of this section, modify, or complete and operate any facility or dispose thereof, until the proposed arrangement or amendment thereto which the Administrator proposes to execute, or the plan for such modification, completion, operation or disposal by the Administrator, as appropriate, has been submitted to the Joint Committee on Atomic Energy, and a period of sixty days has elapsed while Congress is in session without passage by the Congress of a concurrent resolution stating in substance that it does not favor such proposed arrangement or amendment or plan for such modification, completion, operation, or disposal (in computing such sixty days, there shall be excluded the days on which either House is not in session because of adjournment for more than three days).": Provided, That prior to the elapse of the first thirty days of any such sixty-day period the Joint Committee shall submit a report to the Congress of its views and recommendations respecting the proposed arrangement, amendment or plan and an accompanying proposed concurrent resolution stating in substance that the Congress favors, or does not favor, as the case may be, the proposed arrangement, amendment or plan. Any such concurrent

resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) within twenty-five days and shall be voted on within five calendar days thereafter, unless such House shall otherwise determine.

SEC. 3. The Administrator of the Energy Research and Development ~~Administration~~ is hereby authorized to enter into contracts for cooperative arrangements; without fiscal year limitation, pursuant to section 45 of the Atomic Energy Act of 1954, as amended, in an amount not to exceed in the aggregate $8,000,000,000 ~~as may be approved in an appropriation Act~~ but in no event to exceed the amount provided therefor in a prior appropriation Act: Provided, That the timing, interest rate, and other terms and conditions of any notes, bonds, or other similar obligations secured by any such arrangements shall be subject to the approval of the Administrator with the concurrence of the Secretary of the Treasury. In the event that liquidation of part or all of any financial obligations incurred under such cooperative arrangements should become necessary, the Administrator of ~~the Energy Research and Development Administration~~ is authorized to issue to the Secretary of the Treasury notes or other obligations up to the levels of contract authority approved in an appropriation Act pursuant to the first sentence of this section in such form and denomination, bearing such maturity and subject to such terms and conditions as may be prescribed by the Administrator with the

approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturity at the time of issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and, for that purpose, he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. There are authorized to be appropriated to the Administrator such sums as may be necessary to pay the principal and interest on the notes or obligations issued by him to the Secretary of the Treasury.

SEC. 4. The Administrator of ~~the~~ Energy Research and Development ~~Administration~~ is hereby authorized and directed to initiate construction planning and construction and operation and design activities for expansion of an existing uranium enrichment facility. There ~~is~~ are hereby authorized to be appropriated $230 million ~~such sums as may be necessary~~ for this purpose.

Changes per BRUCE MERCER - ERDA
5/11/76

To REFLECT COMMITTEE MARK-UP

ELEMENTS OF A COMPROMISE ON URANIUM ENRICHMENT

- Sections 1,2 and 3 of the NFAA as submitted by the President and then modified as desired by the JCAE to provide that individual contracts shall be subject to a period of 60 days review by each house of Congress and a concurrent resolution of approval or disapproval.

- Section 4 which authorized design and construction planning could be modified to authorize $150 to $200 million for FY 1977 to continue work on a contingency ("hedge") plan which contemplates a Government-owned add-on enrichment facility. This plan would be followed at least until it was clear that a stand-alone diffusion plant could be built. It might also be continued beyond that time if it appeared that additional diffusion plant capacity were necessary before centrifuge technology was available and no private firm proposed to build the additional diffusion capacity.

- The Administration would ~~send up a supplemental request~~ for $6 million in FY 1976 and $4 million in the transition quarter to continue architect-engineering work for the contingency add-on plan.

- The Administration would send up a supplemental request for FY 1977 funding for the add-on plant. The specific amount has not yet been determined by ERDA and OMB but is in the range of $150 to $200 million. A Presidential request would remove from the JCAE and the Appropriations Subcommittee the onus of increasing the President's budget request by $200+ million.

- ERDA and UEA would reach an immediate agreement to work together to assure that planning, additional procurement and other activities undertaken over the next year or so would have as many common elements as possible and not involve unnecessary competition for resources. For example, there should be no need to place duplicate orders for construction equipment and nickel powder which could be used in either a stand alone plant or an add-on plant. No exchange of funds need be involved.