

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 1004

6  
7 S.P. 370

In Senate, March 13, 1985

8 Referred to the Committee on Energy and Natural Resources. Sent down  
9 for concurrence and ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Kany of Kennebec.

11 Cosponsored by Senator Andrews of Cumberland, Representative  
Michael of Auburn and Representative McHenry of Madawaska.

12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-FIVE  
16

17 AN ACT to Establish a Spent Nuclear Fuel  
18 Disposal Trust Fund.  
19

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

22 35 MRSA c. 269, sub-c. VI is enacted to read:

23 SUBCHAPTER VI

24 SPENT FUEL DISPOSAL

25 §3391. Definitions

26 As used in this subchapter, unless the context  
27 indicates otherwise, the following terms have the  
28 following meanings.

29 1. Licensee. "Licensee" means the holder of the  
30 operating permit from the United States Nuclear Regu-  
31 latory Commission for a nuclear power plant.

1           2. Nuclear power plant or plant. "Nuclear power  
2 plant" or "plant" means a nuclear fission thermal  
3 power plant.

4           3. Owner. "Owner" means any electrical company  
5 which owns any portion of a nuclear power plant,  
6 whether directly or indirectly, through ownership of  
7 stock in a company which owns any portion of a nucle-  
8 ar power plant, through membership in a holding com-  
9 pany which owns any portion of a nuclear power plant  
10 or through other means.

11           4. Spent nuclear fuel disposal. "Spent nuclear  
12 fuel disposal" means the activities undertaken to  
13 safely dispose of spent nuclear fuel offsite, and in  
14 compliance with all applicable state and federal  
15 laws.

16           5. Trustee. "Trustee" means a fiduciary as de-  
17 fin ed under Title 18-A, section 1-201, which fiduci-  
18 ary shall administer the spent fuel disposal trust  
19 funds subject to sections 3373 and 3375 and in ac-  
20 cordance with Title 18-A, Article VII.

21           6. Trust fund or fund. "Trust fund" or "fund"  
22 means a trust fund set up as described in section  
23 3375 to hold money for the eventual purpose of spent  
24 fuel disposal.

25 §3392. Spent Nuclear Fuel Disposal Trust Fund

26           1. Established. Any licensee operating a nucle-  
27 ar power plant in this State who has collected money  
28 through rates for the eventual disposal of spent nu-  
29 clear fuel resulting from the burning of that fuel  
30 before April 7, 1983, shall establish a segregated  
31 Spent Nuclear Fuel Disposal Trust Fund and deposit  
32 all money collected for that purpose in that fund by  
33 January 1, 1986.

34           2. Trustee. The licensee shall select a trustee  
35 or trustees to manage the money within the fund in  
36 order to ensure that it will be available when needed  
37 and, insofar as possible consistent with protection  
38 of principal, that it may grow to keep pace with in-  
39 flation or faster. Preference may be given to finan-  
40 cial institutions incorporated in the State if con-

1 sistent with their fiduciary responsibility. The li-  
2 icensee may change trustees at any time. Trustees  
3 shall be subject to the same duties and may exercise  
4 the same powers as trustees under Title 18-A, Article  
5 VII, to the extent that they are not inconsistent  
6 with this subchapter. The trustees may appoint sub-  
7 sidary financial managers, subject to approval by  
8 the licensee.

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

11 A. Payments to the Spent Nuclear Fuel Disposal  
12 Trust Fund shall be considered an operating ex-  
13 penditure to the licensee and shall be tax deductible  
14 for state corporate tax purposes. Investment in-  
15 come to the funds shall also be exempt from state  
16 taxation.

17 B. It is the intent of this subchapter that pay-  
18 ments to the fund shall be considered an operat-  
19 ing expense to the licensee and exempt from fed-  
20 eral corporate income tax. It is the intent of  
21 the Legislature that investment income to the  
22 fund be exempt from federal taxation.

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

25 A. All money collected by any licensee for dis-  
26 posal of spent fuel shall be segregated from the  
27 company's assets and transferred to the trustee  
28 for placement in the fund.

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

32 (1) The bonds, notes, certificates of de-  
33 posit or other obligations issued or guaran-  
34 teed by the United States or by any agency  
35 or instrumentality of the United States;

36 (2) The bonds, notes, certificates of de-  
37 posit or other obligations issued or guaran-  
38 teed by any state or by any agency, instru-  
39 mentality or political subdivision of any

1 state, provided that securities are rated  
2 within the 2 highest grades by any rating  
3 service approved by the Superintendent of  
4 Banking; or

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

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

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

15 D. Income to the fund shall be reinvested for  
16 the benefit of the fund.

17 5. Expenditures from the fund. The trustees  
18 shall make payments from the fund to the United  
19 States Department of Energy in accordance with the  
20 Nuclear Waste Policy Act of 1982 for all spent nucle-  
21 ar fuel burned prior to April 7, 1983. Payments to  
22 the United States Department of Energy sufficient to  
23 cover the fees for all that fuel shall be made prior  
24 to January 1, 1998, or at such time as the Federal  
25 Government agrees to take title to spent fuel, which-  
26 ever is earlier.

27 6. Excess or deficiency. Adjustments for any  
28 excess or deficiency in the fund after payment of all  
29 fees for spent nuclear fuel burned prior to April 7,  
30 1983, shall be requested by the licensee through the  
31 rates in accordance with the rules of the Federal  
32 Regulatory Commission.

33 7. Sunset. After payment of all fees in accord-  
34 ance with subsection 5, the fund shall be dissolved  
35 expeditiously.

36 §3393. Report; audit

37 1. Initial report. The licensee shall report to  
38 the Public Utilities Commission upon the establish-

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

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

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

15 STATEMENT OF FACT

16 This bill requires that money collected for spent  
17 nuclear fuel burned before April 7, 1983, be depos-  
18 ited by the licensee in a segregated trust fund and  
19 then paid to the United States Department of Energy  
20 by the earlier of January 1, 1998, or the date when  
21 the Federal Government agrees to take title, to pay  
22 all fees for disposal of the 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.

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