

MAINE STATE LEGISLATURE

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L.D. 1045

(Filing No. S- 322)

STATE OF MAINE
SENATE
111TH LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT " A " to H.P. 805, L.D. 1045,
Bill, "AN ACT to Ensure Funding for the Eventual
Spent Fuel Disposal at Nuclear Power Plants."

Amend the bill by striking out everything after
the enacting clause and inserting in its place the
following:

'35 MRSA c. 269, sub-c. VI is enacted to read:

SUBCHAPTER VI

SPENT FUEL DISPOSAL

§3391. Findings

The Legislature finds that the Federal Nuclear
Waste Policy Act of 1982 is intended to create an oper-
ating federal repository for high level waste,
spent fuel, by 1998. Under that Act, the Maine
Yankee Atomic Power Plant has been paying the Depart-
ment of Energy \$.001 per kilowatt hour for electrici-
ty generated after April 7, 1983. In return, the
Federal Government has assumed responsibility for
disposal of spent fuel generated after that date. In
addition, as of December 31, 1982, Maine Yankee
Atomic Power Plant had accumulated approximately \$45
million for spent fuel disposal, in a nonsegregated
account.

The Legislature further finds that timely proper
disposal of spent fuel at any nuclear power plant is
essential to protect public health, safety and the
environment and that the cost will be significant.
To ensure that customers who receive the benefits of
such facilities pay for these disposal costs, the
Legislature finds that it is prudent for licensees

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

20 §3392. Definitions

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

24 1. Licensee. "Licensee" means the holder of the
25 operating permit from the United States Nuclear Regu-
26 latory Commission for a nuclear power plant.

27 2. Nuclear power plant or plant. "Nuclear power
28 plant" or "plant" means a nuclear fission thermal
29 power plant.

30 3. Owner. "Owner" means any electrical company
31 which owns any portion of a nuclear power plant,
32 whether directly or indirectly, through ownership of
33 stock in a company which owns any portion of a nucle-
34 ar power plant, through membership in a holding com-
35 pany which owns any portion of a nuclear power plant
36 or through other means.

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1 4. Spent nuclear fuel disposal. "Spent nuclear
2 fuel disposal" means the activities undertaken to
3 safely dispose of spent nuclear fuel offsite, and in
4 compliance with all applicable state and federal
5 laws.

6 5. Trustee. "Trustee" means a fiduciary as de-
7 defined under Title 18-A, section 1-201, which fiduci-
8 ary shall administer the spent fuel disposal trust
9 funds subject to sections 3373 and 3375 and in ac-
10 cordance with Title 18-A, Article VII.

11 6. Trust fund or fund. "Trust fund" or "fund"
12 means a trust fund set up as described in section
13 3375 to hold moneys for the eventual purpose of spent
14 fuel disposal.

15 §3393. Spent Nuclear Fuel Disposal Trust Fund

16 1. Established. Any licensee operating a nucle-
17 ar power plant in this State who has collected money
18 through rates for the eventual disposal of spent nu-
19 clear fuel resulting from the burning of that fuel
20 before April 7, 1983, shall establish a segregated
21 Spent Nuclear Fuel Disposal Trust Fund and deposit
22 all money collected for that purpose in that fund by
23 January 1, 1985.

24 2. Trustee. The licensee shall select a trustee
25 or trustees to manage the money within the fund in
26 order to ensure that it will be available when needed
27 and, insofar as possible consistent with protection
28 of principal, that it may grow to keep pace with in-
29 flation or faster. Preference may be given to finan-
30 cial institutions incorporated in the State if con-
31 sistent with their fiduciary responsibility. "The li-
32 cencee may change trustees at any time. Trustees
33 shall be subject to the same duties and may exercise
34 the same powers as trustees under Title 18-A, Article
35 VII, to the extent they are not inconsistent with
36 this subchapter. The trustees may appoint subsidiary
37 financial managers, subject to approval by the li-

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1 licensee.

2 3. Tax exemption. The following tax exemptions
3 apply to this subchapter.

4 A. Payments to the Spent Nuclear Fuel Disposal
5 Trust Fund shall be considered an operating ex-
6 penditure to the licensee and shall be tax deductible
7 for state corporate tax purposes. Investment in-
8 come to the funds shall also be exempt from state
9 taxation.

10 B. It is the intent of this subchapter that pay-
11 ments to the fund shall be considered an operat-
12 ing expense to the licensee and exempt from fed-
13 eral corporate income tax. It is the intent of
14 the Legislature that investment income to the
15 fund be exempt from federal taxation.

16 4. Restrictions. The following restrictions ap-
17 ply to the Spent Nuclear Fuel Disposal Trust Fund.

18 A. All money collected by any licensee for dis-
19 posal of spent fuel shall be segregated from the
20 company's assets and transferred to the trustee
21 for placement in the fund.

22 B. The fund may only be invested in secure as-
23 sets with maturity no later than the estimated
24 end of the useful life of the plant as follows:

25 (1) The bonds, notes, certificates of de-
26 posit or other obligations issued or guaran-
27 teed by the United States or by any agency
28 or instrumentality of the United States;

29 (2) The bonds, notes, certificates of de-
30 posit or other obligations issued or guaran-
31 teed by any state or by any agency, instru-
32 mentality or political subdivision of any
33 state, provided that securities are rated
34 within the 2 highest grades by any rating

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1 service approved by the Superintendent of
2 Banking; or

3 (3) The bonds and other obligations of any
4 United States' corporation; provided that
5 they are rated within the 2 highest grades
6 by any rating service approved by the Super-
7 intendent of Banking.

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

10 C. The licensee shall not receive any benefit
11 from money remaining in the fund after completion
12 of payment for the disposal of spent fuel.

13 D. Income to the fund shall be reinvested for
14 the benefit of the fund.

15 5. Expenditures from the fund. The trustees
16 shall make payments from the fund to the United
17 States Department of Energy in accordance with the
18 Nuclear Waste Policy Act of 1982 for all spent nucle-
19 ar fuel burned prior to April 7, 1983. Payments to
20 the United States Department of Energy sufficient to
21 cover the fees for all that fuel shall be made prior
22 to January 1, 1987.

23 6. Excess or deficiency. Adjustments for any
24 excess or deficiency in the fund after payment of all
25 fees for spent nuclear fuel burned prior to April 7,
26 1983, shall be requested by the licensee through the
27 rates in accordance with the rules of the Federal
28 Regulatory Commission.

29 7. Sunset. After payment of all fees in accord-
30 ance with subsection 5, the fund shall be dissolved
31 expeditiously.

32 §3394. Report; audit

33 1. Initial report. The licensee shall report to

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1 the Public Utilities Commission upon the establish-
2 ment of the fund. That report shall include the rel-
3 evant trust agreement, spent nuclear fuel contract
4 and other appropriate documentation.

5 2. Annual reports. The Spent Nuclear Fuel Dis-
6 posal Fund Committee shall report annually to the
7 Governor, the Legislature and the owners of any nu-
8 clear power plants located in the State, on their ac-
9 tivities and the status of the funds. A summary of
10 the information shall be included in the annual re-
11 ports of any owners in the State. The reports shall
12 contain a breakdown of all administrative expenses.

13 3. Audit. The licensee shall cause an annual
14 audit to be made of the Spent Nuclear Fuel Disposal
15 Funds.

16 STATEMENT OF FACT

17 This amendment requires that money collected for
18 spent nuclear fuel burned before April 7, 1983, be
19 deposited by the licensee in a segregated trust fund
20 and then paid to the United States Department of En-
21 ergy by January 1, 1985, to pay all fees for disposal
22 of that spent nuclear fuel.

23 It is noted that payment to the United States De-
24 partment of Energy is already being made to that de-
25 partment on a regular basis for fuel burned since
26 that date.

27 6291031784

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NAME:

30 COUNTY: Kennebec