

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TENTH LEGISLATURE
4

5 **Legislative Document**

No. 2030

7 H. P. 2096 House of Representatives, February 24, 1982
Approved for introduction by the Legislative Council pursuant to
Joint Rule 26.

8 Referred to the Committee on Public Utilities. Sent up for concur-
rence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Kany of Waterville.

Cosponsor: Senator Trafton of Androscoggin.

9
10 STATE OF MAINE
11

12 IN THE YEAR OF OUR LORD
13 NINETEEN HUNDRED AND EIGHTY-TWO
14

15 AN ACT to Ensure Funding for the Eventual
16 Decommissioning of and Spent Fuel Disposal
17 at Any Nuclear Power Plant.
18

19 Be it enacted by the People of the State of Maine as follows:

20 35 MRSA c. 269, sub-c. III is enacted to read:

21 SUBCHAPTER III

22 DECOMMISSIONING AND SPENT FUEL DISPOSAL

23 §3351. Findings

24 The Legislature finds that timely proper decommission-
25 ing and disposal of spent fuel at any nuclear power plant
26 is essential to protect public health, safety and the envi-
27 ronment at the time of closing that nuclear power plant and
28 that the cost will be significant. To ensure that customers
29 who receive the benefits of such facilities pay for these
30 decommissioning and disposal costs, the Legislature finds
31 that it is prudent for the State to require the licensee

1 operating any nuclear power plant to collect sufficient
2 funds during the remaining useful life of the plant to pay
3 for these costs. The Legislature finds that the best way to
4 ensure that the funds collected will be available when they
5 are needed for decommissioning and disposal is to require
6 that the funds be placed in separate decommissioning and
7 spent fuel disposal trust funds for each plant and invested
8 by a trustee until they are needed for decommissioning and
9 disposal of spent fuel. The Legislature finds that funds
10 set aside for decommissioning and spent fuel disposal pro-
11 tect the people of the State, and thus serve an essential
12 governmental function, that payment of taxes on these funds
13 would be an unreasonable and inappropriate burden on the
14 ratepayers and that the income earned by the funds should be
15 tax exempt and payments made to the funds by the licensee
16 should be tax deductible. The Legislature finds that assur-
17 ance is needed that funds will be available for the cost of
18 decommissioning and spent fuel disposal which would occur if
19 a nuclear power plant is prematurely closed.

20 §3352. Definitions

21 As used in this subchapter, unless the context indi-
22 cates otherwise, the following terms have the following
23 meanings.

24 1. Closing. "Closing" means the time at which a
25 nuclear power plant ceases to generate electricity and is
26 retired from active service, as determined by the Public
27 Utilities Commission.

28 2. Decommissioning. "Decommissioning" means the
29 series of activities undertaken at the time of closing of a
30 nuclear power plant to ensure that the final disposition of
31 the site or any radioactive components or material associ-
32 ated with the plant is accomplished safely, in compliance
33 with all applicable state and federal laws. Decommissioning
34 includes activities undertaken to prepare a nuclear power
35 plant for final disposition, to monitor and maintain it
36 after closing and to effect final disposition of any radio-
37 active components of the nuclear power plant.

38 3. Escrow account. "Escrow account" means an account
39 established under Public Utilities Commission rules to hold
40 funds collected under an interim financing plan promulgated
41 under section 3353, subsection 5, or section 3354, subsec-
42 tion 5, temporarily until a trust fund is established.

43 4. Financing plan. "Financing plan" means a plan
44 approved by the commission under section 3353 or 3354.

1 5. Fund committee. "Fund committee" means a committee
2 established to have overall responsibility, as described in
3 section 3355, for the decommissioning and spent fuel dis-
4 posal trust funds.

5 6. Licensee. "Licensee" means the holder of the oper-
6 ating permit from the United States Nuclear Regulatory Com-
7 mission for a nuclear power plant.

8 7. Nuclear power plant or plant. "Nuclear power
9 plant" or "plant" means a nuclear fission thermal power
10 plant.

11 8. Owner. "Owner" means any electrical company which
12 owns any portion of a nuclear power plant, whether directly
13 or indirectly, through ownership of stock in a company which
14 owns any portion of a nuclear power plant, through member-
15 ship in a holding company which owns any portion of a
16 nuclear power plant or through other means.

17 9. Premature closing. "Premature closing" means the
18 closing of a nuclear power plant before the projected date
19 of decommissioning or spent fuel disposal, as projected in
20 the financing plan under section 3353 or 3354.

21 10. Prompt removal and dismantlement. "Prompt removal
22 and dismantlement" means to immediately remove radioactive
23 or radioactively contaminated material down to allowable
24 residual levels which permit release of the property for
25 unrestricted access.

26 11. Spent fuel disposal. "Spent fuel disposal" means
27 the activities undertaken to safely dispose of spent fuel
28 offsite, and in compliance with all applicable state and
29 federal laws.

30 12. Trustee. "Trustee" means a fiduciary as defined
31 under Title 18-A, section 1-201, which fiduciary shall ad-
32 minister the decommissioning and spent fuel disposal trust
33 funds in accordance with Title 18-A, Article VII, subject to
34 sections 3354 and 3356.

35 13. Trust fund or fund. "Trust fund" or "fund" means
36 a trust fund set up as described in section 3356 to hold
37 moneys for the eventual purpose of decommissioning or spent
38 fuel disposal.

39 §3353. Decommissioning financing plans; physical decommis-
40 sioning plan

1 1. Submission of plans. Decommissioning financing
2 plans shall be submitted as follows.

3 A. Any licensee receiving a certificate of public con-
4 venience and necessity under section 13-A on or after
5 the effective date of this section for a nuclear power
6 plant shall submit a decommissioning financing plan for
7 the plant to the commission not less than one year
8 prior to beginning commercial operation of the plant.

9 B. Any licensee operating a nuclear power plant on the
10 effective date of this Act shall submit a proposed de-
11 commissioning financing plan for the plant to the
12 Public Utilities Commission as soon as possible, but no
13 later than 60 days after the effective date of this Act
14 or such later date as the Public Utilities Commission
15 may consider appropriate.

16 2. Content of plan. A decommissioning financing plan
17 submitted under subsection 1 shall include:

18 A. An estimate of the time of closing of the nuclear
19 power plant;

20 B. An estimate of the cost of decommissioning the
21 plant expressed in dollars current in the year the plan
22 is prepared;

23 C. The share of the estimated cost attributed to each
24 electrical company to which the plant supplies power;

25 D. Plans for periodic review and updating of the plan,
26 including the cost estimated under paragraph B, con-
27 sistent with the provisions of subsection 6;

28 E. Plans for establishing as soon as possible a decom-
29 missioning trust fund adequate to pay the cost esti-
30 imated under paragraph B, consistent with subsection 4
31 and section 3356;

32 F. Plans for insuring against or otherwise financing
33 any shortfall in the fund resulting from a premature
34 closing of the nuclear power plant;

35 G. Assurance of responsibility in the event of insuf-
36 ficient assets, in accordance with section 3357; and

37 H. Any other information related to the financing of
38 decommissioning which the commission requests.

1 3. Approval of plan. The procedure for approval of
2 plans is as follows.

3 A. The commission shall conduct a public hearing on
4 the proposed decommissioning financing plan.

5 B. The commission shall approve the decommissioning
6 financing plan if it finds that the licensee, in the
7 judgment of the Public Utilities Commission, provided
8 reasonable assurance that:

9 (1) The estimated time of closing of the nuclear
10 power plant and the estimated cost of decommis-
11 sioning are reasonable;

12 (2) The share of the estimated cost for each
13 electrical company to which the plant supplies
14 power is reasonable;

15 (3) The principal and income which will have ac-
16 cumulated in the decommissioning trust fund at the
17 time of closing the plant will be adequate to
18 cover the cost of decommissioning;

19 (4) The trustee of the fund will ensure that the
20 funds in the trust are judiciously invested and
21 will adequately protect the funds until decommis-
22 sioning is completed;

23 (5) The funds in the fund cannot be withdrawn
24 unless approved by the Decommissioning and Spent
25 Fuel Disposal Fund Committee under section 3356,
26 subsection 5, prior to completion of decommission-
27 ing;

28 (6) Contributions to the fund are equitably
29 spread over the useful life of the plant to the
30 extent feasible;

31 (7) The plans for insuring against or otherwise
32 financing any shortfall in the fund resulting from
33 a premature closing are adequate and reasonable;

34 (8) The plan reflects full compliance with
35 section 3357; and

36 (9) The plan will periodically be reviewed and
37 revised to reflect more closely the costs and
38 available techniques for decommissioning. This
39 update shall be at least every 5 years.

1 C. If the commission finds that the decommissioning
2 financing plan does not meet the criteria under para-
3 graph B, the commission shall reject the plan and order
4 that it be modified as the commission deems necessary
5 to meet those criteria.

6 D. The commission shall take final action on the pro-
7 posed decommissioning financing plan within 180 days
8 after the filing date. The filing date shall be the
9 date when complete information has been filed by the
10 applicant, as determined by the commission. If the
11 commission does not notify the applicant of any defi-
12 ciencies in the information in the application within
13 60 days of receipt, the application shall be considered
14 complete as of the date of receipt.

15 4. Cost of decommissioning. Based upon the plan, the
16 Public Utilities Commission shall establish the cost of de-
17 commissioning of any nuclear power plant located in the
18 State and shall establish a schedule of monthly payments
19 into the decommissioning trust fund as necessary and conven-
20 ient to meet that cost at the time of closing. The schedule
21 shall be established so that contributions received by the
22 licensee are paid to the fund as soon after receipt as
23 practicable. For purposes of cost estimates, the method of
24 decommissioning shall be the method of prompt dismantling
25 and removal, unless the United States Nuclear Regulatory
26 Commission or its successor requires another method. The
27 commission shall periodically review the cost of decommis-
28 sioning in accordance with subsection 6, and adjust the size
29 of the payments accordingly.

30 5. Plans required for operation and decommissioning.
31 Plans are required for operation and decommissioning as fol-
32 lows.

33 A. No licensee which receives a certificate of public
34 convenience and necessity after the effective date of
35 this section may commence operation of a nuclear power
36 plant unless it has a decommissioning financing plan
37 approved by the commission under subsection 3.

38 B. The Public Utilities Commission shall promulgate an
39 interim decommissioning financing plan one year after
40 the effective date of this section, for any licensee
41 which does not have a decommissioning financing plan
42 approved under subsection 3. Payments shall commence
43 immediately under the interim decommissioning financing
44 plan and be deposited in an escrow account. That
45 escrow account may be invested in investments permit-

1 ted for the trust fund under section 3356, subsection
2 3, paragraph B. When a decommissioning plan is
3 approved and a decommissioning trust fund established,
4 the interim plan shall terminate, and the money in the
5 escrow account shall be transferred to the fund.

6 6. Periodic review of plan. Decommissioning financing
7 plans shall be periodically reviewed as follows.

8 A. If the commission approves a decommissioning
9 financing plan under subsection 3, the commission
10 shall, at least every 5 years and annually in the 5
11 years preceding scheduled closing, review the financing
12 plan to assess its adequacy. If changed circumstances
13 make a more frequent review desirable or if the company
14 operating the nuclear power plant requests it, the com-
15 mission may review the plan after a shorter time inter-
16 val. The review shall include, but not be limited to,
17 the following considerations:

18 (1) The estimated date of closing the plant;

19 (2) The estimated cost of decommissioning;

20 (3) The reasonableness of the method selected for
21 cost estimate purposes;

22 (4) The size and growth rate of the decommission-
23 ing trust fund, taking into account the effect of
24 inflation; and

25 (5) The adequacy of the assurance against
26 shortfall required under subsection 2, paragraph
27 F.

28 B. After review under paragraph A, the commission may
29 order such changes in the decommissioning financing
30 plan as it deems necessary to make the plan comply with
31 the criteria in subsection 3, paragraph B.

32 7. Physical decommissioning plan. At least 3 years
33 prior to closing a nuclear power plant, the licensee shall
34 submit a physical decommissioning plan to the Governor and
35 the commission, with updates annually thereafter.

36 The commission shall review the plan to ascertain its con-
37 tents and determine under subsection 6, the adequacy of the
38 decommissioning fund to pay for that plan, but not to dupli-
39 cate the health and safety review conducted by the United
40 States Nuclear Regulatory Commission or its successor. The

1 Public Utilities Commission is designated as lead agency for
2 determination that all necessary state permits have been
3 obtained. The commission shall refer the physical decommis-
4 sioning plan to all interested agencies in order to ensure
5 that it complies with all applicable law. Those agencies
6 shall inform the commission when they issue any licenses or
7 permits or take any other final action. No licensee may
8 decommission a nuclear power plant unless the physical de-
9 commissioning plan has been submitted to the commission and
10 the commission certifies that all necessary permits and
11 licenses have been received. The one-year limit does not
12 apply to decommissioning after the premature closing of the
13 plant. Then, a decommissioning plan must be submitted as
14 soon as possible, and in no case later than 9 months after
15 the premature closing.

16 §3354. Spent fuel disposal financing plans; physical dis-
17 posal plan

18 1. Submission of plans. Spent fuel disposal financing
19 plan shall be submitted as follows.

20 A. Any licensee receiving a certificate of public con-
21 venience and necessity under section 13-A on or after
22 the effective date of this section for a nuclear power
23 plant shall submit a spent fuel disposal financing plan
24 for the plant to the commission not less than one year
25 prior to beginning commercial operation of the plant.

26 B. Any licensee operating a nuclear power plant on the
27 effective date of this Act shall submit a proposed
28 spent fuel disposal financing plan for the plant to
29 the Public Utilities Commission as soon as possible,
30 but no later than 60 days after the effective date of
31 this Act or such later date as the Public Utilities
32 Commission may consider appropriate.

33 2. Content of plan. A spent fuel disposal financing
34 plan submitted under subsection 1 shall include:

35 A. An estimate of the time of closing of the nuclear
36 power plant and of the time when spent fuel disposal
37 facilities will be available;

38 B. An estimate of the cost of spent fuel disposal, at
39 the time of closing, expressed in dollars current in
40 the year the plan is prepared, if no spent fuel were
41 disposed of before the plant's closing;

1 C. The share of the estimated cost attributed to each
2 electrical company to which the plant supplies power;

3 D. Plans for periodic review and updating of the plan,
4 including the cost estimated under paragraph B, con-
5 sistent with the provisions of subsection 6;

6 E. Plans for establishing as soon as possible a spent
7 fuel disposal trust fund adequate to pay the cost esti-
8 mated under paragraph B, consistent with subsection 4
9 and section 3356;

10 F. Plans for insuring against or otherwise financing
11 any shortfall in the fund resulting from a premature
12 closing of the nuclear power plant;

13 G. Assurance of responsibility in the event of insuf-
14 ficient assets, in accordance with section 3357; and

15 H. Any other information related to the financing of
16 spent fuel disposal which the commission requests.

17 3. Approval of plans. The procedure for approval of
18 plans is as follows.

19 A. The commission shall conduct a public hearing on
20 the proposed spent fuel disposal financing plan.

21 B. The commission shall approve the spent fuel dis-
22 posal financing plan if it finds that the licensee, in
23 the judgment of the Public Utilities Commission, pro-
24 vided reasonable assurance that:

25 (1) The estimated time of closing of the nuclear
26 power plant and the estimated cost of spent fuel
27 disposal are reasonable;

28 (2) The share of the estimated cost for each
29 electrical company to which the plant supplies
30 power is reasonable;

31 (3) The principal and income which will have ac-
32 cumulated in the spent fuel disposal trust fund at
33 the time of closing the plant will be adequate to
34 cover the cost of spent fuel disposal;

35 (4) The trustee of the fund will ensure that the
36 funds in the trust are judiciously invested and
37 will adequately protect the funds until spent fuel
38 disposal is completed;

1 (5) The funds in the fund cannot be withdrawn
2 unless approved by the Decommissioning and Spent
3 Fuel Disposal Fund Committee under section 3356,
4 subsection 5, prior to completion of spent fuel
5 disposal;

6 (6) Contributions to the fund are equitably
7 spread over the useful life of the plant to the
8 extent feasible;

9 (7) The plans for insuring against or otherwise
10 financing any shortfall in the fund resulting from
11 a premature closing are adequate and reasonable;

12 (8) The plan reflects full compliance with
13 section 3357; and

14 (9) The plan will periodically be reviewed and
15 revised to reflect more closely the costs and
16 available techniques for spent fuel disposal.
17 This update shall be at least every 5 years.

18 C. If the commission finds that the spent fuel dis-
19 posal financing plan does not meet the criteria under
20 paragraph B, the commission shall reject the plan and
21 order that it be modified as the commission deems
22 necessary to meet those criteria.

23 D. The commission shall take final action on the pro-
24 posed spent fuel disposal financing plan within 180
25 days after the filing date. The filing date shall be
26 the date when complete information has been filed by
27 the applicant, as determined by the commission. If the
28 commission does not notify the applicant of any defi-
29 ciencies in the information in the application within
30 60 days of receipt, the application shall be considered
31 complete as of the date of receipt.

32 4. Cost of spent fuel disposal. Based upon the plan,
33 the Public Utilities Commission shall establish the cost of
34 disposing of spent fuel at any nuclear power plant located
35 in the State and shall establish a schedule of monthly pay-
36 ments into the spent fuel disposal trust fund as necessary
37 and convenient to meet that cost at the time of closing.
38 The schedule shall be established so that contributions
39 received by the licensee are paid to the fund as soon after
40 receipt as practicable. The commission shall periodically
41 review the cost of spent fuel disposal in accordance with
42 subsection 6, and adjust the size of the payments accord-
43 ingly.

1 5. Plans required for operation and spent fuel dis-
2 posal. Plans are required for operation and spent fuel dis-
3 posal as follows.

4 A. No licensee which receives a certificate of public
5 convenience and necessity after the effective date of
6 this section may commence operation of a nuclear power
7 plant unless it has a spent fuel disposal financing
8 plan approved by the commission under subsection 3.

9 B. The Public Utilities Commission shall promulgate an
10 interim spent fuel disposal financing plan one year
11 after the effective date of this section for any licen-
12 see plan approved under subsection 3. Payments shall
13 commence immediately under the interim spent fuel dis-
14 posal financing plan and be deposited in an escrow ac-
15 count. That escrow account may be invested in invest-
16 ments permitted for the trust fund under section 3356,
17 subsection 3, paragraph B. When a spent fuel disposal
18 plan is approved and a spent fuel disposal trust fund
19 established, the interim plan shall terminate and the
20 money in the escrow account shall be transferred to the
21 fund.

22 6. Periodic review of plan. Spent fuel disposal
23 financing plan shall be periodically reviewed as follows.

24 A. If the commission approves a spent fuel disposal
25 financing plan under subsection 3, the commission
26 shall, at least every 3 years and annually when spent
27 fuel disposal has commenced, or in the 5 years pre-
28 ceding scheduled closing, review the financing plan to
29 assess its adequacy. If changed circumstances make a
30 more frequent review desirable or if the company oper-
31 ating the nuclear power plant requests it, the commis-
32 sion may review the plan after a shorter time interval.
33 The review shall include, but not be limited to, the
34 following considerations:

35 (1) The estimated dates of closing the plant and
36 of availability of spent fuel disposal facilities;

37 (2) The estimated cost of spent fuel disposal;

38 (3) The reasonableness of the method selected for
39 cost estimate purposes;

40 (4) The size and growth rate of the spent fuel
41 disposal trust fund, taking into account the
42 effect of inflation; and

1 (5) The adequacy of the assurance against
2 shortfall required under subsection 2, paragraph
3 F.

4 B. After review under paragraph A, the commission may
5 order such changes in the spent fuel disposal financing
6 plan as it deems necessary to make the plan comply with
7 the criteria in subsection 3, paragraph B.

8 7. Physical spent fuel disposal plan. At least 3
9 years prior to closing a nuclear power plant, and at least 6
10 months prior to disposal of any spent fuel, the licensee
11 shall submit a physical spent fuel disposal plan to the Gov-
12 ernor and the commission, with updates annually thereafter.

13 The commission shall review the plan to ascertain its con-
14 tents and determine under subsection 6, the adequacy of the
15 spent fuel disposal fund to pay for that plan, but not to
16 duplicate the health and safety review conducted by the
17 United States Nuclear Regulatory Commission or its succes-
18 sor. The Public Utilities Commission is designated as lead
19 agency for determination that all necessary state permits
20 have been obtained. The commission shall refer the physical
21 spent fuel disposal plan to all interested agencies in order
22 to ensure that it complies with all applicable law. Those
23 agencies shall inform the commission when they issue any
24 licenses or permits or take any other final action. No
25 licensee may dispose of spent fuel from a nuclear power
26 plant unless the physical spent fuel disposal plan has been
27 submitted to the commission and the commission certifies
28 that all necessary permits and licenses have been received.
29 The one-year limit does not apply to disposal of spent fuel
30 after the premature closing of the plant. Then, a spent
31 fuel disposal plan must be submitted as soon as possible,
32 and in no case later than 9 months after the premature clos-
33 ing.

34 §3355. Decommissioning and Spent Fuel Disposal Fund Commit-
35 tee

36 1. Establishment. A 7-member Decommissioning and
37 Spent Fuel Disposal Fund Committee is established, including
38 the Treasurer of State, the Chairman of the Public Utilities
39 Commission, a member nominated by the selectmen or other
40 legislative body of any municipality containing a nuclear
41 power plant, and 3 members nominated by the Governor,
42 including 2 from the financial community, and one from the
43 general public. Any licensee may name a member of the com-
44 mittee. The Treasurer of State shall act as chairman.

1 2. Terms. Initially, the members appointed by the
2 Governor shall draw lots for terms. There shall be a one-
3 year term, a 3-year term and a 5-year term. Thereafter,
4 their terms shall be for 5 years. The municipal representa-
5 tive and the licensee's representative shall be named for
6 5-year terms. In the event of a vacancy, an interim
7 appointment shall be made to fill the unexpired portion of
8 the term. The Treasurer of State and the Chairman of the
9 Public Utilities Commission shall serve while they hold
10 those offices. Other members shall serve until their re-
11 placements are sworn in.

12 3. Responsibilities and duties. The Decommissioning
13 and Spent Fuel Disposal Fund Committee is responsible for
14 the prudent management of the decommissioning and spent fuel
15 disposal trust funds in order to assure that the principal
16 and income which will have accumulated in the funds at the
17 time of closing any nuclear power plant will equal the cost
18 established in the decommissioning and spent fuel disposal
19 financing plans approved by the commission. Their specific
20 duties are to appoint the trustee; approve selection of
21 other financial managers, if any, by the trustee; establish
22 investment policy; evaluate investment policy and trustee
23 performance; authorize expenditures from the funds; and such
24 other duties as they find necessary to carry out their
25 responsibility.

26 4. Compensation. Members of the Decommissioning and
27 Spent Fuel Disposal Fund Committee shall receive compensa-
28 tion and expenses as deemed reasonable by the Public Utili-
29 ties Commission. These shall be paid from the decommission-
30 ing and spent fuel disposal funds.

31 5. Conflict of interest. Except for the licensee's
32 representative, members shall have no direct or substantial
33 indirect financial interest in any nuclear power plant cov-
34 ered by this subchapter or in any company which owns
35 directly or indirectly any portion of a nuclear power plant
36 covered by this subchapter or in any institution involved in
37 managing or handling the decommissioning or spent fuel dis-
38 posal funds.

39 6. Report; audit. The Decommissioning and Spent Fuel
40 Disposal Fund Committee shall report annually to the Gover-
41 nor, the Legislature and the owners of any nuclear power
42 plant located in the State, on their activities and the
43 status of the funds. A summary of the information shall be
44 included in the annual reports of any owners in the State.
45 The report shall contain a breakdown of all administrative
46 expenses. The Decommissioning and Spent Fuel Disposal Fund

1 Committee shall cause an annual audit to be made of the de-
2 commissioning and spent fuel disposal funds.

3 7. Establishment of Decommissioning and Spent Fuel
4 Disposal Fund Committee by the licensee. A Decommissioning
5 and Spent Fuel Disposal Fund Committee may be established by
6 any licensee operating a nuclear power plant within one year
7 after the effective date of this Act. Upon a finding by
8 the Public Utilities Commission that this licensee-established
9 Decommissioning and Spent Fuel Disposal Fund Committee will
10 be able to carry out the responsibilities and duties of sub-
11 section 3, that the funds will be managed in accordance with
12 the requirements of section 3356 and that the change is in
13 the public interest, the commission may order that the
14 existing Decommissioning and Spent Fuel Disposal Fund Com-
15 mittee be dissolved and that its duties be assumed by the
16 licensee-established Decommissioning and Spent Fuel Disposal
17 Fund Committee. At that time, the Governor shall have the
18 authority to appoint a nonvoting representative on the
19 licensee-established Decommissioning and Spent Fuel Disposal
20 Fund Committee.

21 8. Separate committee for each plant. There shall be
22 a separate Decommissioning and Spent Fuel Disposal Fund Com-
23 mittee for each nuclear power plant covered by this chapter.
24 Members may serve on more than one Decommissioning and Spent
25 Fuel Disposal Fund Committee.

26 §3356. Decommissioning and spent fuel disposal trust funds

27 1. Trustee. The Decommissioning and Spent Fuel Dis-
28 posal Fund Committee shall select a trustee or trustees to
29 manage the money within the funds in order to ensure that it
30 will be available when needed and, insofar as possible con-
31 sistent with protection of principal, that it may grow to
32 keep pace with inflation or faster. Preference may be given
33 to financial institutions incorporated in the State if con-
34 sistent with their fiduciary responsibility, but only if
35 they meet the criteria for trustees established by the De-
36 commissioning and Spent Fuel Disposal Fund Committee. The
37 committee may, by a majority vote of its entire membership,
38 change trustees at any time. Trustees shall be subject to
39 the same duties and may exercise the same powers as trustees
40 under Title 18-A, Article VII, to the extent they are not
41 inconsistent with this subchapter. The trustees may appoint
42 subsidiary financial managers, subject to approval by the
43 Decommissioning and Spent Fuel Disposal Fund Committee.

44 2. Tax Exemption. The following tax exemptions apply
45 to this subchapter.

1 A. Payments to the decommissioning and spent fuel
2 disposal trust funds shall be considered an operating
3 expense to the licensee and shall be tax deductible for
4 state corporate tax purposes. Investment income to the
5 funds shall also be exempt from state taxation.

6 B. It is the intent of this subchapter that payments
7 to the funds are considered an operating expense to the
8 licensee and exempt from federal corporate income tax.
9 It is the intent of the Legislature that investment
10 income to the funds be exempt from federal taxation.

11 3. Restrictions. The following restrictions apply to
12 decommissioning and spent fuel disposal trust funds.

13 A. All funds collected by any licensee for decommis-
14 sioning and disposal of spent fuel shall be immediately
15 segregated from the company's assets and transferred to
16 the trustee for placement in the decommissioning and
17 spent fuel disposal trust funds.

18 B. The decommissioning and spent fuel disposal trust
19 funds may only be invested in secure assets with matu-
20 rity no later than the estimated end of the useful life
21 of the plant as follows:

22 (1) The bonds, notes, certificates of deposit or
23 other obligations issued or guaranteed by the
24 United States or by any agency or instrumentality
25 of the United States;

26 (2) The bonds, notes, certificates of deposit or
27 other obligations issued or guaranteed by any
28 state or by any agency, instrumentality or polit-
29 ical subdivision of any state, provided that
30 securities are rated within the 2 highest grades
31 by any rating service approved by the Superinten-
32 dent of Banking; or

33 (3) The bonds and other obligations of any United
34 States' corporation; provided that they are rated
35 within the 2 highest grades by any rating service
36 approved by the Superintendent of Banking.

37 The funds shall not be invested in the securities of
38 the owner of any nuclear power plant.

39 C. Except as provided in section 3355, subsections 1
40 and 5, the decommissioning and spent fuel disposal
41 trust funds shall be administered only by persons not

1 normally involved with operations of the licensee or
2 any owner of a nuclear power plant within the State.

3 D. Neither the licensee nor any other owner of any
4 nuclear power plant in the State shall receive any ben-
5 efit from funds remaining in the decommissioning and
6 spent fuel disposal trust funds after completion of de-
7 commissioning and disposal of spent fuel.

8 E. Income to the funds shall be reinvested for the
9 benefit of the funds.

10 4. Contributions to the fund. The decommissioning and
11 spent fuel disposal trust funds shall bill the licensee
12 operating any nuclear power plant in the State and the
13 licensee shall make payments to the trustee of the funds in
14 amounts and on a schedule determined by the Public Utilities
15 Commission in accordance with section 3353, subsection 4,
16 and section 3354, subsection 4.

17 5. Expenditures from the fund; payments for costs of
18 decommissioning. At the time of decommissioning or spent
19 fuel disposal, the Decommissioning and Spent Fuel Disposal
20 Fund Committee shall authorize the trustees to make payments
21 as necessary to the licensee to cover actual costs of decom-
22 missioning or spent fuel disposal in accordance with the de-
23 commissioning or spent fuel disposal plan authorized by the
24 United States Nuclear Regulatory Commission or its succes-
25 sor. The Decommissioning and Spent Fuel Disposal Fund Com-
26 mittee may not approve any withdrawal for this purpose
27 prior to completion of decommissioning or disposal of spent
28 fuel, unless the physical decommissioning or spent fuel dis-
29 posal plan has been reviewed and certified by the Public
30 Utilities Commission under section 3353, subsection 7, and
31 section 3354, subsection 7.

32 If spent fuel disposal commences before the time of closing
33 of the plant, the Decommissioning and Spent Fuel Disposal
34 Fund Committee may authorize, subject to approval by the
35 Public Utilities Commission, withdrawals as necessary to pay
36 reasonable expenses associated with that withdrawal.

37 The Decommissioning and Spent Fuel Disposal Fund Committee
38 may authorize withdrawals as necessary to pay reasonable
39 expenses for administering the funds. No other withdrawal
40 shall be made prior to the commencement of decommissioning
41 or disposal of spent fuel without the approval of the com-
42 mission and unless the withdrawal is for the purpose of
43 paying reasonable expenses related to decommissioning or
44 disposal of spent fuel.

1 6. Expenditure of money remaining after decommissioning. Upon termination of decommissioning or disposal of
2 spent fuel, the commission shall conduct a final audit of
3 the decommissioning and spent fuel disposal trust funds.
4 The commission may by rule, if the public interest requires,
5 establish a decommissioning or spent fuel disposal contin-
6 gency reserve at that time. If there is money remaining in
7 the funds attributable to a given plant, after its decommis-
8 sioning has been completed or spent fuel disposal, the money
9 shall be returned in proportion to their payments to the
10 owners and any other persons who originally made payments to
11 the licensee for decommissioning or spent fuel disposal pur-
12 poses. No portion of the remaining funds may accrue to the
13 benefit of the licensee.
14

15 An electrical utility in the State which receives remaining
16 decommissioning or spent fuel disposal funds under this
17 provision shall distribute the funds equitably under the
18 guidance of the commission to its customers.

19 7. Public Utilities Commission review for licensee-
20 established committee. Notwithstanding any other portion of
21 this subchapter, if the Decommissioning and Spent Fuel Dis-
22 posal Fund Committee is established by the company under
23 section 3355, subsection 7, no withdrawals from the funds
24 may be permitted without review and approval by the Public
25 Utilities Commission. No withdrawal may be approved except
26 for the purpose of paying reasonable expenses related to de-
27 commissioning or spent fuel disposal.

28 8. Separate fund for each plant. There shall be sep-
29 arate decommissioning and spent fuel disposal trust funds
30 for each nuclear power plant covered by this subchapter.
31 The assets of such funds shall not be commingled in any way.

32 §3357. Responsibility for decommissioning and spent fuel
33 disposal

34 1. Decommissioning trust funds. In the first
35 instance, the cost of decommissioning and spent fuel dis-
36 posal shall be paid from the decommissioning and spent fuel
37 disposal trust funds.

38 2. Licensee responsible. If the assets of the decom-
39 missioning and spent fuel disposal trust funds are insuffi-
40 cient to pay for the cost of decommissioning or spent fuel
41 disposal respectively, the licensee shall be responsible for
42 the additional cost.

1 with respect to spent fuel disposal. Earlier plans to
2 reprocess spent fuel have been shelved, and no federal
3 repository is expected before 1990. Thus, it is possible
4 that quite large amounts of spent fuel will be present on
5 site when Maine Yankee ceases operating. Further, since the
6 disposal method to be used is currently unknown, the cost of
7 spent fuel disposal is conjectural. Although Maine Yankee
8 now has permission to collect \$162,000,000 for such disposal
9 over the plants' projected life, these funds are not being
10 segregated.

11 The purposes of this bill are to establish separate,
12 segregated decommissioning and spent fuel disposal trust
13 funds to be financed by regular payments from the licensee
14 operating any nuclear power plant; to provide for prudent
15 management of the funds by a trustee, under the guidance of
16 a Decommissioning and Spent Fuel Disposal Fund Committee
17 composed of government and public members and one repre-
18 sentative of the licensee; and to provide assurance that
19 funds collected for decommissioning and spent fuel disposal
20 will be segregated for decommissioning and spent fuel dis-
21 posal purposes only, and that they will be tax exempt and
22 not considered as income to the company for state and fed-
23 eral tax purposes.

24 This bill also makes it clear that the licensee has the
25 ultimate responsibility for decommissioning and spent fuel
26 disposal, and that if the resources of the funds are insuf-
27 ficient, the licensee and owners are jointly and severally
28 liable. The State has no financial responsibility for de-
29 commissioning.

30 In the event that the licensee can set up a satisfac-
31 tory fund committee that meets all the criteria, that
32 licensee-established committee may replace the statutory
33 committee.

34

4469021982