

105TH CONGRESS  
1ST SESSION

# S. 275

To amend the Internal Revenue Code of 1986 to provide for tax-exempt financing of private sector highway infrastructure construction.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 5, 1997

Mr. CHAFEE (for himself, Mr. WARNER, Mr. MOYNIHAN, and Mr. BOND) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide for tax-exempt financing of private sector highway infrastructure construction.

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 “Highway Infrastruc-  
5 ture Privatization Act”.

6 **SEC. 2. TAX-EXEMPT FINANCING OF QUALIFIED HIGHWAY**  
7 **INFRASTRUCTURE CONSTRUCTION.**

8 (a) TREATMENT AS EXEMPT FACILITY BOND.—Sub-  
9 section (a) of section 142 of the Internal Revenue Code

1 of 1986 (relating to exempt facility bond) is amended by  
 2 striking “or” at the end of paragraph (11), by striking  
 3 the period at the end of paragraph (12) and inserting “,  
 4 or”, and by adding at the end the following:

5 “(13) qualified highway infrastructure  
 6 projects.”

7 (b) QUALIFIED HIGHWAY INFRASTRUCTURE  
 8 PROJECTS.—Section 142 of such Code is amended by add-  
 9 ing at the end the following:

10 “(k) QUALIFIED HIGHWAY INFRASTRUCTURE  
 11 PROJECTS.—

12 “(1) IN GENERAL.—For purposes of subsection  
 13 (a)(13), the term ‘qualified highway infrastructure  
 14 project’ means a project—

15 “(A) for the construction or reconstruction  
 16 of a highway, and

17 “(B) designated under paragraph (2) as an  
 18 eligible pilot project.

19 “(2) ELIGIBLE PILOT PROJECT.—

20 “(A) IN GENERAL.—The Secretary of  
 21 Transportation, in consultation with the Sec-  
 22 retary of the Treasury, shall select not more  
 23 than 15 highway infrastructure projects to be  
 24 pilot projects eligible for tax-exempt financing.

“(B) ELIGIBILITY CRITERIA.—The Secretary of Transportation shall establish criteria for the selection of projects under subparagraph (A), except that no project may be selected unless the project—

“(i) serves the general public;

“(ii) is necessary to evaluate the potential of the private sector’s participation in the provision of the highway infrastructure of the United States;

“(iii) is located on publicly owned rights-of-way;

“(iv) is publicly owned or the ownership of the highway constructed or reconstructed under the project reverts to the public; and

“(v) is consistent with a transportation plan developed pursuant to section 134(g) or 135(e) of title 23, United States Code.

“(3) AGGREGATE FACE AMOUNT OF TAX-EXEMPT FINANCING.—

“(A) IN GENERAL.—An issue shall not be treated as an issue described in subsection (a)(13) if the aggregate face amount of bonds

issued pursuant thereto (when added to the aggregate face amount of bonds previously so issued and outstanding) exceeds \$25,000,000,000.

“(B) ALLOCATION.—The Secretary of Transportation shall allocate the amount described in subparagraph (A) among the eligible pilot projects designated under paragraph (2).

“(C) REALLOCATION.—If any portion of an allocation under subparagraph (B) is unused on the date which is 3 years after such allocation, the Secretary of Transportation may re-allocate such portion among the remaining eligible pilot projects.”

(c) EXEMPTION FROM GENERAL STATE VOLUME

CAPS.—Paragraph (3) of section 146(g) of such Code (relating to exception for certain bonds) is amended—

(1) by striking “or (12)” and inserting “(12), or (13)”, and

(2) by striking “and environmental enhancements of hydroelectric generating facilities” and inserting “environmental enhancements of hydroelectric generating facilities, and qualified highway infrastructure projects”.

1 (d) USE OF PROCEEDS FOR LAND ACQUISITION PRO-  
 2 HIBITED.—Subsection (c) of section 147 of such Code (re-  
 3 lating to other requirements applicable to certain private  
 4 activity bonds) is amended by adding at the end the follow-  
 5 ing:

6 “(4) QUALIFIED HIGHWAY INFRASTRUCTURE  
 7 PROJECT BONDS MAY NOT BE USED FOR LAND.—An  
 8 exempt facility bond issued as a part of an issue de-  
 9 scribed in section 142(a)(13) (relating to qualified  
 10 highway infrastructure projects) shall not be treated  
 11 as a qualified bond if any portion of the net proceeds  
 12 are to be used (directly or indirectly) for the acquisi-  
 13 tion of land (or any interest therein).”

14 (e) REPORT.—

15 (1) IN GENERAL.—Not later than the earlier  
 16 of—

17 (A) one year after either one-half of the  
 18 projects authorized under section 142(k) of the  
 19 Internal Revenue Code of 1986 have been iden-  
 20 tified or one-half of the total bonds allowable  
 21 for such projects under such section have been  
 22 issued, or

23 (B) seven years after the date of the enact-  
 24 ment of this Act,

1 the Secretary of Transportation, in consultation with  
 2 the Secretary of the Treasury, shall submit to the  
 3 Committees on Finance and Environment and Pub-  
 4 lic Works of the Senate and the Committees on  
 5 Ways and Means and Transportation and Infra-  
 6 structure of the House of Representatives the report  
 7 described in paragraph (2).

8 (2) CONTENTS.—The report under paragraph  
 9 (1) shall evaluate the overall success of the program  
 10 conducted pursuant to the amendments made by this  
 11 Act, including—

12 (A) a description of each project,

13 (B) the extent to which such projects used  
 14 new technologies, construction techniques, or  
 15 innovative cost controls which resulted in sav-  
 16 ings in building the project, and

17 (C) the use and efficiency of the Federal  
 18 tax subsidy provided by the bond financing.

19 (f) EFFECTIVE DATE.—The amendments made by  
 20 this section shall apply to bonds issued after the date of  
 21 the enactment of this Act.

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