

110TH CONGRESS
2D SESSION

S. 3661

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

OCTOBER 1 (legislative day, SEPTEMBER 17), 2008

Mr. VOINOVICH (for himself, Mr. DOMENICI, Ms. MURKOWSKI, Mrs. DOLE, and Mr. ALEXANDER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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 2008”.

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 manage, on a self-sustaining and effi-
13 cient basis, a spent nuclear fuel enterprise to elimi-
14 nate the need for Federal funding (other than fund-
15 ing provided pursuant to this title) for the manage-
16 ment of spent nuclear fuel;

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

21 “(A) the Secretary relating to the Nuclear
22 Waste Fund; and

23 “(B) the Office of Civilian Radioactive
24 Waste Management under section 304 of that
25 Act (42 U.S.C. 10224);

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

1 “(A) the common defense and security;
2 and

3 “(B) the enforcement of laws and policies
4 concerning nonproliferation of atomic weapons
5 and other nonpeaceful uses of atomic energy;

6 “(4) to advance technologies and facilities that
7 will recycle spent nuclear fuel into useable reactor
8 fuel which will—

9 “(A) address global counterproliferation
10 and counterterrorism;

11 “(B) promote efficient utilization of nu-
12 clear fuel resources; and

13 “(C) provide for safe, secure disposal of
14 nuclear materials;

15 “(5) to maintain a reliable and economical do-
16 mestic source of spent nuclear fuel management
17 services and sustain and expand the role of nuclear
18 energy in meeting United States requirements for
19 clean, safe, reliable, and affordable energy;

20 “(6) to provide spent nuclear fuel management
21 and related services to—

22 “(A) the Department of Energy for gov-
23 ernmental purposes; and

24 “(B) domestic persons; and

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

3 **“SEC. 3002. DEFINITIONS.**

4 “In this title:

5 “(1) BOARD.—The term ‘Board’ means the
6 Board of Directors of the Corporation established
7 under section 3103.

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

11 “(3) CORPORATION FUND.—The term ‘Corpora-
12 tion Fund’ means the United States Nuclear Fuel
13 Management Corporation Fund established by sec-
14 tion 3107.

15 “(4) DECOMMISSIONING; DECONTAMINATION.—
16 The terms ‘decommissioning’ and ‘decontamination’,
17 with respect to an activity, include any activity other
18 than a response action or corrective action carried
19 out for purposes of decontaminating or decommis-
20 sioning a facility for spent nuclear fuel management
21 that has residual radioactive or mixed radioactive
22 and hazardous chemical contamination (including
23 depleted tailings).

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

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

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

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

12 “(9) SPENT NUCLEAR FUEL.—The term ‘spent
13 nuclear fuel’ means any nuclear fuel or highly radio-
14 active waste that has been irradiated in a domestic,
15 commercial nuclear power reactor pursuant to a
16 spent fuel disposal contract.

17 “(10) SPENT NUCLEAR FUEL MANAGEMENT.—
18 The term ‘spent nuclear fuel management’ means
19 any activity involving—

20 “(A) the storage, transportation, reprocess-
21 ing, processing, treatment, fabrication, or sale
22 of a product derived from spent nuclear fuel; or

23 “(B) the disposal of spent nuclear fuel.

24 “(11) TECHNOLOGY FOR SPENT NUCLEAR FUEL
25 MANAGEMENT.—The term ‘technology for spent nu-

1 clear fuel management’ means any technology used
 2 to transport, store, process, reprocess, or dispose of
 3 spent nuclear fuel.

4 “(12) TRANSFER DATE.—The term ‘transfer
 5 date’ means, with respect to any asset, property,
 6 right, liability, or obligation transferred from the
 7 Department to the Corporation pursuant to this
 8 title, the date selected by the Corporation and the
 9 Department for the transfer.

10 **“Subtitle A—Establishment,**
 11 **Powers, and Organization**

12 **“SEC. 3101. ESTABLISHMENT.**

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

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

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

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

22 “(c) CORPORATE OFFICES.—

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

1 “(A) for the service of process and papers,
2 maintain an office in the District of Columbia;
3 and

4 “(B) for purposes of venue in civil actions,
5 be considered to be a resident of the District of
6 Columbia.

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

10 **“SEC. 3102. POWERS.**

11 “(a) IN GENERAL.—The Corporation—

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

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

20 “(3) may obtain from the Administrator of
21 General Services the services provided by the Admin-
22 istrator to Federal agencies on the same basis as
23 those services are so provided;

24 “(4) shall have the authority to manage spent
25 nuclear fuel, provide for the management of spent

1 nuclear fuel by others, and acquire spent nuclear
2 fuel or materials necessary to reprocess spent nu-
3 clear fuel or fabricate reactor fuel from spent nu-
4 clear fuel;

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

10 “(A) the Secretary relating to the Nuclear
11 Waste Fund; and

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

15 “(6) shall—

16 “(A) construct spent fuel reprocessing and
17 fuel fabrication facilities required to conduct en-
18 gineering-scale demonstrations of nuclear fuel
19 reprocessing research and development con-
20 ducted by the Department or by public or pri-
21 vate organizations;

22 “(B) use the facilities to develop the re-
23 quired licensing basis documentation and tech-
24 nical criteria necessary to obtain a construction
25 and operating license from the Nuclear Regu-

1 latory Commission for full commercial-scale
2 used nuclear fuel reprocessing and fuel fabrica-
3 tion facilities;

4 “(C) develop used nuclear fuel reprocessing
5 and fuel fabrication technologies the Corpora-
6 tion considers commercially promising that—

7 “(i) do not seek to separate pure plu-
8 tonium;

9 “(ii) reduce the burden on geological
10 repositories for ultimate waste disposal;

11 “(iii) promote extraction of additional
12 useful energy from used nuclear fuel
13 through recycling or reuse; and

14 “(iv) produce fuel for use in civilian
15 nuclear power reactors; and

16 “(D) use funds of the Corporation to li-
17 cense, construct, and operate the reprocessing
18 and fuel fabrication demonstration facilities.

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

21 “(1) for the identification, development, licens-
22 ing, construction, operation, decommissioning, and
23 post-decommissioning maintenance and monitoring
24 of any repository, interim storage facility, monitored
25 retrievable storage facility, reprocessing facility, fuel

1 fabrication facility, or test and evaluation facility
2 constructed under title III of the Nuclear Waste Pol-
3 icy Act of 1982 (42 U.S.C. 10221 et seq.), except
4 that the limitations imposed on a monitored retriev-
5 able storage facility under section 141(g) of that Act
6 (42 U.S.C. 10161(g)) shall not apply to an interim
7 storage facility developed by the Corporation;

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

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

15 “(4) to assume all responsibilities of the De-
16 partment under spent fuel disposal contracts in ex-
17 istence on the date of enactment of this title, except
18 that (as provided in section 3205) liability for failure
19 to perform under those contracts shall not be as-
20 sumed by the Corporation until the date that is 15
21 years after the date of enactment of this title; and

22 “(5) to recommend changes to the nuclear
23 waste fee provided by section 302(a)(4) of the Nu-
24 clear Waste Policy Act of 1982 (42 U.S.C.
25 10222(a)(4)) and spent fuel disposal contracts, ex-

1 cept that the Corporation may not implement any
2 changes in the fee schedule except as authorized by
3 Act of Congress;

4 “(6) for the acquisition, design, modification,
5 replacement, operation, and construction of facilities
6 at a repository site, reprocessing facility site, reproc-
7 essed fuel fabrication facility site, monitored retriev-
8 able storage site, or test and evaluation facility site
9 necessary or incident to a repository, reprocessing
10 facility, reprocessed fuel fabrication facility, mon-
11 itored retrievable storage facility, or test and evalua-
12 tion facility;

13 “(7) to carry out such nongeneric research, de-
14 velopment, and demonstration activities relating to
15 evaluating, improving, and testing existing tech-
16 nologies for spent nuclear fuel management and re-
17 lated processes and activities as the Corporation
18 considers to be necessary or advisable to achieve the
19 purposes of this title;

20 “(8) to carry out transactions regarding spent
21 nuclear fuel management, uranium, enriched ura-
22 nium, plutonium, other special nuclear material, fis-
23 sionable nuclear material, fertile nuclear material,
24 fission byproducts, actinides, or depleted uranium
25 with any person—

1 “(A) licensed under section 53, 63, 103, or
2 104, in accordance with the applicable license;

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

6 “(C) otherwise authorized by law to enter
7 into a transaction described in subparagraph
8 (A) or (B);

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

11 “(A) any person licensed under section 53,
12 63, 103, or 104, for such period as the Cor-
13 poration considers to be appropriate to provide
14 services supporting the mission and purpose of
15 the Corporation under this title; and

16 “(B) the Department in accordance with
17 this title for spent nuclear fuel management
18 and related services that the Department deter-
19 mines to be required—

20 “(i) to carry out Presidential direc-
21 tives and authorizations; and

22 “(ii) to conduct other Department
23 programs;

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

1 “(11) to sue and be sued in the corporate name
2 and be represented by an attorney in all administra-
3 tive and judicial proceedings, including, on approval
4 of the Attorney General, appeals from decisions of
5 United States courts, except that the United States
6 Court of Federal Claims shall have exclusive juris-
7 diction over a claim against the Corporation and a
8 decision or action of the Corporation shall not be
9 subject to review under section 119 of the Nuclear
10 Waste Policy Act of 1982 (42 U.S.C. 10139);

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

14 “(13)(A) to acquire, purchase, lease, and hold
15 real and personal property, including patents and
16 proprietary data, as the Corporation determines to
17 be necessary in the transaction of business; and

18 “(B) to sell, lease, grant, and dispose of such
19 real and personal property as the Corporation deter-
20 mines to be necessary to achieve the purposes of this
21 title;

22 “(14) on consent of each unit of government
23 concerned, to employ the services, records, facilities,
24 or personnel of any State or local government agen-
25 cy or instrumentality or voluntary or uncompensated

1 personnel to perform appropriate functions on behalf
2 of the Corporation;

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

7 “(A) any Federal department or agency;

8 “(B) any State, territory, or possession (or
9 any political subdivision thereof) of the United
10 States; or

11 “(C) any individual, firm, association, or
12 corporation;

13 “(16) to determine the character of, and the ne-
14 cessity for, the obligations and expenditures of the
15 Corporation and the manner in which the obligations
16 and expenditures will be incurred, allowed, and paid,
17 subject to this title and other Federal law specifi-
18 cally applicable to wholly owned Federal corpora-
19 tions;

20 “(17) to retain and use the revenues of the Cor-
21 poration to achieve the purposes of this title, includ-
22 ing research and development and capital invest-
23 ment, in a manner that ensures that the retention
24 and use shall not be subject to apportionment under

1 subchapter II of chapter 15 of title 31, United
2 States Code;

3 “(18) to settle and adjust claims—

4 “(A) held by the Corporation against other
5 parties; or

6 “(B) held by other parties against the Cor-
7 poration;

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

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

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

15 “(22) subject to this subsection and section
16 3205, to pay any settlement or judgment entered
17 against the Corporation from the Corporation Fund
18 and not from funds made available pursuant to sec-
19 tion 1304 of title 31, United States Code.

20 “(c) COLOCATION WITH INTERIM STORAGE FACILI-
21 TIES.—If the Corporation determines that an interim used
22 nuclear fuel storage facility is needed, the Corporation
23 shall consider the colocation of commercial-scale used nu-
24 clear fuel recycling facilities with the interim storage facil-

1 ity in the siting and engineering of the interim storage
2 facility.

3 **“SEC. 3103. BOARD OF DIRECTORS.**

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

6 “(b) MEMBERSHIP.—

7 “(1) APPOINTMENT.—The Board shall be com-
8 posed of 7 members, to be appointed by the Presi-
9 dent by and with the advice and consent of the Sen-
10 ate.

11 “(2) CHAIRPERSON.—The members of the
12 Board shall elect 1 member to act as Chairperson of
13 the Board.

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

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

17 “(2) shall have management expertise relating
18 to large organizations;

19 “(3) shall not be an employee of the Corpora-
20 tion;

21 “(4) shall make full disclosure to Congress of
22 any investment or other financial interest that the
23 individual holds in the energy industry;

24 “(5) shall affirm support for the purposes of
25 the Corporation; and

1 “(6) may be a representative of and have fidu-
2 ciary obligations to, 1 or more parties currently or
3 previously contributing to the Nuclear Waste Fund
4 or the Corporation Fund, with the association not
5 considered a conflict of interest.

6 “(d) TERMS.—

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

10 “(2) INITIAL MEMBERS.—Of the members first
11 appointed to the Board—

12 “(A) 1 shall be appointed for a 1-year
13 term;

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

16 “(C) 2 shall be appointed for a 3-year
17 term; and

18 “(D) 2 shall be appointed for a 4-year
19 term.

20 “(3) REAPPOINTMENT.—A member of the
21 Board the term of service of whom has expired may
22 be reappointed by the President, by and with the ad-
23 vice and consent of the Senate.

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

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

6 “(B) the date on which the session of Con-
7 gress during which the term of the member ex-
8 pires ends.

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

10 “(1) shall not affect the powers of the Board;
11 and

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

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

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

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

18 “(g) QUORUM.—5 members of the Board shall con-
19 stitute a quorum.

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

22 “(i) COMPENSATION.—A member of the Board shall
23 be allowed travel expenses, including per diem in lieu of
24 subsistence, at rates authorized for an employee of an
25 agency under subchapter I of chapter 57 of title 5, United

1 States Code, while away from the home or regular place
2 of business of the member in the performance of the duties
3 of the Board.

4 **“SEC. 3104. MANAGEMENT.**

5 “(a) CHIEF EXECUTIVE OFFICER.—

6 “(1) APPOINTMENT.—The Board shall appoint
7 an individual to serve as chief executive officer of
8 the Corporation.

9 “(2) QUALIFICATIONS.—

10 “(A) IN GENERAL.—To be eligible serve as
11 chief executive officer of the Corporation, an in-
12 dividual—

13 “(i) shall have senior executive-level
14 management experience in large, complex
15 organizations;

16 “(ii) shall not—

17 “(I) be a member of the Board;
18 or

19 “(II) have served as a member of
20 the Board during the 2-year period
21 ending on the date of appointment as
22 chief executive officer; and

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

1 “(B) EXPERTISE.—In appointing a chief
2 executive officer, the Board shall give particular
3 consideration to appointing an individual
4 with—

5 “(i) expertise in the nuclear industry;

6 and

7 “(ii) strong financial skills.

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

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

12 “(A) be responsible for the management of
13 the Corporation; and

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

16 “(5) CORPORATE OFFICERS.—The chief execu-
17 tive officer shall appoint such managers, assistant
18 managers, employees, attorneys, and agents as are
19 necessary to carry out the powers of the Corpora-
20 tion—

21 “(A) with the advice and consent of the
22 Board; and

23 “(B) without regard to the civil service
24 laws applicable to officers and employees of the
25 United States.

1 “(b) COMPENSATION PLAN.—

2 “(1) IN GENERAL.—Without regard to section
3 5301 of title 5, United States Code, the Board shall
4 establish—

5 “(A) the duties of and compensation for all
6 officers and employees of the Corporation; and

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

9 “(2) APPLICABLE CRITERIA.—The Board shall
10 ensure that—

11 “(A) officers and employees are appointed,
12 promoted, and assigned on the basis of capa-
13 bility and fitness; and

14 “(B) other personnel actions are consistent
15 with the principles of fairness and due process,
16 without regard to the provisions of title 5,
17 United States Code, relating to appointments
18 and other personnel actions in the competitive
19 service.

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

22 “(A) PURPOSE.—The purpose of this para-
23 graph is to ensure that the establishment of the
24 Corporation does not result in any inequitable
25 effect on the employment rights, wages, or ben-

1 efits of Department employees in carrying out
2 the functions transferred from the Department
3 to the Corporation pursuant to this title.

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

15 “(c) TRANSFEREES AND DETAILEES.—

16 “(1) IN GENERAL.—On request of the Board
17 and subject to the approval of the Secretary, an em-
18 ployee of the Department may be transferred or de-
19 tailed to the Corporation in accordance with section
20 3112 without any loss in accrued benefits or stand-
21 ing within the Civil Service System.

22 “(2) BENEFITS.—

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

1 “(i) to have any accrued retirement
2 benefits transferred to a retirement system
3 established by the Corporation; or

4 “(ii) to retain coverage under, as ap-
5 plicable—

6 “(I) the Civil Service Retirement
7 System; or

8 “(II) the Federal Employees Re-
9 tirement System.

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

13 “(i) withhold a portion of the payment
14 of the employee; and

15 “(ii) use the amounts withheld to
16 make such payments as are required under
17 the applicable Federal retirement system.

18 “(3) DETAILEES.—The Department shall offer
19 any employee of the Department who is detailed to
20 the Board a position of like grade, compensation,
21 and proximity to the official duty station of the em-
22 ployee beginning on the date on which the services
23 of the employee are no longer required by the Cor-
24 poration.

1 **“SEC. 3105. AUDITS.**

2 “(a) INDEPENDENT AUDITS.—

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

5 “(A) prepared in accordance with generally
6 accepted accounting principles; and

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

9 “(i) auditing standards issued by the
10 Comptroller General of the United States;
11 and

12 “(ii) generally accepted auditing
13 standards of the private sector.

14 “(2) REVIEW BY GAO.—The Comptroller Gen-
15 eral—

16 “(A) may review any audit under para-
17 graph (1); and

18 “(B) shall submit to Congress and the
19 Corporation a report describing the results of
20 each review under subparagraph (A), including
21 appropriate recommendations, if any.

22 “(b) GAO AUDITS.—

23 “(1) IN GENERAL.—The Comptroller General
24 may audit the financial statements of the Corpora-
25 tion for any year in accordance with subsection
26 (a)(1).

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

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

12 “(d) TREATMENT OF GAO AUDITS.—An audit or re-
13 view by the Comptroller General under this section shall
14 be in lieu of any other audit of the financial transactions
15 of the Corporation required to be carried out by the Comp-
16 troller General under chapter 91 of title 31, United States
17 Code, or other applicable law.

18 **“SEC. 3106. ANNUAL REPORTS.**

19 “(a) IN GENERAL.—Not less frequently than once
20 each year, the Corporation shall submit to the President
21 and Congress a report describing the activities carried out
22 by the Corporation during the preceding fiscal year, in-
23 cluding—

24 “(1) a general description of the operations of
25 the Corporation;

1 “(2) a summary of the operating and financial
2 performance of the Corporation, including an expla-
3 nation of the decision whether to pay dividends; and

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

6 “(b) DEADLINE.—A report under subsection (a)
7 shall—

8 “(1) be completed by not later than 150 days
9 after the end of each fiscal year of the Corporation;
10 and

11 “(2) accurately reflect the financial position of
12 the Corporation as of that date.

13 **“SEC. 3107. UNITED STATES NUCLEAR FUEL MANAGEMENT**
14 **CORPORATION FUND.**

15 “(a) ESTABLISHMENT.—

16 “(1) IN GENERAL.—There is established in the
17 Treasury of the United States a revolving fund, to
18 be known as the ‘United States Nuclear Fuel Man-
19 agement Corporation Fund’—

20 “(A) to be made available to the Corpora-
21 tion to carry out this title without appropriation
22 or fiscal year limitation; and

23 “(B) which shall not be subject to appor-
24 tionment under subchapter II of chapter 15 of
25 title 31, United States Code.

1 “(b) TRANSFER OF UNEXPENDED BALANCES.—On
2 the applicable transfer date, the Secretary shall deposit
3 in the Corporation Fund, without further appropriation,
4 the unexpended balance of appropriations and other funds
5 available to the Department (including funds set aside for
6 accounts payable), and accounts receivable, relating to
7 functions and activities assumed by the Corporation from
8 the Department pursuant to this title, including all ad-
9 vance payments.

10 “(c) NUCLEAR WASTE FUND TRANSFER.—The Sec-
11 retary of the Treasury, without further appropriation,
12 shall deposit in the Corporation Fund the unexpended bal-
13 ance of the Nuclear Waste Fund in accordance with the
14 following schedule:

15 “(1) On the date of enactment of this title, any
16 unfunded balance of the unexpended balance shall be
17 credited to the Corporation Fund as an unfunded
18 asset, which will continue to accrue interest at rates
19 and maturities determined by the Secretary of
20 Treasury, including—

21 “(A) all receipts, proceeds, and recoveries
22 received by the Nuclear Waste Fund under sub-
23 sections (a), (b), and (e) of section 302 of the
24 Nuclear Waste Policy Act of 1982 (42 U.S.C.
25 10222); and

1 “(B) any appropriations made to the Nu-
2 clear Waste Fund.

3 “(2) Beginning on the date of enactment of this
4 title, all receipts, proceeds, interest, and recoveries
5 received on or after that date under subsections (a),
6 (b), and (e) of section 302 of that Act (42 U.S.C.
7 10222).

8 “(d) USE OF CORPORATION FUND.—

9 “(1) IN GENERAL.—The Corporation may make
10 expenditures from the Corporation Fund only to
11 carry out the purposes of this title.

12 “(2) RELATIONSHIP TO OTHER PROVISIONS.—
13 Expenditures from the Corporation Fund shall not
14 be subject to section 302(d) of the Nuclear Waste
15 Policy Act of 1982 (42 U.S.C. 10222(d)).

16 “(e) ADMINISTRATION OF CORPORATION FUND.—

17 “(1) IN GENERAL.—The Secretary of the
18 Treasury shall—

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

21 “(B) in consultation with the Corporation,
22 submit to Congress annual reports describing
23 the financial condition and operations of the
24 Corporation Fund during the preceding fiscal
25 year.

1 “(2) TREATMENT.—The Corporation Fund
2 shall not be subject to—

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

7 “(B) the suballocations of appropriations
8 committees under section 302(b) of that Act (2
9 U.S.C. 633(b)).

10 “(3) INVESTMENT.—If the Corporation deter-
11 mines that the Corporation Fund contains at any
12 time amounts in excess of the needs of the Corpora-
13 tion, the Corporation may request the Secretary of
14 the Treasury to invest such portion of the excess
15 amounts as the Corporation determines to be appro-
16 priate 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 Fund; 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 “(4) ANNUAL APPORTIONMENT.—Receipts, pro-
6 ceeds, and recoveries realized by the Corporation
7 under this section and expenditures of amounts from
8 the Corporation Fund shall be exempt from annual
9 apportionment under section 1511 of title 31,
10 United States Code.

11 “(5) INSUFFICIENT AMOUNTS.—

12 “(A) IN GENERAL.—If at any time
13 amounts available in the Corporation Fund are
14 insufficient to enable the Corporation to carry
15 out this title, the Corporation shall issue to the
16 Secretary of the Treasury obligations in such
17 forms and denominations, bearing such matu-
18 rities, and subject to such terms and conditions
19 as may be agreed to by the Corporation and the
20 Secretary of the Treasury.

21 “(B) REDEMPTION.—Redemption of an
22 obligation under subparagraph (A) shall be
23 made by the Corporation from amounts avail-
24 able in the Corporation Fund.

1 “(C) INTEREST.—Obligations under sub-
2 paragraph (A) shall bear interest at a rate de-
3 termined by the Secretary of the Treasury,
4 which shall be not less than a rate determined
5 taking into consideration the average market
6 yield on outstanding marketable obligations of
7 the United States of comparable maturities dur-
8 ing the month preceding the issuance of the ob-
9 ligations under this paragraph.

10 “(D) PURCHASE.—

11 “(i) IN GENERAL.—The Secretary of
12 the Treasury shall purchase any obliga-
13 tions issued under this paragraph, using as
14 a public debt transaction the proceeds
15 from the sale of any securities issued
16 under section 3101 of title 31, United
17 States Code.

18 “(ii) TREATMENT.—The purposes for
19 which securities may be issued under sec-
20 tion 3101 of title 31, United States Code,
21 shall be considered to include any purchase
22 of an obligation under this subparagraph.

23 “(E) SALE.—The Secretary of the Treas-
24 ury may at any time sell an obligation acquired
25 pursuant to this paragraph.

1 “(F) TREATMENT.—Each redemption,
2 purchase, and sale by the Secretary of the
3 Treasury of an obligation under this paragraph
4 shall be considered to be a public debt trans-
5 action of the United States.

6 “(6) REPAYMENT.—

7 “(A) IN GENERAL.—Any appropriated
8 amounts deposited in the Corporation Fund for
9 a purpose described in subsection 302(d) of the
10 Nuclear Waste Policy Act of 1982 (42 U.S.C.
11 10222(d)) shall be repaid into the general fund
12 of the Treasury, together with interest accrued
13 during the period beginning on the date on
14 which the amounts are made available and end-
15 ing on the date of repayment.

16 “(B) INTEREST.—The interest required
17 under subparagraph (A) shall be an amount
18 equal to the difference between—

19 “(i) the cumulative amount of appro-
20 priations available to the Corporation
21 Fund; and

22 “(ii) the average undisbursed cash
23 balance in the Corporation Fund for the
24 applicable fiscal year.

1 “(C) RATE.—The rate of interest under
2 this paragraph shall be determined by the Sec-
3 retary of the Treasury, taking into consider-
4 ation the average market yield during the
5 month preceding the first date of each fiscal
6 year on outstanding marketable obligations of
7 the United States of comparable maturity.

8 “(D) DEFERRAL.—

9 “(i) IN GENERAL.—An interest pay-
10 ment under this paragraph may be de-
11 ferred on approval of the Secretary of the
12 Treasury.

13 “(ii) INTEREST.—An interest payment
14 deferred under clause (i) shall bear inter-
15 est.

16 **“SEC. 3108. ISSUANCE OF BONDS.**

17 “(a) ISSUANCE.—

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

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

23 “(A) payment of the principal and interest
24 on the bonds;

1 “(B) purchase or redemption of additional
2 bonds; and

3 “(C) other purposes incidental to the func-
4 tions described in subparagraphs (A) and (B),
5 including creation of reserve funds and other
6 funds that may be similarly pledged and used.

7 “(3) AGREEMENTS WITH HOLDERS AND TRUST-
8 EES.—The Corporation may enter into binding
9 agreements with the holders and trustees of bonds
10 with respect to activities to enhance the market-
11 ability of the bonds, including—

12 “(A) the establishment of reserve funds
13 and other funds;

14 “(B) stipulations concerning the subse-
15 quent issuance of bonds; and

16 “(C) other activities in accordance with
17 this title.

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

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

23 “(2) NOTICE.—Each bond of the Corporation
24 shall contain a notice of the consideration described
25 in paragraph (1).

1 “(c) TERMS AND CONDITIONS.—

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

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

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

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

9 “(A) RIGHT OF DISAPPROVAL.—

10 “(i) IN GENERAL.—Not later than 15
11 days after the date on which the Corpora-
12 tion submits to the Secretary of the Treas-
13 ury a notification of the establishment of a
14 term or condition on a bond under this
15 section described in clause (ii), the Sec-
16 retary of the Treasury may disapprove the
17 term or condition.

18 “(ii) DESCRIPTION.—The terms and
19 conditions referred to in clause (i) are
20 terms and conditions relating to—

21 “(I) the form or denomination of
22 a bond;

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

1 “(III) the rate of interest of the
2 bond;

3 “(IV) the terms by which the
4 bond may be redeemed by the Cor-
5 poration before maturity;

6 “(V) the priority of claims on the
7 net revenues of the Corporation with
8 respect to principal and interest pay-
9 ments; and

10 “(VI) any other term or condi-
11 tion the Secretary of the Treasury de-
12 termines to be appropriate.

13 “(B) INAPPLICABILITY OF RIGHT TO PRE-
14 SCRIBE TERMS.—Section 9108(a) of title 31,
15 United States Code, shall not apply to the Cor-
16 poration.

17 “(d) INAPPLICABILITY OF SECURITIES REQUIRE-
18 MENTS.—The Corporation—

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

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

1 “(A) the Securities Act of 1933 (15 U.S.C.
2 77a et seq.);

3 “(B) the Securities Exchange Act of 1934
4 (15 U.S.C. 78a et seq.); and

5 “(C) applicable regulations of the Securi-
6 ties and Exchange Commission.

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

10 **“SEC. 3109. EXEMPTION FROM TAXATION AND PAYMENTS**
11 **IN LIEU OF TAXES.**

12 “(a) EXEMPTION FROM TAXATION.—The Corpora-
13 tion shall be exempt from taxation in any manner or form
14 by any State, county, or other entity of local government,
15 including State, county, or local sales tax.

16 “(b) PAYMENTS IN LIEU OF TAXES.—

17 “(1) IN GENERAL.—The Corporation shall
18 make annual payments, in such amounts as the Cor-
19 poration determines to be fair and reasonable, to
20 each State and local governmental agency with tax
21 jurisdiction over any area in which a facility of the
22 Corporation is located.

23 “(2) DETERMINATION.—In making a deter-
24 mination under paragraph (1), the Corporation shall
25 take into consideration—

1 “(A) the customs and practices prevailing
2 in the applicable area with respect to appraisal,
3 assessment, and classification of industrial
4 property and any special considerations ex-
5 tended to large-scale industrial operations; and

6 “(B) the requirement that any payment
7 made to a taxing authority for any period shall
8 be not less than the payments that would have
9 been made to the taxing authority for the same
10 period by the Department and contractors of
11 the Department on behalf of the Department
12 with respect to property and operations of the
13 Corporation.

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

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

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

22 “(a) ANTITRUST LAWS.—The Corporation shall not
23 be subject to—

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

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

1 “(3) section 73 or 74 of the Wilson Tariff Act
2 (15 U.S.C. 8, 9).

3 “(b) ENVIRONMENTAL, OCCUPATIONAL, AND PUBLIC
4 HEALTH AND SAFETY LICENSING LAWS.—

5 “(1) IN GENERAL.—The Corporation shall com-
6 ply with the National Environmental Policy Act of
7 1969 (42 U.S.C. 4321 et seq.).

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

15 “(3) ENFORCEMENT.—

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

23 “(B) WAIVER.—The United States waives
24 any immunity otherwise applicable to the Cor-
25 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 commercial or financial informa-
5 tion to the same extent as a Federal agency or private
6 corporation, in accordance with applicable law, including
7 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 date on which
17 a quorum of the Board has been appointed under section
18 3103.

19 “(b) DUTIES.—

20 “(1) IN GENERAL.—The Transition Manager
21 shall carry out the powers and duties of the Board,
22 including any activity required to transfer spent nu-
23 clear fuel management obligations, functions, per-
24 sonnel, and funds from the Secretary to the Cor-
25 poration effective on the transition date.

1 “(2) CONTINUATION UNTIL QUORUM.—The
2 Transition Manager shall carry out this section re-
3 gardless of whether a quorum of the Board is ap-
4 pointed under section 3103 by the transition date.

5 “(c) RATIFICATION OF ACTIONS.—Each action car-
6 ried out by the Transition Manager shall be subject to
7 ratification by the Board.

8 “(d) RESPONSIBILITIES OF SECRETARY.—During
9 the period beginning on the date of enactment of this title
10 and ending on the transition date, the Secretary shall—

11 “(1) retain responsibility for spent nuclear fuel
12 management in accordance with applicable Federal
13 law;

14 “(2) to the extent provided in appropriations
15 Acts, provide funds to the Transition Manager to
16 pay relevant salaries and expenses;

17 “(3) assign employees of the Department to as-
18 sist the Transition Manager in carrying out this sec-
19 tion; and

20 “(4) assist and cooperate with the Transition
21 Manager in preparing for the transfer to the Cor-
22 poration of spent nuclear fuel management functions
23 of the Department on the transition date.

24 “(e) DETAIL OF PERSONNEL.—

1 “(1) IN GENERAL.—Beginning on the date of
 2 the enactment of this title, for the purpose of achiev-
 3 ing continuity of operations, maintenance, and au-
 4 thority, the Secretary shall detail in an acting capac-
 5 ity, for a period of not more than 18 months, appro-
 6 priate personnel of the Department as the Secretary
 7 determines to be necessary until the later of—

8 “(A) the date on which each member of
 9 the Board is appointed; and

10 “(B) the date on which the head officers of
 11 the Corporation are hired.

12 “(2) REIMBURSEMENT.—The Corporation shall
 13 reimburse the Secretary and any applicable con-
 14 tractor of the Department for the detail of personnel
 15 under paragraph (1).

16 **“SEC. 3113. WORKING CAPITAL ACCOUNT.**

17 “The Board shall establish within the Corporation an
 18 account, to be known as the ‘Working Capital Account’,
 19 in which the Corporation may retain all revenue necessary
 20 for legitimate business expenses or investments of the Cor-
 21 poration in carrying out this title.

22 **“Subtitle B—Rights, Privileges, and**
 23 **Assets**

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

25 “(a) EXCLUSIVE MARKETING AGENT.—

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

6 “(2) EFFECT ON DEPARTMENT.—Beginning on
7 the transition date, the Department may not market
8 spent nuclear fuel management or any related serv-
9 ice.

10 “(b) TRANSFER OF CONTRACTS.—Each spent nu-
11 clear fuel management contract, agreement, and lease exe-
12 cuted by the Department before the transition date relat-
13 ing to spent nuclear fuel management or a related service
14 shall be transferred to the Corporation.

15 **“SEC. 3202. PRICING.**

16 “(a) SERVICES PROVIDED TO COMMERCIAL CUS-
17 TOMERS.—

18 “(1) IN GENERAL.—The Corporation shall es-
19 tablish prices for products, materials, and services
20 provided by the Corporation to customers other than
21 the Department, and for services other than those
22 provided under a spent fuel disposal contract, on a
23 basis sufficient to—

24 “(A) recover the costs of the Corporation;
25 and

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

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

5 “(b) SERVICES PROVIDED TO DEPARTMENT.—The
6 Corporation shall charge the Department fees for spent
7 nuclear fuel management services provided under section
8 3102(b)(7) on a basis sufficient to recover the costs of
9 the Corporation, on a yearly basis, of providing the serv-
10 ices.

11 **“SEC. 3203. ACQUISITION OF DEPARTMENT LAND AND FA-
12 CILITIES.**

13 “(a) IN GENERAL.—The Corporation—

14 “(1) shall have the exclusive option to lease or
15 otherwise access required portions of Department or
16 other Federal land (other than land within the Na-
17 tional Park System, the National Forest System, or
18 the National Wildlife Refuge System or land man-
19 aged by the Bureau of land Management that is
20 within a conservation system unit), facilities, and
21 property useful for spent nuclear fuel management
22 purposes, including property or facilities of the De-
23 partment necessary for storage, processing, or fuel
24 fabrication involving materials containing plutonium;
25 and

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

4 “(b) TERMS OF LEASE.—

5 “(1) IN GENERAL.—The Corporation and the
6 Department shall establish mutually agreeable terms
7 for any lease under subsection (a)(1), including
8 specifying annual payments to be made to the De-
9 partment by the Corporation.

10 “(2) PAYMENTS.—The amount of annual pay-
11 ments for a lease under subsection (a)(1) shall be
12 equal to the cost incurred by the Department in ad-
13 ministering the lease and providing to the Corpora-
14 tion services relating to the lease (excluding depre-
15 ciation and imputed interest on original plant invest-
16 ments and costs under subsection (c)).

17 “(c) DEPARTMENT RESPONSIBILITY FOR PRE-
18 EXISTING CONDITIONS.—The payment of any costs of de-
19 contamination and decommissioning, actions for response
20 (as defined in section 101 of the Comprehensive Environ-
21 mental Response, Compensation, and Liability Act of
22 1980 (42 U.S.C. 9601)), or corrective actions (as defined
23 by the Administrator of the Environmental Protection
24 Agency under section 3004(u) of the Solid Waste Disposal
25 Act (42 U.S.C. 6924(u))), with respect to conditions exist-

1 ing before the transition date, in connection with property
 2 of the Department leased under subsection (a)(1), shall
 3 remain the sole responsibility of the Department.

4 “(d) ENVIRONMENTAL AUDIT.—The Secretary, in
 5 consultation with the Administrator of the Environmental
 6 Protection Agency, shall conduct a comprehensive environ-
 7 mental audit to identify the environmental conditions that
 8 will remain the responsibility of the Department under
 9 subsection (c) after leasing the applicable land or facility.

10 “(e) TREATMENT UNDER PRICE-ANDERSON.—Any
 11 lease executed between the Secretary and the Corporation
 12 under this section shall be considered to be a contract for
 13 purposes of section 170 d.

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

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

21 “(a) GRANT OF RIGHTS.—

22 “(1) IN GENERAL.—The Corporation may
 23 use—

24 “(A) efficacious and economical processes
 25 for spent nuclear fuel management; and

1 “(B) any method of improving the produc-
2 tion of nuclear power.

3 “(2) INFRINGEMENT.—Except as provided in
4 paragraph (3), an owner of a patent the patent
5 rights of which are copied, used, infringed, or em-
6 ployed by the Corporation pursuant to this sub-
7 section shall have as the exclusive remedy a cause of
8 action against the Corporation to be instituted and
9 prosecuted, as a case in equity, in the appropriate
10 United States district court for the recovery of rea-
11 sonable compensation for the infringement.

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

17 “(b) EXCLUSIVE RIGHT TO COMMERCIALIZE.—The
18 Corporation shall have the exclusive commercial right to
19 deploy and use any spent nuclear fuel management patent
20 or process of the Corporation.

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

1 **“SEC. 3205. LIABILITIES.**

2 “(a) LIABILITIES BASED ON OPERATIONS BEFORE
3 TRANSITION.—Except as otherwise provided in this title,
4 each liability attributable to spent nuclear fuel manage-
5 ment or property transferred to the Corporation before the
6 applicable transition date shall remain a liability of the
7 Department.

8 “(b) JUDGMENTS BASED ON OPERATIONS BEFORE
9 TRANSITION.—Except as otherwise agreed to by the Cor-
10 poration and the Department, a judgment entered against
11 the Department imposing liability arising out of a spent
12 nuclear fuel management obligation of the Department
13 under the Nuclear Waste Policy Act of 1982 (42 U.S.C.
14 10101 et seq.) or a spent fuel disposal contract shall be
15 considered to be a judgment against, and payable solely
16 by, the Department.

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

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

21 “(2) the Corporation shall be represented by a
22 counsel selected by the Corporation.

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

25 “(1) IN GENERAL.—Except as otherwise pro-
26 vided in this subsection, a judgment entered against

1 the Corporation arising from operations of the Cor-
2 poration on or after the transition date shall be pay-
3 able solely by the Corporation from funds of the
4 Corporation.

5 “(2) EXISTING SPENT FUEL DISPOSAL CON-
6 TRACTS.—

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

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

12 “(ii) accrues during the 15 year-pe-
13 riod beginning on the date of enactment of
14 this title.

15 “(B) PAYMENT.—A liability or judgment
16 described in subparagraph (A) shall continue to
17 be—

18 “(i) the responsibility of the Depart-
19 ment; and

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

22 “(3) RELATIONSHIP TO OTHER PROVISIONS.—
23 Payments from the funds of the Corporation de-
24 scribed in paragraph (1) shall not be subject to the
25 Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101

1 et seq.), including section 302(d) of that Act (42
2 U.S.C. 10222(d)).

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

6 **“SEC. 3206. PREDEPLOYMENT ACTIVITIES BY CORPORA-**
7 **TION.**

8 “The Corporation, in coordination with the Depart-
9 ment, may carry out such activities as are necessary to
10 prepare for the provision of spent nuclear fuel manage-
11 ment services, including—

12 “(1) completion of preapplication activities with
13 the Commission;

14 “(2) confirmation of technical performance;

15 “(3) validation of economic projections;

16 “(4) completion of feasibility and risk studies;

17 “(5) initiation of preliminary plant design and
18 engineering; and

19 “(6) site selection, site characterization, and en-
20 vironmental documentation activities.

21 **“SEC. 3207. CONSTRUCTION OF FACILITIES.**

22 “(a) ESTABLISHMENT.—If the Corporation elects to
23 proceed with the construction of a facility for spent nu-
24 clear fuel management, the Corporation may enter into
25 a contract with 1 or more contractors for the construction.

1 “(b) TRANSACTIONS BETWEEN CORPORATION AND
2 CONTRACTORS.—

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

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

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

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

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

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

21 “(1) owned or operated by, or under contract
22 with, the Corporation;

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

24 “(3) constructed after the date of enactment of
25 this title.

1 “(b) INDEMNITY AGREEMENTS.—The Secretary,
2 pursuant to section 170, may enter in to any indemnity
3 agreement with the Corporation or a contractor of the
4 Corporation as the Secretary determines to be necessary.

5 **“SEC. 3209. REFERENCES.**

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

9 **“SEC. 3210. SEVERABILITY.**

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

15 (b) CONFORMING AMENDMENT.—The table of con-
16 tents of the Atomic Energy Act of 1954 (42 U.S.C. 2011
17 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.
- “Sec. 3113. Working Capital Account.

“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 of facilities.
- “Sec. 3208. Price-Anderson coverage.
- “Sec. 3209. References.
- “Sec. 3210. Severability.”.

