

106TH CONGRESS  
1ST SESSION

# H. R. 2038

To amend section 468A of the Internal Revenue Code of 1986 with respect to deductions for decommissioning costs of nuclear powerplants.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 8, 1999

Mr. WELLER (for himself, Mr. CARDIN, Mr. CRANE, Mrs. JOHNSON of Connecticut, Mr. ENGLISH, Mr. MCCRERY, Mrs. THURMAN, Mr. FOLEY, Mr. COLLINS, and Mr. JEFFERSON) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend section 468A of the Internal Revenue Code of 1986 with respect to deductions for decommissioning costs of nuclear powerplants.

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 “Nuclear Decommis-  
5 sioning Funds Clarification Act”.

### 6 **SEC. 2. NUCLEAR DECOMMISSIONING RESERVE FUND.**

7 (a) INCREASE IN AMOUNT PERMITTED TO BE PAID  
8 INTO NUCLEAR DECOMMISSIONING RESERVE FUND.—

1 Subsection (b) of section 468A of the Internal Revenue  
2 Code of 1986 is amended to read as follows:

3 “(b) LIMITATION ON AMOUNTS PAID INTO FUND.—

4 “(1) IN GENERAL.—The amount which a tax-  
5 payer may pay into the Fund for any taxable year  
6 during the funding period shall not exceed the level  
7 funding amount determined pursuant to subsection  
8 (d), except—

9 “(A) where the taxpayer is permitted by  
10 Federal or State law or regulation (including  
11 authorization by a public service commission) to  
12 charge customers a greater amount for nuclear  
13 decommissioning costs, in which case the tax-  
14 payer may pay into the Fund such greater  
15 amount; or

16 “(B) in connection with the transfer of a  
17 nuclear powerplant, where the transferor or  
18 transferee (or both) is required pursuant to the  
19 terms of the transfer to contribute a greater  
20 amount for nuclear decommissioning costs, in  
21 which case the transferor or transferee (or  
22 both) may pay into the Fund such greater  
23 amount.

24 “(2) CONTRIBUTIONS AFTER FUNDING PE-  
25 RIOD.—Notwithstanding any other provision of this

1 section, a taxpayer may make deductible payments  
2 to the Fund in any taxable year between the end of  
3 the funding period and the termination of the license  
4 issued by the Nuclear Regulatory Commission for  
5 the nuclear powerplant to which the Fund relates  
6 provided such payments do not cause the assets of  
7 the Fund to exceed the nuclear decommissioning  
8 costs allocable to the taxpayer's current or former  
9 interest in the nuclear powerplant to which the Fund  
10 relates. The foregoing limitation shall be applied by  
11 taking into account a reasonable rate of inflation for  
12 the nuclear decommissioning costs and a reasonable  
13 after-tax rate of return on the assets of the Fund  
14 until such assets are anticipated to be expended.”.

15 (b) DEDUCTION FOR NUCLEAR DECOMMISSIONING  
16 COSTS WHEN PAID.—Paragraph (2) of section 468A(c)  
17 of such Code is amended to read as follows:

18 “(2) DEDUCTION OF NUCLEAR DECOMMISS-  
19 SIONING COSTS.—In addition to any deduction under  
20 subsection (a), nuclear decommissioning costs paid  
21 or incurred by the taxpayer during any taxable year  
22 shall constitute ordinary and necessary expenses in  
23 carrying on a trade or business under section 162.”.

24 (c) LEVEL FUNDING AMOUNTS.—Subsection (d) of  
25 section 468A of such Code is amended to read as follows:

1 “(d) LEVEL FUNDING AMOUNTS.—

2 “(1) ANNUAL AMOUNTS.—For purposes of this  
3 section, the level funding amount for any taxable  
4 year shall equal the annual amount required to be  
5 contributed to the Fund in each year remaining in  
6 the funding period in order for the Fund to accumu-  
7 late the nuclear decommissioning costs allocable to  
8 the taxpayer’s current or former interest in the nu-  
9 clear powerplant to which the Fund relates. The an-  
10 nual amount described in the foregoing sentence  
11 shall be calculated by taking into account a reason-  
12 able rate of inflation for the nuclear decommis-  
13 sioning costs and a reasonable after-tax rate of re-  
14 turn on the assets of the Fund until such assets are  
15 anticipated to be expended.

16 “(2) FUNDING PERIOD.—The funding period  
17 for a Fund shall end on the last day of the last tax-  
18 able year of the expected operating life of the nu-  
19 clear powerplant.

20 “(3) NUCLEAR DECOMMISSIONING COSTS.—For  
21 purposes of this section, the term ‘nuclear decom-  
22 missioning costs’ shall mean all costs to be incurred  
23 in connection with entombing, decontaminating, dis-  
24 mantling, removing, and disposing of a nuclear pow-  
25 erplant, and shall include all associated preparation,

1 security, fuel storage, and radiation monitoring  
2 costs. The taxpayer may identify such costs by ref-  
3 erence either to a site-specific engineering study or  
4 to the financial assurance amount calculated pursu-  
5 ant to section 50.75 of title 10 of the Code of Fed-  
6 eral Regulations. The term shall include all such  
7 costs which, outside of the decommissioning context,  
8 might otherwise be capital expenditures.”.

9 (d) EFFECTIVE DATE.—The amendments made by  
10 this section shall apply to amounts paid after June 8,  
11 1999, in taxable years ending after such date.

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