

111TH CONGRESS
2D SESSION

S. _____

To amend the Atomic Energy Act of 1954 to establish a United States Nuclear Fuel Management Corporation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. VOINOVICH (for himself, Ms. MURKOWSKI, and Mr. ALEXANDER) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Atomic Energy Act of 1954 to establish a United States Nuclear Fuel Management Corporation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “United States Nuclear
5 Fuel Management Corporation Establishment Act of
6 2010”.

1 **SEC. 2. UNITED STATES NUCLEAR FUEL MANAGEMENT**
2 **CORPORATION.**

3 (a) IN GENERAL.—The Atomic Energy Act of 1954
4 (42 U.S.C. 2011 et seq.) is amended by adding at the end
5 the following:

6 **“TITLE III—UNITED STATES NU-**
7 **CLEAR FUEL MANAGEMENT**
8 **CORPORATION**

9 **“SEC. 3001. PURPOSE.**

10 “The purpose of this title is to establish a corpora-
11 tion—

12 “(1) to implement integrated spent nuclear fuel
13 management consistent with the policy of the Fed-
14 eral Government on a self-sustaining basis through
15 the use of a spent nuclear fuel management enter-
16 prise that will eliminate the need for Federal fund-
17 ing (other than funding provided pursuant to this
18 title);

19 “(2) to assume responsibility for the activities,
20 obligations, and resources of the Federal Govern-
21 ment with respect to spent nuclear fuel manage-
22 ment, including the duties and powers of—

23 “(A) the Secretary relating to the Nuclear
24 Waste Fund; and

1 “(B) the Office of Civilian Radioactive
2 Waste Management under section 304 of that
3 Act (42 U.S.C. 10224);

4 “(3) to ensure in the United States—

5 “(A) the common defense and security;
6 and

7 “(B) compliance with laws and policies
8 concerning nonproliferation of atomic weapons
9 and other nonpeaceful uses of atomic energy;

10 “(4) to advance technologies and facilities to
11 support all options for a long-term nuclear fuel cycle
12 that will—

13 “(A) address global counterproliferation
14 and counterterrorism;

15 “(B) promote efficient utilization of nu-
16 clear fuel resources; and

17 “(C) provide for safe, secure storage and
18 disposal of nuclear materials;

19 “(5) to maintain a reliable and economical do-
20 mestic source of spent nuclear fuel management
21 services and sustain and support the expansion of
22 nuclear energy in meeting United States require-
23 ments for clean, safe, reliable, and affordable energy;

24 “(6) to provide spent nuclear fuel management
25 and related services to—

1 “(A) the Department of Energy for gov-
2 ernmental purposes;

3 “(B) domestic persons; and

4 “(C) other entities, as determined by the
5 President; and

6 “(7) to carry out other activities to advance the
7 purposes described in this section.

8 **“SEC. 3002. DEFINITIONS.**

9 “In this title:

10 “(1) BOARD.—The term ‘Board’ means the
11 Board of Directors of the Corporation established
12 under section 3103.

13 “(2) CORPORATION.—The term ‘Corporation’
14 means the United States Spent Nuclear Fuel Cor-
15 poration established by section 3101(a).

16 “(3) CORPORATION FUND.—The term ‘Corpora-
17 tion Fund’ means the United States Nuclear Fuel
18 Management Corporation Fund established by sec-
19 tion 3107.

20 “(4) DECOMMISSIONING; DECONTAMINATION.—
21 The terms ‘decommissioning’ and ‘decontamination’,
22 with respect to an activity, include any activity other
23 than a response action or corrective action carried
24 out for purposes of decontaminating or decommis-
25 sioning a facility for spent nuclear fuel management

1 that has residual radioactive or mixed radioactive
2 and hazardous chemical contamination (including
3 depleted tailings).

4 “(5) DEPARTMENT.—The term ‘Department’
5 means the Department of Energy.

6 “(6) NUCLEAR WASTE FUND.—The term ‘Nu-
7 clear Waste Fund’ means the Nuclear Waste Fund
8 established under section 302 of the Nuclear Waste
9 Policy Act of 1982 (42 U.S.C. 10222).

10 “(7) SECRETARY.—The term ‘Secretary’ means
11 the Secretary of Energy.

12 “(8) SPENT FUEL DISPOSAL CONTRACT.—The
13 term ‘spent fuel disposal contract’ means a contract
14 between the Secretary and a person entered into
15 pursuant to section 302(a) of the Nuclear Waste
16 Policy Act of 1982 (42 U.S.C. 10222(a)).

17 “(9) SPENT NUCLEAR FUEL.—The term ‘spent
18 nuclear fuel’ means any nuclear fuel or highly radio-
19 active waste that has been irradiated in a domestic,
20 commercial nuclear power reactor pursuant to a
21 spent fuel disposal contract.

22 “(10) SPENT NUCLEAR FUEL MANAGEMENT.—
23 The term ‘spent nuclear fuel management’ means
24 any activity involving the disposal, storage, transpor-
25 tation, reprocessing, processing, treatment, fabrica-

1 tion, or sale of spent nuclear fuel or a product de-
2 rived from spent nuclear fuel.

3 “(11) STAKEHOLDER ORGANIZATION.—The
4 term ‘stakeholder organization’ means any organiza-
5 tion that as of the date of enactment of this title is
6 contributing or has contributed to the Nuclear
7 Waste Fund.

8 “(12) TECHNOLOGY FOR SPENT NUCLEAR FUEL
9 MANAGEMENT.—The term ‘technology for spent nu-
10 clear fuel management’ means any technology used
11 to transport, store, process, reprocess, or dispose of
12 spent nuclear fuel.

13 “(13) TRANSFER DATE.—The term ‘transfer
14 date’ means the earlier of—

15 “(A) the transfer date of the last asset,
16 property, right, liability, or obligation trans-
17 ferred from the Secretary to the Corporation
18 under this title (other than liabilities or obliga-
19 tions arising under contracts to dispose of spent
20 nuclear fuel and high level radioactive waste);
21 or

22 “(B) the date that is 18 months after the
23 date of enactment of this title.

1 **“Subtitle A—Establishment,**
2 **Powers, and Organization**

3 **“SEC. 3101. ESTABLISHMENT.**

4 “(a) IN GENERAL.—There is established a corpora-
5 tion, to be known as the ‘United States Nuclear Fuel Man-
6 agement Corporation’.

7 “(b) TREATMENT.—Except as otherwise provided in
8 this title, the Corporation shall be—

9 “(1) a wholly owned Federal corporation, sub-
10 ject to chapter 91 of title 31, United States Code;
11 and

12 “(2) considered to be a Federal agency.

13 “(c) CORPORATE OFFICES.—

14 “(1) IN GENERAL.—The Corporation shall—

15 “(A) for the service of process and papers,
16 maintain an office in the District of Columbia;
17 and

18 “(B) for purposes of venue in civil actions,
19 be considered to be a resident of the District of
20 Columbia.

21 “(2) OTHER OFFICES.—The Corporation may
22 establish offices in such other locations as the Cor-
23 poration determines to be appropriate.

24 **“SEC. 3102. POWERS.**

25 “(a) IN GENERAL.—The Corporation—

1 “(1) except as otherwise provided in this title or
2 applicable Federal law, shall have all the powers of
3 a private corporation incorporated under the District
4 of Columbia Business Corporation Act (D.C. Code
5 section 29–301 et seq.);

6 “(2) shall have the priority of the United States
7 with respect to the payment of debts from bankrupt,
8 insolvent, and decedent persons or estates;

9 “(3) may obtain from the Administrator of
10 General Services the services provided by the Admin-
11 istrator to Federal agencies on the same basis as
12 those services are so provided;

13 “(4) shall have the authority to manage spent
14 nuclear fuel, provide for the management of spent
15 nuclear fuel by others, and acquire spent nuclear
16 fuel or materials necessary for the management of
17 spent nuclear fuel;

18 “(5) shall have the authority necessary to carry
19 out, in accordance with subsection (b), the activities,
20 obligations, and use of resources of the Federal Gov-
21 ernment with respect to spent nuclear fuel manage-
22 ment, including the duties and powers of—

23 “(A) the Secretary relating to the Nuclear
24 Waste Fund; and

1 “(B) the Office of Civilian Radioactive
2 Waste Management under section 304 of that
3 Act (42 U.S.C. 10224); and

4 “(6) shall consider the spent nuclear fuel man-
5 agement and related services for defense-related
6 spent nuclear fuel and high level radioactive waste
7 and nuclear fuels identified by the National Spent
8 Nuclear Fuel Program of the Department.

9 “(b) INCLUSIONS.—The authority of the Corporation
10 described in subsection (a)(5) includes authority—

11 “(1) for the identification, development, licens-
12 ing, construction, operation, decommissioning, and
13 post-decommissioning maintenance and monitoring
14 of any repository, interim storage facility, monitored
15 retrievable storage facility, reprocessing facility, fuel
16 fabrication facility, or test and evaluation facility
17 constructed under title III of the Nuclear Waste Pol-
18 icy Act of 1982 (42 U.S.C. 10221 et seq.), except
19 that the limitations imposed on a monitored retriev-
20 able storage facility under section 141(g) of that Act
21 (42 U.S.C. 10161(g) shall not apply to an interim
22 storage facility developed by the Corporation;

23 “(2) for the administration of the high-level ra-
24 dioactive waste disposal program of the Department;

1 “(3) to enter into a new spent fuel disposal con-
2 tract under section 302(a) of the Nuclear Waste
3 Policy Act of 1982 (42 U.S.C. 10222(a)) for a com-
4 mercial nuclear power reactor not yet licensed by the
5 Nuclear Regulatory Commission;

6 “(4) to assume all responsibilities of the De-
7 partment under spent fuel disposal contracts in ex-
8 istence on the date of enactment of this title, except
9 that (as provided in section 3205) liability for failure
10 to perform under those contracts shall not be as-
11 sumed by the Corporation until the date that is 10
12 years after the license termination date of the reac-
13 tor for which a contract applies; and

14 “(5) to recommend changes to the nuclear
15 waste fee provided by section 302(a)(4) of the Nu-
16 clear Waste Policy Act of 1982 (42 U.S.C.
17 10222(a)(4)) and spent fuel disposal contracts, ex-
18 cept that the Corporation may not implement any
19 changes in the fee schedule except as provided in
20 section 3201;

21 “(6) for the acquisition, design, modification,
22 replacement, operation, and construction of facilities
23 at a repository site, reprocessing facility site, reproc-
24 essed fuel fabrication facility site, monitored retriev-
25 able storage site, or test and evaluation facility site

1 necessary or incident to a repository, reprocessing
2 facility, reprocessed fuel fabrication facility, mon-
3 itored retrievable storage facility, or test and evalua-
4 tion facility;

5 “(7) to carry out such nongeneric research, de-
6 velopment, and demonstration activities relating to
7 evaluating, improving, and testing existing tech-
8 nologies for spent nuclear fuel management and re-
9 lated processes and activities as the Corporation
10 considers to be necessary or advisable to achieve the
11 purposes of this title;

12 “(8) to carry out transactions regarding spent
13 nuclear fuel, uranium, enriched uranium, plutonium,
14 other special nuclear material, fissionable nuclear
15 material, fertile nuclear material, fission byproducts,
16 actinides, or depleted uranium with any person—

17 “(A) licensed under section 53, 63, 103, or
18 104, in accordance with the applicable license;

19 “(B) in accordance with, and during the
20 period provided for, an agreement for coopera-
21 tion under section 123; or

22 “(C) otherwise authorized by law to enter
23 into a transaction described in subparagraph
24 (A) or (B);

1 “(9) to enter into contracts or other agreements
2 with—

3 “(A) any person licensed under section 53,
4 63, 103, or 104, for such period as the Cor-
5 poration considers to be appropriate to provide
6 services supporting the mission and purpose of
7 the Corporation under this title; and

8 “(B) the Department in accordance with
9 this title for spent nuclear fuel management
10 and related services that the Department deter-
11 mines to be required—

12 “(i) to carry out Presidential direc-
13 tives and authorizations; and

14 “(ii) to conduct other Department
15 programs;

16 “(10) to adopt, alter, and use a corporate seal,
17 which shall be judicially noticed;

18 “(11) to sue and be sued in the corporate name
19 and be represented by an attorney in all administra-
20 tive and judicial proceedings, including, on approval
21 of the Attorney General, appeals from decisions of
22 United States courts, except that the United States
23 Court of Federal Claims shall have exclusive juris-
24 diction over a claim against the Corporation and a
25 decision or action of the Corporation shall not be

1 subject to review under section 119 of the Nuclear
2 Waste Policy Act of 1982 (42 U.S.C. 10139);

3 “(12) to indemnify directors, officers, attorneys,
4 agents, and employees of the Corporation for liabil-
5 ities and expenses relating to corporate activities;

6 “(13)(A) to acquire, purchase, lease, and hold
7 real and personal property, including patents and
8 proprietary data, as the Corporation determines to
9 be necessary in the transaction of business; and

10 “(B) to sell, lease, grant, and dispose of such
11 real and personal property as the Corporation deter-
12 mines to be necessary to achieve the purposes of this
13 title;

14 “(14) on consent of each unit of government
15 concerned, to employ the services, records, facilities,
16 or personnel of any State or local government agen-
17 cy or instrumentality or voluntary or uncompensated
18 personnel to perform appropriate functions on behalf
19 of the Corporation;

20 “(15) to enter into and carry out such con-
21 tracts, leases, cooperative agreements, or other
22 transactions as are necessary to conduct business,
23 on a reimbursable basis, with—

24 “(A) any Federal department or agency;

1 “(B) any State, territory, or possession (or
2 any political subdivision thereof) of the United
3 States; or

4 “(C) any individual, firm, association, or
5 corporation;

6 “(16) to determine the character of, and the ne-
7 cessity for, the obligations and expenditures of the
8 Corporation and the manner in which the obligations
9 and expenditures will be incurred, allowed, and paid,
10 subject to this title and other Federal law specifi-
11 cally applicable to wholly owned Federal corpora-
12 tions;

13 “(17) to retain and use the revenues of the Cor-
14 poration to achieve the purposes of this title in a
15 manner that ensures that the retention and use shall
16 not be subject to apportionment under subchapter II
17 of chapter 15 of title 31, United States Code;

18 “(18) to settle and adjust claims—

19 “(A) held by the Corporation against other
20 parties; or

21 “(B) held by other parties against the Cor-
22 poration;

23 “(19) to accept gifts or donations of services
24 and real, personal, mixed, tangible, or intangible
25 property to achieve the purposes of this title;

1 “(20) to execute, in accordance with applicable
2 bylaws and regulations, appropriate instruments;

3 “(21) to provide for liability insurance by con-
4 tract or self-insurance; and

5 “(22) subject to this subsection and section
6 3205, to pay any settlement or judgment entered
7 against the Corporation from the Corporation Fund
8 and not from funds made available pursuant to sec-
9 tion 1304 of title 31, United States Code.

10 **“SEC. 3103. BOARD OF DIRECTORS.**

11 “(a) IN GENERAL.—The Corporation shall be headed
12 by a Board of Directors.

13 “(b) MEMBERSHIP.—

14 “(1) APPOINTMENT.—

15 “(A) IN GENERAL.—The Board shall be
16 composed of 9 members, to be appointed by the
17 President by and with the advice and consent of
18 the Senate, of which—

19 “(i) at least 3 shall be from stake-
20 holder organizations; and

21 “(ii) at least 2 shall be reserved for
22 nominations from State public utility com-
23 missions.

24 “(B) ASSOCIATION.—The association of a
25 member of the Board with a stakeholder orga-

1 nization shall not be considered a conflict of in-
2 terest.

3 “(2) CHAIRPERSON.—The members of the
4 Board shall elect 1 member to act as Chairperson of
5 the Board.

6 “(c) QUALIFICATIONS.—To be eligible to be ap-
7 pointed as a member of the Board, an individual shall—

8 “(1) be a citizen of the United States;

9 “(2) have management expertise relating to
10 large organizations;

11 “(3) not be an employee of the Corporation;

12 “(4) make full disclosure to Congress of any in-
13 vestment or other financial interest that the indi-
14 vidual holds in the energy industry; and

15 “(5) affirm support for the purposes of the Cor-
16 poration.

17 “(d) TERMS.—

18 “(1) IN GENERAL.—Except as provided in para-
19 graph (2), a member of the Board shall serve for a
20 term of not more than 5 years.

21 “(2) INITIAL MEMBERS.—Of the members first
22 appointed to the Board—

23 “(A) 1 shall be appointed for a 1-year
24 term;

1 “(B) 2 shall be appointed for a 2-year
2 term;

3 “(C) 2 shall be appointed for a 3-year
4 term;

5 “(D) 2 shall be appointed for a 4-year
6 term; and

7 “(E) 2 shall be appointed for a 5-year
8 term.

9 “(3) REAPPOINTMENT.—A member of the
10 Board the term of service of whom has expired may
11 be reappointed by the President, by and with the ad-
12 vice and consent of the Senate.

13 “(4) EXPIRATION.—A member of the Board the
14 term of service of whom has expired may continue
15 to serve on the Board until the earlier of—

16 “(A) the date on which a successor mem-
17 ber is appointed; and

18 “(B) the date on which the session of Con-
19 gress during which the term of the member ex-
20 pires ends.

21 “(e) VACANCIES.—A vacancy on the Board—

22 “(1) shall not affect the powers of the Board;
23 and

24 “(2) shall be filled in the same manner as the
25 original appointment was made.

1 “(f) MEETINGS.—The Board shall meet in accord-
2 ance with the bylaws of the Corporation—

3 “(1) at the call of the Chairperson; and

4 “(2) not less frequently than once each quarter.

5 “(g) QUORUM.—For purposes of meetings of the
6 Board, $\frac{2}{3}$'s of the active members of the Board shall con-
7 stitute a quorum.

8 “(h) BYLAWS.—A majority of the members of the
9 Board may amend the bylaws of the Corporation.

10 “(i) COMPENSATION OF MEMBERS.—

11 “(1) IN GENERAL.—

12 “(A) NON-FEDERAL EMPLOYEES.—A
13 member of the Board who is not an officer or
14 employee of the Federal Government shall be
15 compensated at a rate equal to the daily equiva-
16 lent of the annual rate of basic pay prescribed
17 for level IV of the Executive Schedule under
18 section 5315 of title 5, United States Code, for
19 each day (including travel time) during which
20 the member is engaged in the performance of
21 the duties of the Board.

22 “(B) FEDERAL EMPLOYEES.—A member
23 of the Board who is an officer or employee of
24 the Federal Government shall serve without
25 compensation in addition to the compensation

1 received for the services of the member as an
2 officer or employee of the Federal Government.

3 “(2) TRAVEL EXPENSES.—A member of the
4 Board shall be allowed travel expenses, including per
5 diem in lieu of subsistence, at rates authorized for
6 an employee of an agency under subchapter I of
7 chapter 57 of title 5, United States Code, while
8 away from the home or regular place of business of
9 the member in the performance of the duties of the
10 Board.

11 **“SEC. 3104. MANAGEMENT.**

12 “(a) CHIEF EXECUTIVE OFFICER.—

13 “(1) APPOINTMENT.—The Board shall appoint
14 an individual to serve as chief executive officer of
15 the Corporation.

16 “(2) QUALIFICATIONS.—

17 “(A) IN GENERAL.—To be eligible to serve
18 as chief executive officer of the Corporation, an
19 individual—

20 “(i) shall have senior executive-level
21 management experience in large, complex
22 organizations;

23 “(ii) shall not—

24 “(I) be a member of the Board;

25 or

1 “(II) have served as a member of
2 the Board during the 2-year period
3 ending on the date of appointment as
4 chief executive officer; and

5 “(iii) shall comply with the conflict of
6 interest policy adopted by the Board.

7 “(B) EXPERTISE.—In appointing a chief
8 executive officer, the Board shall give particular
9 consideration to appointing an individual
10 with—

11 “(i) expertise in the nuclear industry;
12 and

13 “(ii) strong financial skills.

14 “(3) TENURE.—The chief executive officer shall
15 serve at the pleasure of the Board.

16 “(4) AUTHORITIES AND DUTIES.—The chief ex-
17 ecutive officer shall—

18 “(A) be responsible for the management of
19 the Corporation; and

20 “(B) report to, and be under the direct au-
21 thority of, the Board.

22 “(5) CORPORATE OFFICERS.—The chief execu-
23 tive officer shall appoint such managers, assistant
24 managers, employees, attorneys, and agents as are

1 necessary to carry out the powers of the Corpora-
2 tion—

3 “(A) with the advice and consent of the
4 Board; and

5 “(B) without regard to the civil service
6 laws applicable to officers and employees of the
7 United States.

8 “(b) COMPENSATION PLAN.—

9 “(1) IN GENERAL.—Without regard to section
10 5301 of title 5, United States Code, the Board shall
11 establish—

12 “(A) the duties of and compensation for all
13 officers and employees of the Corporation; and

14 “(B) a system of organization to describe
15 those responsibilities and promote efficiency.

16 “(2) APPLICABLE CRITERIA.—The Board shall
17 ensure that—

18 “(A) officers and employees are appointed,
19 promoted, and assigned on the basis of capa-
20 bility and fitness; and

21 “(B) other personnel actions are consistent
22 with the principles of fairness and due process,
23 without regard to the provisions of title 5,
24 United States Code, relating to appointments

1 and other personnel actions in the competitive
2 service.

3 “(3) PROTECTION OF DEPARTMENT EMPLOY-
4 EES.—

5 “(A) PURPOSE.—The purpose of this para-
6 graph is to ensure that the establishment of the
7 Corporation does not result in any inequitable
8 effect on the employment rights, wages, or ben-
9 efits of Department employees in carrying out
10 the functions transferred from the Department
11 to the Corporation pursuant to this title.

12 “(B) MEASURES OF PROTECTION.—The
13 compensation, benefits, and other terms and
14 conditions of employment in effect on the day
15 before the applicable transfer date for activities
16 previously carried out by the Department pur-
17 suant to any law or regulation shall continue to
18 apply to officers and employees of the Depart-
19 ment or any other Federal department or agen-
20 cy who are detailed to the Corporation until the
21 date on which the officers or employees are no
22 longer detailed to the Board.

23 “(c) TRANSFEREES AND DETAILEES.—

24 “(1) IN GENERAL.—On request of the Board
25 and subject to the approval of the Secretary, an em-

1 ployee of the Department may be transferred or de-
2 tailed to the Corporation in accordance with section
3 3112 without any loss in accrued benefits or stand-
4 ing within the Civil Service System.

5 “(2) BENEFITS.—

6 “(A) IN GENERAL.—An employee who ac-
7 cepts a transfer to the Corporation may elect—

8 “(i) to have any accrued retirement
9 benefits transferred to a retirement system
10 established by the Corporation; or

11 “(ii) to retain coverage under, as ap-
12 plicable—

13 “(I) the Civil Service Retirement
14 System; or

15 “(II) the Federal Employees Re-
16 tirement System.

17 “(B) WITHHOLDING.—With respect to an
18 employee who elects to retain coverage under
19 subparagraph (A)(ii), the Corporation shall—

20 “(i) withhold a portion of the payment
21 of the employee; and

22 “(ii) use the amounts withheld to
23 make such payments as are required under
24 the applicable Federal retirement system.

1 “(3) DETAILEES.—The Department shall offer
2 any employee of the Department who is detailed to
3 the Board a position of like grade, compensation,
4 and proximity to the official duty station of the em-
5 ployee beginning on the date on which the services
6 of the employee are no longer required by the Cor-
7 poration.

8 **“SEC. 3105. AUDITS.**

9 “(a) INDEPENDENT AUDITS.—

10 “(1) IN GENERAL.—The financial statements of
11 the Corporation shall be—

12 “(A) prepared in accordance with generally
13 accepted accounting principles; and

14 “(B) audited annually by an independent
15 certified public accountant in accordance with—

16 “(i) auditing standards issued by the
17 Comptroller General of the United States;
18 and

19 “(ii) generally accepted auditing
20 standards of the private sector.

21 “(2) REVIEW BY GAO.—The Comptroller Gen-
22 eral—

23 “(A) may review any audit under para-
24 graph (1); and

1 “(B) shall submit to Congress and the
2 Corporation a report describing the results of
3 each review under subparagraph (A), including
4 appropriate recommendations, if any.

5 “(b) GAO AUDITS.—

6 “(1) IN GENERAL.—The Comptroller General
7 may audit the financial statements of the Corpora-
8 tion for any year in accordance with subsection
9 (a)(1).

10 “(2) REIMBURSEMENT BY CORPORATION.—The
11 Corporation shall reimburse the Comptroller General
12 for the cost of any audit conducted under this sub-
13 section, as determined by the Comptroller General.

14 “(c) AVAILABILITY OF BOOKS AND RECORDS.—Sub-
15 ject to section 3111, all books, accounts, financial records,
16 reports, files, papers, and other property belonging to, or
17 in use by, the Corporation or an auditor of the Corpora-
18 tion that the Comptroller General considers to be nec-
19 essary to conduct an audit or review under this section
20 shall be made available to the Comptroller General.

21 “(d) TREATMENT OF GAO AUDITS.—An audit or re-
22 view by the Comptroller General under this section shall
23 be in lieu of any other audit of the financial transactions
24 of the Corporation required to be carried out by the Comp-

1 troller General under chapter 91 of title 31, United States
2 Code, or other applicable law.

3 **“SEC. 3106. ANNUAL REPORTS.**

4 “(a) IN GENERAL.—Not less frequently than once
5 each year, the Corporation shall submit to the President
6 and Congress a report describing the activities carried out
7 by the Corporation during the preceding fiscal year, in-
8 cluding—

9 “(1) a general description of the operations of
10 the Corporation;

11 “(2) a summary of the operating and financial
12 performance of the Corporation; and

13 “(3) a copy of each audit report prepared for
14 the applicable fiscal year under section 3105.

15 “(b) DEADLINE.—A report under subsection (a)
16 shall—

17 “(1) be completed by not later than 150 days
18 after the end of each fiscal year of the Corporation;

19 and

20 “(2) accurately reflect the financial position of
21 the Corporation as of that date.

22 **“SEC. 3107. UNITED STATES NUCLEAR FUEL MANAGEMENT**
23 **CORPORATION FUND.**

24 “(a) ESTABLISHMENT.—

1 “(1) IN GENERAL.—There is established in the
2 Treasury of the United States a fund, to be known
3 as the ‘United States Nuclear Fuel Management
4 Corporation Fund’ (referred to in this section as the
5 ‘Corporation Fund’).

6 “(2) ACCOUNTS.—The Corporation Fund shall
7 be composed of 2 accounts, to be known as—

8 “(A) the ‘United States Nuclear Fuel
9 Management Corporation Operating Account’
10 (referred to in this section as the ‘Operating
11 Account’); and

12 “(B) the ‘United States Nuclear Manage-
13 ment Corporation Capital Reserve Account’ (re-
14 ferred to in this section as the ‘Capital Reserve
15 Account’).”

16 “(b) TRANSFER AND DEPOSITS OF FUNDS.—

17 “(1) TRANSFER OF UNEXPENDED BALANCES.—
18 On the earlier of the transfer date or the date
19 agreed to by the Secretary and the Corporation, the
20 Secretary of the Treasury, without further appro-
21 priation, shall transfer from the Nuclear Waste
22 Fund to the Operating Account, the unexpended bal-
23 ance of the appropriated funds (including funds set
24 aside for accounts payable), and accounts receivable,
25 relating to functions and activities assumed by the

1 Corporation pursuant to this title, including all ad-
2 vance payments.

3 “(2) TRANSFER OF THE CORPUS OF THE NU-
4 CLEAR WASTE FUND.—On the earlier of the transfer
5 date or the date agreed to by the Secretary and the
6 Corporation, the Secretary of the Treasury, without
7 further appropriation, shall transfer from the Nu-
8 clear Waste Fund to the Capital Reserve Account,
9 the unexpended balance of the Nuclear Waste Fund
10 to the Corporation Fund as follows:

11 “(A) On the date of enactment of this title,
12 the corpus of the Nuclear Waste Fund, con-
13 sisting of any unfunded balance of the unex-
14 pended balance shall be credited to the Capital
15 Reserve Account as an unfunded asset, which
16 shall continue to accrue interest at rates and
17 maturities determined by the Secretary of the
18 Treasury, including all receipts, proceeds, and
19 recoveries received by the Nuclear Waste Fund
20 under subsections (a), (b), and (e) of section
21 302 of the Nuclear Waste Policy Act of 1982
22 (42 U.S.C. 10222).

23 “(B) Beginning on the date of enactment
24 of this title, any appropriations made to the
25 Nuclear Waste Fund and all receipts, proceeds,

1 interest, and recoveries received on or after that
2 date under subsections (a), (b), and (e) of sec-
3 tion 302 of that Act (42 U.S.C. 10222) shall be
4 transferred to the Operating Account.

5 “(3) REVENUES FROM SALES.—Revenues from
6 sales of products and services sold by the Corpora-
7 tion shall be deposited in the Operating Account.

8 “(c) USE OF FUNDS.—

9 “(1) USE OF OPERATING ACCOUNT.—

10 “(A) IN GENERAL.—The Corporation may
11 make expenditures from the Operating Account
12 without further appropriation and without fiscal
13 year limitation only to carry out the purposes of
14 this title.

15 “(B) INVESTMENT.—The Corporation may
16 invest amounts of the fund in such financial in-
17 struments as the Corporation considers appro-
18 priate.

19 “(C) NUCLEAR WASTE POLICY ACT RE-
20 STRICTIONS.—The Corporation shall expend
21 Operating Account funds—

22 “(i) consistent with section 302(d) of
23 the Nuclear Waste Policy Act of 1982 (42
24 U.S.C. 10222(d)); or

1 “(ii) for other purposes authorized by
2 Congress.

3 “(2) USE OF CAPITAL RESERVE ACCOUNT.—

4 The Corporation may—

5 “(A) pledge, without further appropriation
6 and without fiscal year limitation, use of the
7 Capital Reserve Account as collateral for the
8 issuance of bonds; and

9 “(B) make expenditures, without further
10 appropriation and without fiscal year limitation,
11 for the decontamination, decommissioning, and
12 ongoing surveillance and maintenance of Cor-
13 poration facilities and repositories following clo-
14 sure.

15 “(d) ADMINISTRATION OF CORPORATION FUND.—

16 “(1) IN GENERAL.—The Corporation, in con-
17 sultation with the Secretary of the Treasury, shall—

18 “(A) administer the Corporation Fund;
19 and

20 “(B) submit to Congress annual reports
21 describing the financial condition and oper-
22 ations of the Corporation Fund during the pre-
23 ceding fiscal year.

24 “(2) BUDGETARY TREATMENT.—The Corpora-
25 tion Fund shall not be subject to—

1 “(A) the allocations for discretionary
2 spending under section 302(a) of the Congres-
3 sional Budget Act of 1974 (2 U.S.C. 633(a));
4 or

5 “(B) the suballocations of appropriations
6 committees under section 302(b) of that Act (2
7 U.S.C. 633(b)); or

8 “(C) apportionment under subchapter II of
9 chapter 15 of title 31, United States Code.

10 “(3) INVESTMENT.—If the Corporation deter-
11 mines that the Corporation Fund Account contains
12 at any time amounts in excess of the needs of the
13 Corporation, the Corporation may request the Sec-
14 retary of the Treasury to invest such portion of the
15 excess amounts as the Corporation determines to be
16 appropriate in obligations of the United States—

17 “(A) having maturities determined by the
18 Secretary of the Treasury to be appropriate to
19 the needs of the Corporation; and

20 “(B) bearing interest at rates determined
21 to be appropriate by the Secretary of the Treas-
22 ury, taking into consideration the current aver-
23 age market yield on outstanding marketable ob-
24 ligations of the United States with remaining
25 periods to maturity comparable to the matu-

1 rities of the investments, except that the inter-
2 est rate on the investments shall not exceed the
3 average interest rate applicable to existing bor-
4 rowings.

5 **“SEC. 3108. ISSUANCE OF BONDS.**

6 “(a) ISSUANCE.—

7 “(1) IN GENERAL.—The Corporation may issue
8 and sell bonds, notes, and other evidences of indebt-
9 edness (referred to in this section as ‘bonds’).

10 “(2) USE OF REVENUE.—The Corporation may
11 pledge and use revenues of the Corporation for—

12 “(A) payment of the principal and interest
13 on the bonds;

14 “(B) purchase or redemption of additional
15 bonds; and

16 “(C) other purposes incidental to the func-
17 tions described in subparagraphs (A) and (B),
18 including creation of reserve funds and other
19 funds that may be similarly pledged and used.

20 “(3) AGREEMENTS WITH HOLDERS AND TRUST-
21 EES.—The Corporation may enter into binding
22 agreements with the holders and trustees of bonds
23 with respect to activities to enhance the market-
24 ability of the bonds, including—

1 “(A) the establishment of reserve funds
2 and other funds;

3 “(B) stipulations concerning the subse-
4 quent issuance of bonds; and

5 “(C) other activities in accordance with
6 this title.

7 “(b) NOT OBLIGATIONS OF UNITED STATES.—

8 “(1) IN GENERAL.—A bond issued by the Cor-
9 poration under this section shall not be considered
10 to be an obligation of, or guaranteed as to principal
11 or interest by, the United States.

12 “(2) NOTICE.—Each bond of the Corporation
13 shall contain a notice of the consideration described
14 in paragraph (1).

15 “(c) TERMS AND CONDITIONS.—

16 “(1) NEGOTIABILITY; MATURITY.—A bond
17 issued by the Corporation under this section shall—

18 “(A) be a negotiable instrument unless
19 otherwise specified in the bond; and

20 “(B) mature not later than 50 years after
21 the date of issuance.

22 “(2) ROLE OF SECRETARY OF TREASURY.—

23 “(A) RIGHT OF DISAPPROVAL.—

24 “(i) IN GENERAL.—Not later than 30
25 days after the date on which the Corpora-

1 tion submits to the Secretary of the Treas-
2 ury a notification of the establishment of a
3 term or condition on a bond under this
4 section described in clause (ii), the Sec-
5 retary of the Treasury may disapprove the
6 term or condition.

7 “(ii) DESCRIPTION.—The terms and
8 conditions referred to in clause (i) are
9 terms and conditions relating to—

10 “(I) the form or denomination of
11 a bond;

12 “(II) the time, amount, or price
13 at which a bond is sold;

14 “(III) the rate of interest of the
15 bond;

16 “(IV) the terms by which the
17 bond may be redeemed by the Cor-
18 poration before maturity;

19 “(V) the priority of claims on the
20 net revenues of the Corporation with
21 respect to principal and interest pay-
22 ments; and

23 “(VI) any other term or condi-
24 tion the Secretary of the Treasury de-
25 termines to be appropriate.

1 “(B) INAPPLICABILITY OF RIGHT TO PRE-
2 SCRIBE TERMS.—Section 9108(a) of title 31,
3 United States Code, shall not apply to the Cor-
4 poration.

5 “(d) INAPPLICABILITY OF SECURITIES REQUIRE-
6 MENTS.—The Corporation—

7 “(1) shall be considered to be an executive de-
8 partment of the United States for purposes of sec-
9 tion 3(c) of the Securities Exchange Act of 1934 (15
10 U.S.C. 78c(c)); and

11 “(2) may register the securities and maintain
12 the books of the Corporation in accordance with—

13 “(A) the Securities Act of 1933 (15 U.S.C.
14 77a et seq.);

15 “(B) the Securities Exchange Act of 1934
16 (15 U.S.C. 78a et seq.); and

17 “(C) applicable regulations of the Securi-
18 ties and Exchange Commission.

19 “(e) USE OF FEDERAL FINANCING BANK.—The Cor-
20 poration may issue or sell any bond to the Federal Financ-
21 ing Bank.

22 **“SEC. 3109. EXEMPTION FROM TAXATION AND PAYMENTS**
23 **IN LIEU OF TAXES.**

24 “(a) EXEMPTION FROM TAXATION.—The Corpora-
25 tion shall be exempt from taxation in any manner or form

1 by any State, county, or other entity of local government,
2 including State, county, or local sales tax.

3 “(b) PAYMENTS IN LIEU OF TAXES.—

4 “(1) IN GENERAL.—The Corporation shall
5 make annual payments, in such amounts as the Cor-
6 poration determines to be fair and reasonable, to
7 each State and local governmental agency with tax
8 jurisdiction over any area in which a facility of the
9 Corporation is located.

10 “(2) DETERMINATION.—In making a deter-
11 mination under paragraph (1), the Corporation shall
12 take into consideration—

13 “(A) the customs and practices prevailing
14 in the applicable area with respect to appraisal,
15 assessment, and classification of industrial
16 property and any special considerations ex-
17 tended to large-scale industrial operations; and

18 “(B) the requirement that any payment
19 made to a taxing authority for any period shall
20 be not less than the payments that would have
21 been made to the taxing authority for the same
22 period by the Department and contractors of
23 the Department on behalf of the Department
24 with respect to property and operations of the
25 Corporation.

1 “(c) TIME OF PAYMENTS.—Each payment under this
2 section shall be made by the Corporation on the date on
3 which payments of taxes by taxpayers to each taxing au-
4 thority are due and payable.

5 “(d) DETERMINATION OF AMOUNT DUE.—A deter-
6 mination by the Corporation of an amount due under this
7 section shall be final and conclusive.

8 **“SEC. 3110. NONAPPLICABILITY OF CERTAIN FEDERAL LAW.**

9 “(a) ANTITRUST LAWS.—The Corporation shall not
10 be subject to—

11 “(1) the Sherman Act (15 U.S.C. 1 et seq.);

12 “(2) the Clayton Act (15 U.S.C. 12 et seq.); or

13 “(3) section 73 or 74 of the Wilson Tariff Act
14 (15 U.S.C. 8, 9).

15 “(b) ENVIRONMENTAL, OCCUPATIONAL, AND PUBLIC
16 HEALTH AND SAFETY LICENSING LAWS.—

17 “(1) NATIONAL ENVIRONMENTAL POLICY ACT
18 OF 1969.—

19 “(A) IN GENERAL.—Subject to subpara-
20 graph (B), the Corporation shall comply with
21 the National Environmental Policy Act of 1969
22 (42 U.S.C. 4321 et seq.).

23 “(B) PREPARATION OF ENVIRONMENTAL
24 IMPACT STATEMENT.—The Corporation shall
25 not be required to prepare an environmental

1 impact statement or similar analysis required
2 under the National Environmental Policy Act of
3 1969 (42 U.S.C. 4321 et seq.) if the Nuclear
4 Regulatory Commission is required under any
5 law (including regulations) to prepare the envi-
6 ronmental impact statement or similar analysis.

7 “(2) JURISDICTION.—The Commission shall
8 have exclusive jurisdiction over the facilities and op-
9 erations of the Corporation with respect to licensing,
10 permitting, rulemaking, compliance, or operations
11 under all Federal, State, interstate, and local envi-
12 ronmental, occupational, and public health and safe-
13 ty laws.

14 “(3) ENFORCEMENT.—

15 “(A) IN GENERAL.—A requirement in-
16 cluded in a license of the Commission or a sub-
17 stantive requirement (including any injunctive
18 relief, administrative order, or civil or adminis-
19 trative penalty or fine) may be enforced against
20 the Corporation only by the Commission (or a
21 designee).

22 “(B) WAIVER.—The United States waives
23 any immunity otherwise applicable to the Cor-
24 poration.

1 “(c) ENERGY REORGANIZATION ACT REQUIRE-
2 MENTS.—

3 “(1) IN GENERAL.—The Corporation shall be
4 subject to section 210 of the Energy Reorganization
5 Act of 1974 (42 U.S.C. 5850).

6 “(2) LEASED FACILITIES.—With respect to the
7 operation of any facility leased by the Corporation,
8 section 206 of that Act (42 U.S.C. 5846) shall apply
9 to the directors and officers of the Corporation.

10 “(d) EXEMPTION FROM FEDERAL PROPERTY AND
11 PROCUREMENT REQUIREMENTS.—The Corporation shall
12 not be subject to—

13 “(1) subtitle I of title 40, United States Code;

14 “(2) title III of the Federal Property and Ad-
15 ministrative Services Act of 1949 (41 U.S.C. 251 et
16 seq.); or

17 “(3) any other law requiring conformance with
18 the Federal Acquisition Regulations contained in
19 title 48, Code of Federal Regulations.

20 “(e) EXPORT CONTROL LAWS.—No transaction of
21 the Corporation shall be subject to the export control laws
22 if the transaction is carried out in accordance with an
23 agreement between the United States and a foreign coun-
24 try.

1 **“SEC. 3111. PROTECTION OF INFORMATION.**

2 “(a) IN GENERAL.—Subject to subsection (b), the
3 Corporation shall protect information classified under this
4 Act, trade secrets, and security, commercial, or financial
5 information to the same extent as a Federal agency or
6 private corporation, in accordance with applicable law, in-
7 cluding section 1905 of title 18, United States Code.

8 “(b) OTHER APPLICABLE LAWS.—Section 552(d) of
9 title 5, United States Code, shall not apply to the Corpora-
10 tion.

11 **“SEC. 3112. TRANSITION AND TRANSFER REQUIREMENTS.**

12 “(a) TRANSITION MANAGER.—Not later than 30
13 days after the date of enactment of this title, the President
14 shall appoint a transition manager, who shall serve at the
15 pleasure of the President during the period beginning on
16 the date of appointment and ending on the earlier of—

17 “(1) the date on which a chief executive officer
18 is appointed for the Corporation pursuant to section
19 3104; or

20 “(2) the transfer date.

21 “(b) DUTIES.—

22 “(1) IN GENERAL.—The transition manager
23 shall carry out the powers and duties of the Board
24 and chief executive officer as described in section
25 3104 only to the extent necessary to implement the
26 transfer of spent nuclear fuel management obliga-

1 tions, functions, personnel, and funds from the Sec-
2 retary to the Corporation not later than the transfer
3 date.

4 “(2) COMPENSATION.—The transition manager
5 shall be a Federal employee to be paid at the rate
6 of pay for the appropriate Executive Service Level,
7 as determined by the Secretary.

8 “(3) CONTINUATION IN ABSENCE OF A BOARD
9 OF DIRECTORS.—The transition manager shall carry
10 out this section regardless of whether the Board is
11 appointed pursuant to section 3103.

12 “(c) RATIFICATION OF ACTIONS.—Once the Board
13 has been appointed, each action carried out by the transi-
14 tion manager shall be subject to ratification by the Board.

15 “(d) RESPONSIBILITIES OF THE SECRETARY.—Dur-
16 ing the period beginning on the date of enactment of this
17 title and ending on the transfer date, the Secretary shall—

18 “(1) retain responsibility for spent nuclear fuel
19 management in accordance with applicable Federal
20 law;

21 “(2) to the extent provided in appropriations
22 Acts, provide funds to the transition manager to pay
23 salaries and expenses necessary to effectuate the
24 purposes of this title;

1 “(3) assign employees of the Department to as-
2 sist the transition manager in carrying out this sec-
3 tion; and

4 “(4) assist and cooperate with the transition
5 manager and the chief executive officer in transfer-
6 ring to the Corporation not later than the transfer
7 date the activities, obligations, and resources under
8 the jurisdiction or control of the Secretary with re-
9 spect to spent nuclear fuel management.

10 “(e) BUDGET.—

11 “(1) IN GENERAL.—The transition manager
12 shall prepare and submit an operating budget for
13 the Corporation for each fiscal year to the Secretary
14 for approval not later than December 1 of each year
15 until the Board is appointed pursuant to section
16 3103.

17 “(2) REASONABLE EXPENSES.—All reasonable
18 expenses associated with the duties of the transition
19 manager shall be paid from the Operating Fund, as
20 approved by the Secretary.

21 “(f) COMPLETION OF TRANSFERS AND OTHER AC-
22 TIONS BY TRANSFER DATE.—

23 “(1) IN GENERAL.—The Secretary and the
24 transition manager shall complete transfers of all as-
25 sets, property, rights, liabilities, or obligations under

1 the jurisdiction of the Secretary relating to spent
2 nuclear fuel management to the Corporation not
3 later than the transfer date.

4 “(2) SUSPENSION OF FEES.—

5 “(A) IN GENERAL.—Any party to a con-
6 tract with the United States executed pursuant
7 to section 302 of the Nuclear Waste Policy Act
8 of 1982 (42 U.S.C. 10222) for the disposal of
9 spent nuclear fuel and high level radioactive
10 waste may suspend payment of fees under the
11 contract if all transfers of contracts and funds
12 required to be transferred under this title are
13 not complete, the Board has not been ap-
14 pointed, or a chief executive officer for the Cor-
15 poration has not been appointed, by the trans-
16 fer date.

17 “(B) PERIOD.—A suspension under sub-
18 paragraph (A) shall continue until each action
19 required under this title has been completed.

20 “(C) APPLICABILITY.—The suspension of
21 payments of a contract under this subsection
22 shall not constitute a termination, breach, or
23 cancellation of the contract.

1 **“Subtitle B—Rights, Privileges, and**
2 **Assets**

3 **“SEC. 3201. MARKETING AND CONTRACTING AUTHORITY.**

4 “(a) EXCLUSIVE MARKETING AGENT.—

5 “(1) IN GENERAL.—The Corporation shall act
6 as the exclusive marketing agent on behalf of the
7 United States for entering into contracts to provide
8 spent nuclear fuel management and related products
9 and services.

10 “(2) EFFECT ON DEPARTMENT.—Beginning on
11 the transfer date, the Department may not market
12 spent nuclear fuel management or any related serv-
13 ice.

14 “(b) TRANSFER OF CONTRACTS.—

15 “(1) IN GENERAL.—Each spent nuclear fuel
16 management contract, agreement, and lease executed
17 by the Department before the transfer date relating
18 to spent nuclear fuel management or a related serv-
19 ice shall be transferred to the Corporation.

20 “(2) INCREASE IN FEES.—The Corporation
21 may not increase the fee under contracts executed
22 by the Secretary under section 302(a) of the Nuclear
23 Waste Policy Act of 1982 (42 U.S.C. 10222(a)), un-
24 less the Secretary approves the fee increase in ac-
25 cordance with section 302(a)(3) of that Act not later

1 than 2 years in advance of the proposed effective
2 date of the increase in the fee.

3 **“SEC. 3202. PRICING.**

4 “(a) SERVICES PROVIDED TO COMMERCIAL CUS-
5 TOMERS.—

6 “(1) IN GENERAL.—The Corporation shall es-
7 tablish prices for products, materials, and services
8 provided by the Corporation to customers other than
9 the Department, and for services other than those
10 provided under a spent fuel disposal contract, on a
11 basis sufficient to—

12 “(A) recover the costs of the Corporation;
13 and

14 “(B) operate on a self-sustaining basis.

15 “(2) APPROVAL.—Each price established under
16 paragraph (1) shall be subject to review and ap-
17 proval by the Board.

18 “(b) SERVICES PROVIDED TO DEPARTMENT.—The
19 Corporation shall charge the Department fees for spent
20 nuclear fuel management services provided under section
21 3102(b)(7) on a basis sufficient to recover the costs of
22 the Corporation, on a yearly basis, of providing the serv-
23 ices.

1 **“SEC. 3203. ACQUISITION OF DEPARTMENT LAND AND FA-**
2 **CILITIES.**

3 “(a) IN GENERAL.—The Corporation—

4 “(1) shall have the exclusive option to lease or
5 otherwise access required portions of Department or
6 other Federal land (other than land within the Na-
7 tional Park System, the National Forest System, or
8 the National Wildlife Refuge System or land man-
9 aged by the Bureau of land Management that is
10 within a conservation system unit), facilities, and
11 property useful for spent nuclear fuel management
12 purposes, including property or facilities of the De-
13 partment necessary for storage, processing, or fuel
14 fabrication involving materials containing plutonium;
15 and

16 “(2) may acquire or lease any required portion
17 of State or private land, facilities, or property useful
18 for spent nuclear fuel management purposes.

19 “(b) TERMS OF LEASE.—

20 “(1) IN GENERAL.—The Corporation and the
21 Department shall establish mutually agreeable terms
22 for any lease under subsection (a)(1), including
23 specifying annual payments to be made to the De-
24 partment by the Corporation.

25 “(2) PAYMENTS.—The amount of annual pay-
26 ments for a lease under subsection (a)(1) shall be

1 equal to the cost incurred by the Department in ad-
2 ministering the lease and providing to the Corpora-
3 tion services relating to the lease (excluding depre-
4 ciation and imputed interest on original plant invest-
5 ments and costs under subsection (c)).

6 “(c) DEPARTMENT RESPONSIBILITY FOR PRE-
7 EXISTING CONDITIONS.—The payment of any costs of de-
8 contamination and decommissioning, actions for response
9 (as defined in section 101 of the Comprehensive Environ-
10 mental Response, Compensation, and Liability Act of
11 1980 (42 U.S.C. 9601)), or corrective actions (as defined
12 by the Administrator of the Environmental Protection
13 Agency under section 3004(u) of the Solid Waste Disposal
14 Act (42 U.S.C. 6924(u)), with respect to conditions exist-
15 ing before the transfer date, in connection with property
16 of the Department leased under subsection (a)(1), shall
17 remain the sole responsibility of the Department.

18 “(d) ENVIRONMENTAL AUDIT.—The Secretary, in
19 consultation with the Administrator of the Environmental
20 Protection Agency, shall conduct a comprehensive environ-
21 mental audit to identify the environmental conditions that
22 will remain the responsibility of the Department under
23 subsection (c) after leasing the applicable land or facility.

24 “(e) TREATMENT UNDER PRICE-ANDERSON.—Any
25 lease executed between the Secretary and the Corporation

1 under this section shall be considered to be a contract for
2 purposes of section 170 d.

3 “(f) WAIVER OF EIS REQUIREMENT.—A lease exe-
4 cuted between the Corporation and the Department under
5 this section shall not be considered to be a major Federal
6 action significantly affecting the quality of the human en-
7 vironment for purposes of section 102 of the National En-
8 vironmental Policy Act of 1969 (42 U.S.C. 4332).

9 **“SEC. 3204. PATENTS AND INVENTIONS.**

10 “(a) GRANT OF RIGHTS.—

11 “(1) IN GENERAL.—The Corporation may
12 use—

13 “(A) efficacious and economical processes
14 for spent nuclear fuel management; and

15 “(B) any method of improving the produc-
16 tion of nuclear power.

17 “(2) INFRINGEMENT.—Except as provided in
18 paragraph (3), an owner of a patent the patent
19 rights of which are copied, used, infringed, or em-
20 ployed by the Corporation pursuant to this sub-
21 section shall have as the exclusive remedy a cause of
22 action against the Corporation to be instituted and
23 prosecuted, as a case in equity, in the appropriate
24 United States district court for the recovery of rea-
25 sonable compensation for the infringement.

1 “(3) FEDERAL EMPLOYEES.—This section shall
2 not apply to any art, machine, method of manufac-
3 ture, or composition of matter discovered or invented
4 by an employee during the period of employment by
5 the Corporation or the Federal Government.

6 “(b) EXCLUSIVE RIGHT TO COMMERCIALIZE.—The
7 Corporation shall have the exclusive commercial right to
8 deploy and use any spent nuclear fuel management patent
9 or process of the Corporation.

10 “(c) RESEARCH AND DEVELOPMENT.—On request of
11 the Corporation, the Secretary shall provide, on a reim-
12 bursable basis, research and development of alternative
13 technologies for spent nuclear fuel management.

14 **“SEC. 3205. LIABILITIES.**

15 “(a) LIABILITIES BASED ON OPERATIONS BEFORE
16 TRANSITION.—Except as otherwise provided in this title,
17 each liability attributable to spent nuclear fuel manage-
18 ment or property transferred to the Corporation before the
19 applicable transfer date shall remain a liability of the De-
20 partment.

21 “(b) JUDGMENTS BASED ON OPERATIONS BEFORE
22 TRANSITION.—Except as otherwise agreed to by the Cor-
23 poration and the Department, a judgment entered against
24 the Department imposing liability arising out of a spent
25 nuclear fuel management obligation of the Department

1 under the Nuclear Waste Policy Act of 1982 (42 U.S.C.
2 10101 et seq.) or a spent fuel disposal contract shall be
3 considered to be a judgment against, and payable solely
4 by, the Department.

5 “(c) REPRESENTATION.—With respect to any claim
6 to impose liability under subsection (a) or (b)—

7 “(1) the United States shall be represented by
8 the Department of Justice; and

9 “(2) the Corporation shall be represented by a
10 counsel selected by the Corporation.

11 “(d) JUDGMENTS AND LIABILITIES BASED ON OPER-
12 ATIONS AFTER TRANSITION.—

13 “(1) IN GENERAL.—Except as otherwise pro-
14 vided in this subsection, a judgment entered against
15 the Corporation arising from operations of the Cor-
16 poration on or after the transfer date shall be pay-
17 able solely by the Corporation from funds of the
18 Corporation.

19 “(2) EXISTING SPENT FUEL DISPOSAL CON-
20 TRACTS.—

21 “(A) IN GENERAL.—Paragraph (1) shall
22 not apply to a liability or judgment that—

23 “(i) is based on a spent fuel disposal
24 contract in existence on the date of enact-
25 ment of this title; and

1 “(ii) accrues not later than 10 years
2 after the license termination date of the re-
3 actor to which the contract applies, includ-
4 ing any renewals of the license granted by
5 the Nuclear Regulatory Commission.

6 “(B) PAYMENT.—A liability or judgment
7 described in subparagraph (A) shall continue to
8 be—

9 “(i) the responsibility of the Depart-
10 ment; and

11 “(ii) payable pursuant to section 1304
12 of title 31, United States Code.

13 “(3) RELATIONSHIP TO OTHER PROVISIONS.—
14 Payments from the funds of the Corporation de-
15 scribed in paragraph (1) shall not be subject to the
16 Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101
17 et seq.), including section 302(d) of that Act (42
18 U.S.C. 10222(d)).

19 “(4) TREATMENT.—The Corporation shall not
20 be considered to be a Federal agency for purposes
21 of chapter 171 of title 28, United States Code.

22 **“SEC. 3206. PREDEPLOYMENT ACTIVITIES BY CORPORA-**
23 **TION.**

24 “The Corporation, in coordination with the Depart-
25 ment, may carry out such activities as are necessary to

1 prepare for the provision of spent nuclear fuel manage-
2 ment services, including—

3 “(1) initiation of public outreach and coordina-
4 tion with State and local stakeholders;

5 “(2) completion of preapplication activities with
6 the Commission;

7 “(3) confirmation of technical performance;

8 “(4) validation of economic projections;

9 “(5) completion of feasibility and risk studies;

10 “(6) initiation of preliminary plant design and
11 engineering; and

12 “(7) site selection, site characterization, and en-
13 vironmental documentation activities.

14 **“SEC. 3207. CONSTRUCTION AND OPERATION OF FACILI-**
15 **TIES.**

16 “(a) **ESTABLISHMENT.**—If the Corporation elects to
17 proceed with the construction of a new facility, or take
18 over operation of an existing facility, for spent nuclear fuel
19 management, the Corporation may enter into a contract
20 with 1 or more contractors for the construction or oper-
21 ation of the facility.

22 “(b) **TRANSACTIONS BETWEEN CORPORATION AND**
23 **CONTRACTORS.**—

1 “(1) GRANTS.—The Corporation may make
2 grants or loans to 1 or more contractors to carry out
3 any duty of the Corporation under this title.

4 “(2) LICENSING AGREEMENT.—The Corpora-
5 tion may license to a contractor any right, title, or
6 interest of the Corporation under this title.

7 “(3) PURCHASE AGREEMENT.—The Corpora-
8 tion may enter into a commitment to purchase any
9 spent nuclear fuel management service, nuclear ma-
10 terial, or fuel product produced at a facility operated
11 by a contractor.

12 “(4) ADDITIONAL ASSISTANCE.—The Corpora-
13 tion may provide to a contractor such additional per-
14 sonnel, services, and equipment as the Corporation
15 determines to be appropriate.

16 **“SEC. 3208. PRICE-ANDERSON COVERAGE.**

17 “(a) IN GENERAL.—Section 170 shall apply to any
18 spent nuclear fuel management facility—

19 “(1) owned or operated by, or under contract
20 with, the Corporation;

21 “(2) licensed under section 53, 63, or 103; and

22 “(3) constructed after the date of enactment of
23 this title.

24 “(b) INDEMNITY AGREEMENTS.—The Secretary,
25 pursuant to section 170, may enter in to any indemnity

1 agreement with the Corporation or a contractor of the
2 Corporation as the Secretary determines to be necessary.

3 **“SEC. 3209. REFERENCES.**

4 “Any reference to the Commission or the Department
5 contained in section 161 k., 221 a., or 230 shall be consid-
6 ered to include the Corporation.

7 **“SEC. 3210. SEVERABILITY.**

8 “If any provision of this title or the application of
9 any such provision to any entity, person, or circumstance
10 is for any reason judged by a court of competent jurisdic-
11 tion to be invalid, the remainder of this title and the appli-
12 cation of this title shall not be affected.”.

13 (b) CONFORMING AMENDMENT.—The table of con-
14 tents of the Atomic Energy Act of 1954 (42 U.S.C. 2011
15 note) is amended by adding at the end the following:

“Sec. 1. Short title.

“Sec. 2. United States Nuclear Fuel Management Corporation.

“TITLE III—UNITED STATES NUCLEAR FUEL MANAGEMENT
CORPORATION

“Sec. 3001. Purpose.

“Sec. 3002. Definitions.

“Subtitle A—Establishment, Powers, and Organization

“Sec. 3101. Establishment.

“Sec. 3102. Powers.

“Sec. 3103. Board of Directors.

“Sec. 3104. Management.

“Sec. 3105. Audits.

“Sec. 3106. Annual reports.

“Sec. 3107. United States Nuclear Fuel Management Corporation Fund.

“Sec. 3108. Issuance of bonds.

“Sec. 3109. Exemption from taxation and payments in lieu of taxes.

“Sec. 3110. Nonapplicability of certain Federal law.

“Sec. 3111. Protection of information.

“Sec. 3112. Transition and transfer requirements.

“Subtitle B—Rights, Privileges, and Assets

- “Sec. 3201. Marketing and contracting authority.
- “Sec. 3202. Pricing.
- “Sec. 3203. Acquisition of Department land and facilities.
- “Sec. 3204. Patents and inventions.
- “Sec. 3205. Liabilities.
- “Sec. 3206. Predeployment activities by Corporation.
- “Sec. 3207. Construction and operation of facilities.
- “Sec. 3208. Price-Anderson coverage.
- “Sec. 3209. References.
- “Sec. 3210. Severability.”.