

104TH CONGRESS
2D SESSION

S. 1530

To create a Government corporation to own and operate the Naval Petroleum Reserves, and Naval Oil Shale Reserves, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 26, 1996

Mr. BUMPERS introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To create a Government corporation to own and operate the Naval Petroleum Reserves, and Naval Oil Shale Reserves, 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 referred to as the “Naval Petroleum
5 Reserves and Naval Oil Shale Reserves Corporatization
6 Act of 1996”.

1 **TITLE I—ESTABLISHMENT OF THE NAVAL**
2 **PETROLEUM RESERVES CORPORATION**

3 **SEC. 101. ESTABLISHMENT OF THE CORPORATION.**

4 (a) There is established a body corporate to be known
5 as the “Naval Petroleum Reserves and Naval Oil Shale
6 Reserves Corporation” (referred to in this Act as “the
7 Corporation”).

8 (b) The Corporation is a for-profit, wholly owned
9 Government Corporation subject to chapter 91 of title 31,
10 United States Code (the Government Corporation Control
11 Act). The Corporation is an agency of the United States,
12 subject to annual apportionment under section 1512 of
13 title 31, United States Code.

14 (c) JURISDICTION AND CONTROL.—The Corporation
15 has exclusive jurisdiction and control over all of the Naval
16 Petroleum Reserves and Naval Oil Shale Reserves.

17 **SEC. 102. CORPORATE OFFICES.**

18 The Corporation shall maintain an office for the serv-
19 ice of process and papers in the District of Columbia, and
20 is considered, for purposes of venue in civil actions, to be
21 a resident of the District of Columbia. The Corporation
22 may establish offices in any other place it determines nec-
23 essary or appropriate in the conduct of its business.

1 **SEC. 103. GENERAL POWERS AND FUNCTIONS OF THE COR-**
2 **PORATION.**

3 The Corporation—

4 (1) may adopt, alter, and use a corporate seal,
5 which shall be judicially noticed;

6 (2) may settle and adjust claims, sue and be
7 sued in its corporate name, and be represented by
8 its own attorneys in all administrative and, with
9 prior approval of the Attorney General, judicial pro-
10 ceedings, including appeals from decisions of Federal
11 courts;

12 (3) shall adopt and may amend and repeal by-
13 laws, and may adopt, amend and repeal corporate
14 orders and directives, governing the manner in which
15 its business may be conducted and the powers grant-
16 ed to it by law may be exercised and enjoyed;

17 (4) may acquire, purchase, lease, and hold the
18 real and personal property it considers necessary to
19 conduct its business;

20 (5) may sell, lease, grant, and dispose of prop-
21 erty as it considers necessary to conduct its busi-
22 ness;

23 (6) with the consent of the agency concerned,
24 may utilize or employ the services, records, facilities,
25 or personnel, of any Federal, State, or local govern-
26 ment agency;

1 (7) may enter into contracts and incur liabil-
2 ities;

3 (8) may retain or use up to \$250 million annu-
4 ally of its revenues, without further appropriation,
5 for reasonable capital and operating expenses of the
6 Corporation;

7 (9) shall have the priority of the United States
8 with respect to the payment of debts out of bank-
9 rupt, insolvent, and decedents' estates;

10 (10) may request from the Administrator of
11 General Services the services the Administrator is
12 authorized to provide agencies of the United States,
13 and the Administrator shall furnish the requested
14 services to the Corporation on the same basis those
15 services are provided agencies of the United States;

16 (11) may accept gifts or donations of services
17 or of real, personal, mixed, tangible, or intangible
18 property to conduct its business; the Corporation
19 shall establish written rules setting forth the criteria
20 to be used in determining whether the acceptance of
21 gifts or donations of real, personal, mixed, tangible,
22 or intangible property to conduct its business under
23 this subsection would reflect unfavorably upon the
24 ability of the Corporation or any employee to carry
25 out its responsibilities or official duties in a fair and

1 objective manner, or would compromise the integrity
2 or appearance of integrity of its programs or any of-
3 ficial involved in those programs;

4 (12) may execute all instruments necessary or
5 appropriate in the exercise of its powers;

6 (13) may acquire liability insurance or act as
7 self-insurer;

8 (14) shall pay any settlement or judgment en-
9 tered against it from the Corporation's own funds
10 and not from the judgment fund established under
11 section 1304 of title 31, United States Code; section
12 1346(b) and chapter 171 of title 28, United States
13 Code, do not apply to claims against the Corpora-
14 tion; and

15 (15) may request the Secretary of the Treasury
16 to invest monies of the Corporation in public debt
17 securities having maturities suitable to the needs of
18 the Corporation, and bearing interest at rates deter-
19 mined by the Secretary of the Treasury, taking into
20 consideration current market yields on outstanding
21 obligations of the United States of comparable ma-
22 turity.

23 **SEC. 104. SPECIFIC POWERS AND FUNCTIONS OF THE**
24 **CORPORATION.**

25 The Corporation—

1 (1) shall explore, prospect, develop, use,
2 produce, and operate the Reserves to maximize the
3 economic value of these properties to the Nation;

4 (2) may enter into joint, unit, or other coopera-
5 tive plans, leases, or other agreements and trans-
6 actions as may be necessary in the conduct of its
7 business;

8 (3) subject to section 109(c) shall administer
9 and may amend existing contracts, including the
10 Unit Plan Contract, and other agreements trans-
11 ferred to the Corporation under section 109(a) of
12 this subtitle;

13 (4) may construct, acquire, or contract for the
14 use of storage and shipping facilities, and pipelines
15 and associated facilities, on and off the Reserves, for
16 transporting petroleum from the Reserves to the
17 points where the production from the Reserves will
18 be refined and shipped;

19 (5) may store, for appropriate reimbursement
20 reasonably reflecting fair market value, petroleum
21 owned or managed by other Federal agencies and in-
22 strumentalities and may store petroleum owned or
23 managed by non-Federal entities at rates consistent
24 with subsection (j) of this section;

1 (6) may acquire privately owned lands and
2 leases inside the Reserves, or outside those Reserves
3 on the same geologic structure, by exchange or con-
4 tract, and in order to protect the Reserves from
5 drainage, and if unable to arrange an exchange or
6 contract, by purchase or condemnation;

7 (7) may acquire any pipeline in the vicinity of
8 the Reserve not otherwise operated as a common
9 carrier by condemnation, if necessary, if the owner
10 refuses to accept, convey, and transport without dis-
11 crimination and at reasonable rates any petroleum
12 produced at the Reserve;

13 (8) may acquire a right-of-way for new pipelines
14 and associated facilities by eminent domain under
15 the Act of February 26, 1931 (40 U.S.C. 258a-
16 258e), and the prospective holder of the right-of-way
17 is “the authority empowered by law to acquire the
18 lands” within the meaning of that Act; new pipelines
19 shall accept, convey, and transport any petroleum
20 produced at the Reserves at reasonable rates;

21 (9) may use, store, or sell its share of the petro-
22 leum produced from the Reserves and lands covered
23 by joint, unit, or other cooperative plans;

1 (10) shall establish prices for products, mate-
2 rials, and services on a basis that will allow it to
3 maximize the financial return to the Government;

4 (11) shall give priority to assisting in national
5 security matters when requested by the Secretary of
6 Defense; and

7 (12) shall transfer annually to the Treasury all
8 revenues in excess of that needed for reasonable cap-
9 ital and operating expenses of the Corporation, but
10 in no event may the revenues retained or used for
11 those purposes in any fiscal year exceed \$250 mil-
12 lion.

13 **SEC. 105. CHIEF EXECUTIVE OFFICER.**

14 The powers and functions of the Corporation are
15 vested in a Chief Executive Officer to be appointed by the
16 Secretary. The Chief Executive Officer serves at the pleas-
17 ure and under the supervision of, and may be removed
18 at the discretion of, the Secretary. The Secretary shall set
19 the compensation of the Chief Executive Officer, not to
20 exceed Executive Level III.

21 **SEC. 106. EMPLOYEES.**

22 (a) APPOINTMENTS.—

23 (1) The Chief Executive Officer may appoint of-
24 ficers and employees of the Corporation without re-
25 gard to the provisions in title 5, United States Code,

1 governing appointments in the competitive service,
2 and may fix compensation without regard to chapter
3 51 and subchapter III of chapter 53 of title 5,
4 United States Code, governing general schedule clas-
5 sifications and pay. In appointing officers of the
6 Corporation and setting their compensation, which
7 may not exceed Executive Level IV, the Chief Exec-
8 utive Officer shall consult with the Secretary. Any
9 officer or employee of the Corporation may be re-
10 moved at the discretion of the Chief Executive Offi-
11 cer except as specified in subsection (b) of this sec-
12 tion.

13 (2) Section 3132(a)(1) of title 5, United States
14 Code, is amended by adding at the end the follow-
15 ing:

16 “(E) the United States Naval Petroleum
17 Reserves and Naval Oil Shale Reserves Cor-
18 poration;”.

19 (b) TRANSFER OF FUNCTIONS.—An officer or em-
20 ployee of the Department who the Secretary determines
21 is performing functions vested in the Corporation by this
22 subtitle is transferred to the Corporation under section
23 3503 of title 5, United States Code. Such an officer or
24 employee retains the compensation in effect immediately
25 prior to the transfer to the Corporation until changed by

1 the Chief Executive Officer, and may not be separated in-
2 voluntarily by reason of the transfer (but may be sepa-
3 rated for cause) for a period of one year from the date
4 of the transfer to the Corporation.

5 (c) PAYMENTS FOR EMPLOYEE BENEFITS.—

6 (1) The Corporation shall make those payments
7 to the Employees' Compensation Fund which are re-
8 quired by section 3147 of title 5, United States
9 Code.

10 (2) The Corporation shall pay to the Civil Serv-
11 ice Retirement and Disability Fund—

12 (A) those employee deductions and agency
13 contributions which are required by sections
14 3334, 3422, and 3423 of title 5, United States
15 Code.

16 (B) those additional agency contributions
17 which are determined necessary by the Office of
18 Personnel Management to pay, in combination
19 with sums under paragraph (2)(A) of this sub-
20 section, the normal cost (determined using dy-
21 namic assumptions) of retirement benefits for
22 the employees of the Corporation who are sub-
23 ject to subchapter III of chapter 83 of title 5,
24 United States Code; and

1 (C) those additional amounts, not to ex-
2 ceed two percent of the amounts under para-
3 graphs (2)(A) and (2)(B) of this subsection,
4 which are determined necessary by the Office of
5 Personnel Management to pay the costs of ad-
6 ministering retirement benefits for the Corpora-
7 tion's employees and retirees and their survi-
8 vors (which months shall be available to the Of-
9 fice as provided in section 3343(a)(1)(B) of
10 title 5, United States Code).

11 (3) The Corporation shall pay to the Employ-
12 ees' Life Insurance Fund—

13 (A) those employee deductions and agency
14 contributions which are required by sections
15 8707 and 8708(a) of title 5, United States
16 Code; and

17 (B) those amounts which are determined
18 necessary by the Office of Personnel Manage-
19 ment under paragraph (5) of this subsection to
20 reimburse the Office for contributions under
21 sections 8708(d) of title 5, United States Code.

22 (4) The Corporation shall pay to the Employees
23 Health Benefits fund—

1 (A) those employee payments and agency
2 contributions which are required by section
3 8906 (a)–(f) of title 5, United States Code; and

4 (B) those amounts which are determined
5 necessary by the Office of Personnel Manage-
6 ment under paragraph (5) of this subsection to
7 reimburse the Office for contributions under
8 section 8708(d) of title 5, United States Code.

9 (5) The Corporation shall pay to the Employees
10 Health Benefits fund—

11 (A) those employee payments and agency
12 contributions which are required by section
13 8906 (a)–(f) of title 5, United States Code; and

14 (B) those amounts which are determined
15 necessary by the Office of Personnel Manage-
16 ment under paragraph (5) of this subsection to
17 reimburse the Office for contributions under
18 section 8906(g)(1) of title 5, United States
19 Code.

20 (6) The amounts required under paragraphs
21 (3)(B) and (4)(B) of this subsection are the Govern-
22 ment contributions for retired employees who retire
23 from the Corporation after the date of transfer, the
24 survivors of those retired employees, and survivors of
25 the employees of the Corporation who die after the

1 date of the transfer, prorated to reflect the portion
2 of the total civilian service of such employee and re-
3 tired employees that was performed for the Corpora-
4 tion after the date of transfer.

5 (7) The Corporation shall pay to the Thrift
6 Savings Fund those employee and agency contribu-
7 tions that are required by section 8432 of title 5,
8 United States Code.

9 (d) SEPARATION INCENTIVE PAYMENTS.—The Cor-
10 poration shall pay any voluntary separation incentive pay-
11 ment authorized, but not yet paid, by the Department
12 prior to the transfer of functions under subsection (b) of
13 this section.

14 **SEC. 107. EXEMPTION FROM TAXATION.**

15 The Corporation, including the Reserves and all other
16 corporate property, all corporate activities, and all cor-
17 porate income are exempt from taxation in any manner
18 or form by any State or local government entity.

19 **SEC. 108. APPLICABILITY OF OTHER LAWS.**

20 (a) FEDERAL LAWS GOVERNING ACQUISITION AND
21 DISPOSAL.—The Corporation shall not be considered to
22 be a department, agency, establishment, or instrumental-
23 ity of the United States for purposes of Federal laws, reg-
24 ulations, or other requirements concerning acquisition of
25 services and supplies, and the acquisition, use, and dis-

1 posal of real and personal property, including the Federal
2 Property and Administrative Services Act (40 U.S.C. 471,
3 et seq.), except that the Corporation shall be considered
4 to be a department, agency, establishment, or instrumen-
5 tality of the United States for the purposes of the Davis-
6 Bacon Act (40 U.S.C. 276a–276–277), the McNamara-
7 O’Hara Service Contract Act (41 U.S.C. 351, et seq.), the
8 Contract Work Hours and Safety Standards Act (40
9 U.S.C. 327, et seq.), and civil rights laws and regulations
10 applicable to Federal contractors and subcontractors.

11 (b) EXEMPTION FROM ADMINISTRATIVE PROCE-
12 DURAL PROVISIONS.—Chapter 5 of title 5, United States
13 Code, does not apply to the Corporation.

14 **SEC. 109. TRANSFERS TO THE CORPORATION.**

15 (a) TRANSFER OF ASSETS.—Subject to subsection
16 (c) of this section, the Secretary shall transfer to the Cor-
17 poration the contracts, records, unexpended balance of ap-
18 propriations and other monies available to the Department
19 (including funds set aside for accounts payable and all ad-
20 vance payments), accounts receivable, and all other assets
21 that are related to the powers and functions vested in the
22 Corporation by this subtitle.

23 (b) TRANSFER OF LIABILITIES AND JUDGMENTS.—

1 (1) All liabilities attributable to the operation of
2 the Reserves by the Department are transferred to
3 the Corporation.

4 (2) Any judgment entered against the Depart-
5 ment imposing liability arising out of the operation
6 of the Reserves by the Department is considered a
7 judgment against and is payable solely by the Cor-
8 poration.

9 (c) UNIT PLAN CONTRACT DISPUTE RESOLUTION.—
10 The Secretary shall retain, and shall not transfer, dispute
11 resolution authority under section 9 of the Unit Plan Con-
12 tract.

13 (d) PAYMENT OF INTEREST TO THE TREASURY.—
14 From time to time, and at least at the close of each fiscal
15 year, the Corporation shall pay into the Treasury as mis-
16 cellaneous receipts interest on any Federal financial cap-
17 ital utilized by the Corporation, as determined by the Di-
18 rector of the Office of Management and Budget. The rate
19 of such interest shall be determined by the Secretary of
20 the Treasury, taking into consideration prevailing market
21 yields, during the month preceding each fiscal year, on
22 outstanding obligations of the United States with remain-
23 ing periods to maturity of approximately one year.

1 poration's recommendations on its preferred means of pri-
2 vatization.

3 (d) The Corporation shall transmit copies of the stra-
4 tegic plan for privatization to the President and Congress
5 upon completion.

6 **SEC. 202. PRIVATIZATION.**

7 (a) Subsequent to transmitting a plan for privatiza-
8 tion pursuant to section 101, and subject to subsections
9 (b) and (c), the Corporation may implement the privatiza-
10 tion plan if the Corporation determines, in consultation
11 with appropriate agencies of the United States, that pri-
12 vatization will result in a return to the United States at
13 least equal to the net present value of the Corporation.

14 (b) The Corporation may not implement the privat-
15 ization plan without the approval of the President.

16 (c) The Corporation shall notify the Congress of its
17 intent to implement the privatization plan. Within 30 days
18 of notification, the Comptroller General shall submit a re-
19 port to Congress evaluating the extent to which—

20 (1) the privatization plan would result in any
21 ongoing obligation or undue cost to the Federal Gov-
22 ernment; and

23 (2) the revenues gained by the Federal Govern-
24 ment under the privatization plan would represent at
25 least the net present value of the Corporation.

1 (d) The Corporation may not implement the privat-
2 ization plan less than 60 days after notification of the
3 Congress.

4 (e) Proceeds from the sale of capital stock of the Cor-
5 poration under this section shall be deposited in the gen-
6 eral fund of the Treasury.

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S 1530 IS—2