

105TH CONGRESS  
2D SESSION

# H. R. 4732

To amend the Internal Revenue Code of 1986 to provide for the treatment of bonds issued to finance electric output facilities, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 8, 1998

Mr. MATSUI (for himself and Mr. NEAL of Massachusetts) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide for the treatment of bonds issued to finance electric output facilities, 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. TREATMENT OF BONDS ISSUED TO FINANCE**  
4 **ELECTRIC OUTPUT FACILITIES.**

5 (a) IN GENERAL.—Section 141 of the Internal Reve-  
6 nue Code of 1986 (relating to private activity bond; quali-  
7 fied bond) is amended by redesignating subsection (e) as  
8 subsection (f) and inserting after subsection (d) the follow-  
9 ing new subsection:

10 “(e) BONDS FOR ELECTRIC OUTPUT FACILITIES.—

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1           “(1) BONDS ISSUED BEFORE ENACTMENT OF  
2           COMPREHENSIVE ELECTRICITY COMPETITION ACT.—

3           “(A) IN GENERAL.—The determination of  
4           whether any pre-effective date electric output  
5           facility bond is a private activity bond (or an in-  
6           dustrial development bond under the Internal  
7           Revenue Code of 1954), shall be made without  
8           regard to any permissible competitive actions  
9           taken by the issuer.

10          “(B) PRE-EFFECTIVE DATE ELECTRIC  
11          OUTPUT FACILITY BOND.—For purposes of sub-  
12          paragraph (A), the term ‘pre-effective date elec-  
13          tric output facility bond’ means any bond issued  
14          as part of an issue if—

15                 “(i) such bond was issued before the  
16                 date of the enactment of the Comprehen-  
17                 sive Electricity Competition Act,

18                 “(ii) any portion of the proceeds of  
19                 such issue was used with respect to an  
20                 electric output facility, and

21                 “(iii) such bond was not, as of such  
22                 date of enactment, a private activity bond  
23                 (or an industrial development bond under  
24                 the Internal Revenue Code of 1954).

1           “(C) PERMISSIBLE COMPETITIVE AC-  
2           TIONS.—For purposes of subparagraph (A), the  
3           term ‘permissible competitive actions’ means  
4           any action taken by the issuer on or after the  
5           date of the enactment of the Comprehensive  
6           Electricity Competition Act regarding—

7                   “(i) transmission property owned by  
8                   the issuer if the issuer is subject to an  
9                   order of the Federal Energy Regulatory  
10                  Commission requiring nondiscriminatory,  
11                  open access to transmission facilities in a  
12                  manner consistent with rules promulgated  
13                  by the Commission under sections 205 and  
14                  206 of the Federal Power Act (as in effect  
15                  on the date of the enactment of the Com-  
16                  prehensive Electricity Competition Act), or

17                   “(ii) generation property or distribu-  
18                   tion property owned by the issuer if the  
19                   issuer—

20                           “(I) implements retail competi-  
21                           tion under section 609 of the Public  
22                           Utility Regulatory Policies Act of  
23                           1978 (as amended by, and as in effect  
24                           on the date of the enactment of, the

1 Comprehensive Electricity Competi-  
2 tion Act), or

3 “(II) enters into a contract for  
4 the sale of electricity or use of its dis-  
5 tribution property which will not be-  
6 come effective prior to the date that  
7 the issuer implements retail competi-  
8 tion under section 609 of the Public  
9 Utility Regulatory Policies Act of  
10 1978 (as amended by, and as in effect  
11 on the date of the enactment of, the  
12 Comprehensive Electricity Competi-  
13 tion Act).

14 “(D) COMPREHENSIVE ELECTRICITY COM-  
15 PETITION ACT.—For purposes of this para-  
16 graph, references to the Comprehensive Elec-  
17 tricity Competition Act shall be treated as ref-  
18 erences to any law which is substantially iden-  
19 tical to S. 2287 of the 105th Congress, as in-  
20 troduced.

21 “(2) BONDS ISSUED ON OR AFTER ENACTMENT  
22 OF COMPREHENSIVE ELECTRICITY COMPETITION  
23 ACT.—

24 “(A) IN GENERAL.—For purposes of this  
25 title, the term ‘private activity bond’ includes

1 any bond issued as part of an issue any of the  
2 proceeds of which are to be used (directly or in-  
3 directly) for electric output facilities other than  
4 small distribution property.

5 “(B) SMALL DISTRIBUTION PROPERTY.—  
6 For purposes of subparagraph (A), the term  
7 ‘small distribution property’ means any output  
8 facility, including functionally related and sub-  
9 ordinate property, that operates at 69 kilovolts  
10 or less.”.

11 (b) EFFECTIVE DATE.—

12 (1) IN GENERAL.—Except as otherwise pro-  
13 vided in this subsection, the amendment made by  
14 this section shall apply to obligations issued on or  
15 after the date of the enactment of the Comprehen-  
16 sive Electricity Competition Act (within the meaning  
17 of section 141(e)(1)(D) of the Internal Revenue  
18 Code of 1986, as added by this section).

19 (2) TREATMENT OF PRE-EFFECTIVE DATE  
20 BONDS.—Section 141(e)(1) of such Code, as added  
21 by this section, shall take effect on the date of the  
22 enactment of this Act.

23 (3) REFUNDING BONDS.—

24 (A) IN GENERAL.—For purposes of this  
25 subsection and the amendment made by this

1 section, section 141(e)(2) of the Internal Reve-  
2 nue Code of 1986, as added by this section,  
3 shall not apply to any qualified refunding bond.

4 (B) QUALIFIED REFUNDING BOND.—For  
5 purposes of subparagraph (A), the term “quali-  
6 fied refunding bond” means any bond (or a  
7 bond which is part of a series of refundings)  
8 issued to refund a pre-effective date electric  
9 output facility bond if—

10 (i) the weighted average maturity of  
11 the issue of which the refunding bond is a  
12 part does not exceed 120 percent of the av-  
13 erage reasonably expected economic life of  
14 the facilities being financed with the net  
15 proceeds of such issue (determined under  
16 section 147(b) of such Code),

17 (ii) the amount of the refunding bond  
18 does not exceed the outstanding amount of  
19 the refunded bond, and

20 (iii) the net proceeds of the refunding  
21 bond are used to redeem the refunded  
22 bond not later than 90 days after the date  
23 of issuance of the refunding bond.

1 **SEC. 2. NUCLEAR DECOMMISSIONING COSTS.**

2 (a) **IN GENERAL.**—Subsection (b) of section 468A of  
3 the Internal Revenue Code of 1986 is amended to read  
4 as follows:

5 “(b) **LIMITATION ON AMOUNT PAID INTO FUND.**—  
6 The amount which a taxpayer may pay into the Fund for  
7 any taxable year shall not exceed the ruling amount appli-  
8 cable to such taxable year.”

9 (b) **EFFECTIVE DATE.**—The amendment made by  
10 this section shall apply to taxable years beginning after  
11 the date of the enactment of this Act.

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