

107TH CONGRESS  
1ST SESSION

# S. 870

To amend the Internal Revenue Code of 1986 to provide additional tax incentives for public-private partnerships in financing of highway, mass transit, high-speed rail, and intermodal transfer facilities projects, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 10, 2001

Mr. SMITH of New Hampshire (for himself and Mr. INHOFE) 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 additional tax incentives for public-private partnerships in financing of highway, mass transit, high-speed rail, and intermodal transfer facilities projects, 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 “Multimodal Transpor-  
5 tation Financing Act”.

1 **SEC. 2. TAX-EXEMPT FINANCING OF QUALIFIED HIGHWAY**  
 2 **INFRASTRUCTURE.**

3 (a) TREATMENT AS EXEMPT FACILITY BOND.—Sub-  
 4 section (a) of section 142 of the Internal Revenue Code  
 5 of 1986 (relating to exempt facility bond) is amended by  
 6 striking “or” at the end of paragraph (11), by striking  
 7 the period at the end of paragraph (12) and inserting “,  
 8 or”, and by adding at the end the following:

9 “(13) qualified highway infrastructure  
 10 projects.”.

11 (b) QUALIFIED HIGHWAY INFRASTRUCTURE  
 12 PROJECTS.—Section 142 of the Internal Revenue Code of  
 13 1986 is amended by adding at the end the following:

14 “(k) QUALIFIED HIGHWAY INFRASTRUCTURE  
 15 PROJECTS.—

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

19 “(A) for the construction, reconstruction,  
 20 or maintenance of a highway, including related  
 21 startup costs, and

22 “(B) meeting the requirements of para-  
 23 graph (2).

24 “(2) PROJECT REQUIREMENTS.—A project  
 25 meets the requirements of this paragraph if the  
 26 project—

1                   “(A) serves the general public,

2                   “(B) is located on publicly-owned rights-of-

3 way, and

4                   “(C) is publicly owned or the ownership of

5 the highway constructed, reconstructed, or

6 maintained under the project reverts to the

7 public.”

8           (c) EXEMPTION FROM GENERAL STATE VOLUME  
9 CAPS.—Paragraph (3) of section 146(g) of the Internal  
10 Revenue Code of 1986 (relating to exception for certain  
11 bonds) is amended—

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

14           (2) by striking “and environmental enhance-  
15 ments of hydroelectric generating facilities” and in-  
16 sserting “environmental enhancements of hydro-  
17 electric generating facilities, and qualified highway  
18 infrastructure projects”.

19           (d) EXEMPTION FROM LIMITATION ON USE FOR  
20 LAND ACQUISITION.—Section 147(c)(3) of the Internal  
21 Revenue Code of 1986 (relating to exception for certain  
22 land acquired for environmental purposes, etc.) is amend-  
23 ed by striking “or wharf” both places it appears and in-  
24 sserting “wharf, or qualified highway infrastructure  
25 project”.

1 (e) TREATMENT OF CERTAIN REFUNDING BONDS.—

2 (1) IN GENERAL.—Paragraph (2) of section  
 3 149(d) of the Internal Revenue Code of 1986 (relat-  
 4 ing to certain private activity bonds) is amended by  
 5 inserting “or any exempt facility bond issued as part  
 6 of an issue described in paragraph (13) of section  
 7 142(a) (relating to qualified highway infrastructure  
 8 projects)” after “other than a qualified 501(c)(3)  
 9 bond”.

10 (2) SPECIAL RULES.—Paragraph (6) of section  
 11 149(d) of such Code is amended to read as follows:

12 “(6) SPECIAL RULES FOR PURPOSES OF PARA-  
 13 GRAPH (3).—For purposes of paragraph (3)—

14 “(A) bonds issued before October 22,  
 15 1986, shall be taken into account under sub-  
 16 paragraph (A)(i) thereof except—

17 “(i) a refunding which occurred before  
 18 1986 shall be treated as an advance re-  
 19 funding only if the refunding bond was  
 20 issued more than 180 days before the re-  
 21 demption of the refunded bond, and

22 “(ii) a bond issued before 1986, shall  
 23 be treated as advance refunded no more  
 24 than once before March 15, 1986, and

1           “(B) a bond issued as part of an issue that  
2 is either the 1st or 2nd advance refunding of  
3 the original bond shall be treated as only the  
4 1st advance refunding of the original bond if—

5           “(i) at least 95 percent or more of the  
6 net proceeds of the original bond issue are  
7 to be used to finance a highway infrastruc-  
8 ture project (regardless of whether the  
9 original bond was issued as a private activ-  
10 ity bond),

11           “(ii) the original bonds and applicable  
12 refunding bonds are or are reasonably ex-  
13 pected to be primarily secured by project-  
14 based revenues, and

15           “(iii) in any case in which—

16           “(I) the original bonds or appli-  
17 cable refunding bonds are private ac-  
18 tivity bonds issued as part of an issue  
19 at least 95 percent or more of the net  
20 proceeds of which are to be used to fi-  
21 nance a qualified highway infrastruc-  
22 ture project described in section  
23 142(a)(13), the refunding bonds of  
24 the issue and original bonds of the

1 issue satisfy the requirements of sec-  
 2 tion 147(b), or

3 “(II) the original bonds and ap-  
 4 plicable refunding bonds are not pri-  
 5 vate activity bonds, the second genera-  
 6 tion advance refunding bonds of the  
 7 issue (and any future bonds of the  
 8 issue refunding such bonds) satisfy  
 9 the requirements of section 147(b).”.

10 (3) SPECIAL RULE RELATING TO MATURITY  
 11 LIMITATION.—Section 147(b) of such Code (relating  
 12 to maturity limitations) is amended by adding at the  
 13 end the following:

14 “(6) SPECIAL RULE FOR CERTAIN HIGHWAY IN-  
 15 FRASTRUCTURE PROJECTS.—

16 “(A) IN GENERAL.—In the case of bonds  
 17 of an issue described in section 149(d)(6)(B),  
 18 the limit described in paragraph (1)(B) shall be  
 19 reduced—

20 “(i) in any case in which the original  
 21 bonds or applicable refunding bonds are  
 22 private activity bonds, by the remaining  
 23 weighted average maturity of the escrowed  
 24 bonds with respect to both the first and  
 25 second generation advance refunding, and

1           “(ii) in any case in which the original  
2           bonds and applicable refunding bonds are  
3           not private activity bonds, by the remain-  
4           ing weighted average maturity of the  
5           escrowed bonds with respect to the second  
6           generation advance refunding.

7           “(B) REMAINING WEIGHTED AVERAGE MA-  
8           TURITY OF ESCROWED BONDS.—For purposes  
9           of subparagraph (A), the remaining weighted  
10          average maturity of the escrowed bonds is equal  
11          to the weighted average maturity, calculated as  
12          of the applicable refunding bond issue date—

13               “(i) with respect to subparagraph  
14               (A)(i), of the applicable bonds advance re-  
15               funded, and

16               “(ii) with respect to subparagraph  
17               (A)(ii), of the applicable bonds directly re-  
18               funded by the second generation advance  
19               refunding bonds, and

20           treating any date of actual early redemption as  
21           a maturity date for this purpose.

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

1 **SEC. 3. MASS COMMUTING FACILITIES.**

2 (a) EXEMPTION FROM STATE VOLUME CAP.—Sec-  
3 tion 146(g)(3) of the Internal Revenue Code of 1986 (re-  
4 lating to exception for certain bonds), as amended by sec-  
5 tion 2, is amended—

6 (1) by inserting “(3),” after “(2),” and

7 (2) by inserting “mass commuting facilities,”  
8 after “wharves,”.

9 (b) INCLUSION OF ROLLING STOCK.—Section 142(c)  
10 of the Internal Revenue Code of 1986 (relating to airports,  
11 docks and wharves, mass commuting facilities and high-  
12 speed intercity rail facilities) is amended by adding at the  
13 end the following new paragraph:

14 “(3) MASS COMMUTING FACILITIES.—The term  
15 ‘mass commuting facilities’ includes rolling stock re-  
16 lated to such facilities.”.

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

20 **SEC. 4. MODIFICATION OF DEFINITION OF HIGH-SPEED**  
21 **INTERCITY RAIL FACILITIES.**

22 (a) IN GENERAL.—Section 142(i)(1) of the Internal  
23 Revenue Code of 1986 (defining high-speed intercity rail  
24 facilities) is amended by striking “ and their baggage” and  
25 all that follows and inserting “on high speed rail corridors  
26 designated under section 104(d)(2) of title 23, United

1 States Code, or on corridors using magnetic levitation  
2 technology.”.

3 (b) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to bonds issued after the date of  
5 enactment of this Act.

6 **SEC. 5. TAX-EXEMPT FINANCING OF INTERMODAL TRANS-**  
7 **FER FACILITIES.**

8 (a) TREATMENT AS EXEMPT FACILITY BOND.—Sub-  
9 section (a) of section 142 of the Internal Revenue Code  
10 of 1986 (relating to exempt facility bond), as amended by  
11 section 2(a), is amended by striking “or” at the end of  
12 paragraph (12), by striking the period at the end of para-  
13 graph (13) and inserting “, or”, and by adding at the end  
14 the following:

15 “(14) intermodal transfer facilities.”.

16 (b) INTERMODAL TRANSFER FACILITIES.—Section  
17 142 of the Internal Revenue Code of 1986, as amended  
18 by section 2(b), is amended by adding at the end the fol-  
19 lowing:

20 “(1) INTERMODAL TRANSFER FACILITIES.—For pur-  
21 poses of subsection (a)(14), the term ‘intermodal transfer  
22 facilities’ means any facility for the transfer of people or  
23 goods between the same or different transportation  
24 modes.”.

1           (c) EXEMPTION FROM GENERAL STATE VOLUME  
2 CAPS.—Paragraph (3) of section 146(g) of the Internal  
3 Revenue Code of 1986 (relating to exception for certain  
4 bonds), as amended by section 2(c), is amended—

5           (1) by striking “or (13)” and inserting “(13),  
6           or (14)”, and

7           (2) by striking “and qualified highway infra-  
8           structure projects” and inserting “qualified highway  
9           infrastructure projects, and intermodal transfer fa-  
10          cilities”.

11          (d) EXEMPTION FROM LIMITATION ON USE FOR  
12 LAND ACQUISITION.—Section 147(d)(3) of the Internal  
13 Revenue Code of 1986 (relating to exception for certain  
14 land acquired for environmental purposes, etc.), as amend-  
15 ed by section 2(d), is amended by striking “or qualified  
16 highway infrastructure project” both places it appears and  
17 inserting “qualified highway infrastructure project, or  
18 intermodal transfer facility”.

19          (e) CONFORMING AMENDMENTS.—Subsection (c) of  
20 section 142 of the Internal Revenue Code of 1986 is  
21 amended—

22           (1) by striking “or (11)” both places it appears  
23           in paragraphs (1) and (2) and inserting “, (11), or  
24           (14)”, and

1           (2) by striking “AND HIGH-SPEED INTERCITY  
2       RAIL FACILITIES” in the heading thereof and insert-  
3       ing “, HIGH-SPEED INTERCITY RAIL FACILITIES,  
4       AND INTERMODAL TRANSFER FACILITIES”.

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

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