

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.

1           “(B) ELIGIBILITY CRITERIA.—The Sec-  
2           retary of Transportation shall establish criteria  
3           for the selection of projects under subparagraph  
4           (A), except that no project may be selected un-  
5           less the project—

6                   “(i) serves the general public;

7                   “(ii) is necessary to evaluate the po-  
8                   tential of the private sector’s participation  
9                   in the provision of the highway infrastruc-  
10                  ture of the United States;

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

13                  “(iv) is publicly owned or the owner-  
14                  ship of the highway constructed or recon-  
15                  structed under the project reverts to the  
16                  public; and

17                  “(v) is consistent with a transpor-  
18                  tation plan developed pursuant to section  
19                  134(g) or 135(e) of title 23, United States  
20                  Code.

21           “(3) AGGREGATE FACE AMOUNT OF TAX-EX-  
22           EMPT FINANCING.—

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

1 issued pursuant thereto (when added to the ag-  
2 gregate face amount of bonds previously so is-  
3 sued and outstanding) exceeds  
4 \$25,000,000,000.

5 “(B) ALLOCATION.—The Secretary of  
6 Transportation shall allocate the amount de-  
7 scribed in subparagraph (A) among the eligible  
8 pilot projects designated under paragraph (2).

9 “(C) REALLOCATION.—If any portion of  
10 an allocation under subparagraph (B) is unused  
11 on the date which is 3 years after such alloca-  
12 tion, the Secretary of Transportation may re-  
13 allocate such portion among the remaining eligi-  
14 ble pilot projects.”

15 (c) EXEMPTION FROM GENERAL STATE VOLUME  
16 CAPS.—Paragraph (3) of section 146(g) of such Code (re-  
17 lating to exception for certain bonds) is amended—

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

20 (2) by striking “and environmental enhance-  
21 ments of hydroelectric generating facilities” and in-  
22 sserting “environmental enhancements of hydro-  
23 electric generating facilities, and qualified highway  
24 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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