

103^D CONGRESS
1ST SESSION

S. 1714

To amend title 23, United States Code, to provide for the establishment of State transportation investment loan funds, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 19 (legislative day, NOVEMBER 2), 1993

Mr. BAUCUS introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend title 23, United States Code, to provide for the establishment of State transportation investment loan funds, 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 cited as the “State Transportation
5 Financing Improvement Act of 1993”.

6 **SEC. 2. STATE TRANSPORTATION INVESTMENT LOAN**
7 **FUNDS.**

8 Chapter 1 of title 23, United States Code, is amended
9 by adding at the end the following new section:

1 **“§ 161. State transportation investment loan funds**

2 “(a) ESTABLISHMENT.—

3 “(1) IN GENERAL.—Subject to the require-
4 ments of this section and notwithstanding any other
5 provision of law, a State may establish a transpor-
6 tation revolving loan fund (referred to in this section
7 as a ‘transportation investment loan fund’) for mak-
8 ing loans and providing other assistance to public or
9 private entities constructing or proposing to con-
10 struct projects or programs that are eligible to re-
11 ceive assistance under section 133(b) (referred to in
12 this section as a ‘qualifying project’).

13 “(2) DETERMINATION OF DEPOSIT AND SPEND-
14 OUT RATES.—For each fiscal year, not later than 90
15 days after the date of enactment of an appropria-
16 tions Act that funds the majority of programs of the
17 Department of Transportation for the fiscal year,
18 the Secretary, in consultation with the Director of
19 the Office of Management and Budget and the Di-
20 rector of the Congressional Budget Office, in accord-
21 ance with recognized scorekeeping conventions, shall
22 establish a schedule for deposits and payments made
23 by or on behalf of a State with respect to a trans-
24 portation investment loan fund established pursuant
25 to paragraph (1) to meet the obligations of the State
26 referred to in paragraph (3).

1 “(3) OBLIGATIONS AND DEPOSITS.—A State
2 may obligate for deposit in a transportation invest-
3 ment loan fund, from funds apportioned or allocated
4 to the State under sections 104(b)(3) and 157, an
5 amount not to exceed the sum of—

6 “(A) the discretionary 37.5 percent of the
7 remaining 80 percent of the surface transpor-
8 tation program funds apportioned to the State
9 under section 104(b)(3), as described in the
10 matter following clause (ii) of section
11 133(d)(3)(A); and

12 “(B) the difference between the amount al-
13 located to the State pursuant to section
14 157(a)(4) and the amount that is obligated to
15 urbanized areas of the State pursuant to sec-
16 tion 133(d)(3).

17 “(4) TREATMENT OF DEPOSITS.—Any amounts
18 deposited by a State pursuant to paragraph (3) shall
19 be considered an expenditure by the State.

20 “(5) APPLICABILITY OF CASH MANAGEMENT
21 REQUIREMENTS.—Sections 3335 and 6503 of title
22 31, United States Code, shall not apply to this sec-
23 tion.

24 “(b) STATE MATCHING REQUIREMENT.—

1 “(1) ADDITIONAL DEPOSIT FROM NON-FED-
2 ERAL SOURCES.—At the same time as a State de-
3 posits funds under subsection (a) into a transpor-
4 tation investment loan fund, the State shall deposit
5 into the transportation investment loan fund from
6 non-Federal sources an additional amount of State
7 matching funds equal to—

8 “(A) the sum of—

9 “(i) the amount deposited pursuant to
10 subsection (a); and

11 “(ii) an amount equal to the propor-
12 tional non-Federal share that the State
13 would otherwise pay on the basis of the
14 amount, determined in accordance with
15 section 120(b); multiplied by

16 “(B) the percentage amount of the non-
17 Federal share for the State for a project carried
18 out by the State, determined in accordance with
19 section 120(b).

20 “(2) INVESTMENT INCOME.—All investment in-
21 come earned on amounts deposited into the trans-
22 portation investment loan fund shall be—

23 “(A) credited to the transportation invest-
24 ment loan fund; and

1 “(B) available for use in providing loans
2 and other assistance from the transportation in-
3 vestment loan fund.

4 “(c) LOANS AND OTHER ASSISTANCE.—

5 “(1) GENERAL AUTHORITY.—From the
6 amounts deposited into a transportation investment
7 loan fund established by a State under this section,
8 a State may loan to a public or private entity an
9 amount equal to all or part of the cost of construct-
10 ing a qualifying project, or provide other assistance
11 with respect to a qualifying project.

12 “(2) COMPLIANCE WITH THE FEDERAL TRAN-
13 SIT ACT, FEDERAL ENVIRONMENTAL LAWS, AND
14 OTHER REQUIREMENTS.—As a condition of receiving
15 a loan or other assistance under this section, the
16 public or private entity that receives the loan or
17 other assistance shall comply with the requirements
18 of this title and any other applicable Federal law
19 (including any applicable provision of the Federal
20 Transit Act (49 U.S.C. App. 1601 et seq.) or a Fed-
21 eral environmental law).

22 “(3) SUBORDINATION OF DEBT.—The amount
23 of a loan or other assistance (if applicable) received
24 for a qualifying project under this subsection may be
25 subordinated to any other debt financing for the

1 project or program, except that amount of the loan
2 or other assistance may not be subordinated to any
3 other loan made by a State or any other public en-
4 tity to the entity that receives the loan or other as-
5 sistance.

6 “(4) REPAYMENT.—The repayment of a loan or
7 other assistance (if applicable) made pursuant to
8 this subsection shall commence not later than 5
9 years after the qualifying project that is the subject
10 of the loan or other assistance has opened to traffic.

11 “(5) TERM OF LOAN.—The term of a loan
12 made pursuant to this subsection shall not exceed 30
13 years from the date of obligation of the loan.

14 “(6) INTEREST.—A loan made pursuant to this
15 subsection shall bear interest at a rate at or below
16 market interest rates, as determined by the State to
17 make the qualifying project that is the subject of the
18 loan feasible.

19 “(7) REUSE OF FUNDS.—The repayment of a
20 loan or other assistance (if applicable) provided pur-
21 suant to this subsection may be credited to the
22 transportation investment loan fund or obligated for
23 any purpose for which the funds were available.

24 “(8) PROCEDURES AND GUIDELINES.—Not
25 later than 180 days after the date of enactment of

1 this section, the Secretary shall establish procedures
2 and guidelines for establishing, operating, and mak-
3 ing loans and providing other assistance from a
4 transportation investment loan fund.

5 “(d) DEFINITION OF OTHER ASSISTANCE.—As used
6 in this section, the term ‘other assistance’ includes any
7 use of funds—

8 “(1) to refinance outstanding debt used to fi-
9 nance a qualifying project if the State certifies that
10 any savings that result from the refinancing shall be
11 used to carry out the purposes of this title;

12 “(2) to guarantee or purchase insurance or
13 other forms of enhancement for borrower debt in
14 order to improve credit market access or to subsidize
15 interest rates; and

16 “(3) to provide a loan guarantee for a loan
17 made from the transportation investment loan fund.

18 “(e) OTHER USES OF THE TRANSPORTATION IN-
19 VESTMENT LOAN FUND.—

20 “(1) SOURCE OF REVENUE OR SECURITY FOR
21 BONDS.—Notwithstanding any other provision of
22 this section, a State may use funds from the trans-
23 portation investment loan fund of the State as secu-
24 rity for bonds and notes issued to provide capital in

1 addition to the capital referred to in subsection
2 (a)(2) for the transportation investment loan fund.

3 “(2) ADMINISTRATIVE COSTS.—For each fiscal
4 year, a State may use an amount not to exceed 2
5 percent of the Federal funds deposited by the State
6 into the transportation investment loan fund of the
7 State to provide for the reasonable costs of admin-
8 istering the transportation investment loan fund.”.

9 **SEC. 3. LOANS OF FEDERAL FUNDS FOR THE CONSTRUC-**
10 **TION OF NONTOLL FACILITIES.**

11 Chapter 1 of title 23, United States Code, as amend-
12 ed by section 2, is further amended by adding at the end
13 the following new section:

14 **“§ 162. Loans of Federal funds for the construction of**
15 **nontoll facilities**

16 “(a) IN GENERAL.—

17 “(1) LOANS.—A State may loan an amount
18 equal to all or part of the Federal share of a project
19 or program to a public or private entity constructing
20 or proposing to construct a nontoll facility if the re-
21 payment of the loan by the public or private entity
22 will be made from a dedicated revenue source, in-
23 cluding any excise tax, sales tax, motor vehicle use
24 fees, tax on real property, tax increment financing,
25 or other dedicated revenue sources.

1 “(2) DEFINITION OF QUALIFYING PROJECT.—

2 As used in this section, the term ‘qualifying project’
3 means a project that meets the requirements of
4 paragraph (1).

5 “(b) COMPLIANCE WITH THE FEDERAL TRANSIT
6 ACT, FEDERAL ENVIRONMENTAL LAWS, AND OTHER RE-
7 QUIREMENTS.—As a condition of receiving a loan under
8 this section, the public or private entity that receives the
9 loan shall ensure that the qualifying project complies with
10 the requirements of this title and any other applicable law
11 (including any applicable provision of the Federal Transit
12 Act (49 U.S.C. App. 1601 et seq.) or a Federal environ-
13 mental law).

14 “(c) SUBORDINATION OF DEBT.—The amount of a
15 loan received for a project under this section may be sub-
16 ordinated to any other debt financing for the project, ex-
17 cept that the amount of the loan may not be subordinated
18 to the amount of any other loan made by the State or
19 any other public entity to the entity constructing the
20 project.

21 “(d) OBLIGATION OF FUNDS LOANED.—Funds
22 loaned pursuant to this section may be obligated for quali-
23 fying projects.

24 “(e) REPAYMENT.—The repayment of a loan made
25 pursuant to this section shall commence not later than 5

1 years after the qualifying project that is the subject of
2 the loan has opened to traffic.

3 “(f) TERM OF LOAN.—The term of a loan made pur-
4 suant to this section shall not exceed 30 years from the
5 date of obligation of the loan.

6 “(g) INTEREST.—A loan made pursuant to this sec-
7 tion shall bear interest at a rate at or below market inter-
8 est rates, as determined by the State to make the qualify-
9 ing project that is the subject of the loan feasible.

10 “(h) REUSE OF FUNDS.—Amounts repaid to a State
11 from any loan made pursuant to this section may be obli-
12 gated—

13 “(1) for any purpose for which the loaned funds
14 were available; and

15 “(2) for—

16 “(A) the refinancing of outstanding debt
17 used to finance a qualifying project;

18 “(B) the guarantee or purchase of insur-
19 ance or other forms of enhancement for bor-
20 rower debt in order to improve credit market
21 access or to subsidize interest rates; or

22 “(C) the provision of a loan guarantee.

23 “(i) GUIDELINES.—Not later than 180 days after the
24 date of enactment of this section, the Secretary shall es-

1 tablish procedures and guidelines for making loans pursu-
2 ant to this section.”.

3 **SEC. 4. TOLL ROADS.**

4 Paragraph (7) of section 129(a) of title 23, United
5 States Code, is amended to read as follows:

6 “(7) LOANS.—

7 “(A) IN GENERAL.—A State may loan an
8 amount equal to all or part of the Federal share
9 of a toll project under this section to a public
10 or private entity constructing or proposing to
11 construct a toll project. As used in this para-
12 graph, the term ‘qualifying project’ means a
13 project referred to in the preceding sentence.

14 “(B) COMPLIANCE WITH THE FEDERAL
15 TRANSIT ACT, FEDERAL ENVIRONMENTAL
16 LAWS, AND OTHER REQUIREMENTS.—As a con-
17 dition to receiving a loan under this paragraph,
18 the public or private entity that receives the
19 loan shall ensure that the qualifying project
20 complies with the requirements of this title and
21 any other applicable law (including any applica-
22 ble provision of the Federal Transit Act (49
23 U.S.C. App. 1601 et seq.) or a Federal environ-
24 mental law).

1 “(C) SUBORDINATION OF DEBT.—The
2 amount of a loan received for a qualifying
3 project under this paragraph may be subordi-
4 nated to any other debt financing for the
5 project, except that the amount of the loan may
6 not be subordinated to the amount of any other
7 loan made by the State or any other public en-
8 tity to the entity constructing the project.

9 “(D) OBLIGATION OF FUNDS LOANED.—
10 Funds loaned pursuant to this paragraph may
11 be obligated for qualifying projects.

12 “(E) REPAYMENT.—The repayment of a
13 loan made pursuant to this paragraph shall
14 commence not later than 5 years after the facil-
15 ity that is the subject of the loan has opened
16 to traffic.

17 “(F) TERM OF LOAN.—The term of a loan
18 to a private or public entity shall not exceed 30
19 years from the time that the loan was obligated.

20 “(G) INTEREST.—A loan made pursuant
21 to this paragraph shall bear interest at a rate
22 at or below market interest rates, as determined
23 by the State to make the qualifying project that
24 is the subject of the loan feasible.

1 “(H) REUSE OF FUNDS.—Amounts repaid
2 to a State from a loan made under this para-
3 graph may be obligated—

4 “(i) for any purpose for which the
5 loaned funds were available; and

6 “(ii) for—

7 “(I) the refinancing of outstand-
8 ing debt used to finance a qualifying
9 project;

10 “(II) the guarantee or purchase
11 of insurance or other forms of en-
12 hancement for borrower debt in order
13 to improve credit market access or to
14 subsidized interest rates; or

15 “(III) the provision of a loan
16 guarantee.

17 “(I) GUIDELINES.—Not later than 180
18 days after the date of enactment of the State
19 Transportation Financing Improvement Act of
20 1993, the Secretary shall establish procedures
21 and guidelines for making loans pursuant to
22 this paragraph.”.

1 **SEC. 5. CONFORMING AMENDMENT TO TABLE OF CON-**
2 **TENTS.**

3 The chapter analysis at the beginning of chapter 1
4 of title 23, United States Code, is amended by adding at
5 the end the following new items:

“161. State transportation investment loan funds.

“162. Loans of Federal funds for the construction of nontoll facilities.”.

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