FOIA Number: 2015-0463-F

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Series/Staff Member: Dorothy Robyn

Subseries:

OA/ID Number: 17413

FolderID:

Folder Title:
TEA - 21 [Transportation Equity Act of the 21st Century] [Folder 1]: Innovative Financing

Stack:	Row:	Section:	Shelf:	Position:
S	15	5	8	3

THE WHITE HOUSE
WASHINGTON

- Jaime Lizarga

- Gary Gensler
  - Asst. Secy for Policy

- Chafee strongly behind it
  - No one else

- Labor pushing for complete

• Will ~~[illegible]~~ fall of its own weight

• Chafee has amend. to fix it.

• IRS is objecting to tax-exempt status

— Transit min. allocation

— If we send a
views ltr. —

require a fee to offset tax loss from tax exempt

80M for 5 yrs.

Chafee – Graham – Domenici – Roth

Florida Overland Express

We don't want to hear from you at this late date.

NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES

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****************ECRLOT**C-005
Ms. Dorothy L. Robyn
437 2nd St SE # 3B
Washington DC 20003-1920

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Vice President, Marketing
MCI Telecommunications Corporation

David A. Coltman
Senior Vice President Marketing
United Airlines

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To: SK, DR

Good Work

GS

3/11/
4:30

Sally Katzen
03/11/98 02:46:00 PM

Record Type: Record

To: Gene B. Sperling/OPD/EOP

cc: Dorothy Robyn/OPD/EOP, Melissa G. Green/OPD/EOP, Peter A. Weissman/OPD/EOP
Subject: Update on ISTEA Creative Financing

As you may recall, DOT and Treasury originally had different views about the provisions for innovative financing. At your suggestion, I got everyone together on a phone call Monday and I mentioned to you afterwards that we seemed to have reached an understanding that innovative financing was no longer as important to DOT (they had lots of money) but remained very important to Treasury (don't like this form of debt). We agreed that a Rep. from Treasury along with a Rep. from DOT would go to the Hill on Tuesday and communicate our lack of interest (understatement) in private conversations, rather than publically which would embarrass Senator Chaffee who has been very helpful to us.

Now, I am pleased to report the meetings on the Hill Tuesday went very well from the point of view of a coordinated, consistent Administration position against the provisions. Nonetheless, we were told that the provisions would remain in the bill, period. That is O.K. because there is no similar provision in the House, where we can take a united position against the concept, and then we have another opportunity in Conference. Everyone is happy with the role the NEC played.,

Sally Katzen
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Michael Deich
03/09/98 08:57:10 AM

Record Type: Record

To: Dorothy Robyn/OPD/EOP

cc: Kenneth L. Schwartz/OMB/EOP, David E. Tornquist/OMB/EOP, David J. Worzala/OMB/EOP
Subject: Re: ISTEA -- Innovative Financing

the fee will not address treasury's fundamental issue (subordination of federally-guaranteed debt). although trs will remain excited about this, i really don't care too much. i find the merits of the chafee/dot policy ambiguous, with reasonable arguments on both sides. i supported dot last summer when it appeared that highway funding would be significantly lower than the president wants; with highways now awash is spending, i wouldn't mind if trs succeeds in killing the dot proposal. but i agree with you that stopping the policy should be on their nickel, not ours.

Dorothy Robyn
03/08/98 05:35:59 PM

Record Type: Record

To: Michael Deich/OMB/EOP

cc: Kenneth L. Schwartz/OMB/EOP, David E. Tornquist/OMB/EOP, David J. Worzala/OMB/EOP
Subject: ISTEA -- Innovative Financing

Gary Gensler called me abt. this over weekend, and Haime (?) Lizarga (new guy in Trs. legis office) called on Friday. They want our help in killing the Chafee innovative finance provision, which I gather is similar to the DOT proposal that Trs. objected to. I told Gary I was reluctant to spend political capital on this without knowing the level of support for it; whether the Joint Tax scoring issue would serve to kill it off anyway; etc. I asked him to join the 10 am ISTEA conference call on monday and said I'd try to answer those questions in the meantime.

I talked to Steve Palmer and Jack Basso, and Jack talked to Dan corbett. This is what Jack reported back: Joint Tax scored the provision at an $80M revenue loss over 5 yrs. because of its tax preferred status; apparently, Joint Tax had the same concerns as Trs., and the scoring reflects that. Having failed to move Joint Tax with "brute sanity," Chafee has an amendment that will impose a fee on transactions covered by this provision in order to offset the $80M tax loss. The provision has strong support from Graham (who's up for reelection and wants $ for the Florida Overland Express), Domenici and Roth, in addition to Chafee. Dan's basic message to Jack was: "We don't want to hear from you guys on this, particularly at this late date."

Perhaps the fee will satisfy Trs. If not, I don't want to take Chafee, Graham & Domenici on over this, given that they seem to have fixed JTC's problem. Let me know if you have a different view -- ideally, before the 10 am conf. call.

Michael Deich

THE PRESIDENT HAS SEEN
3-12-97

THE WHITE HOUSE

WASHINGTON

March 11, 1997

MR. PRESIDENT:

There is general agreement among the agencies as well as your White House staff on the *ISTEA Reauthorization bill* except for one issue. The attached Raines/Sperling memo discusses the area of contention -- it outlines two options for dealing with $100 million per year available through the Innovative Financing title. Given that you are scheduled to announce the bill tomorrow morning, it would be helpful if you could make a decision prior to the event. However, if you feel you need more time, an immediate decision is not imperative.

Background. As currently drafted, the title has two parts. The first would provide Federal grants of $150 million per year to State Infrastructure Banks (SIBs), and SIBs would use these funds to offer credit support for State/local transportation projects. All agencies support this provision. However, there is disagreement about how to best use the other $100 million per year available under this title.

Option 1 -- Direct loans. NEC, OMB, DOT, WH Legislative Affairs and John Podesta would allow the Federal government to make direct loans for up to 33% of the cost of State/local revenue-generating (toll) transportation projects of "national economic significance." However, Treasury objects to this approach. *The memo provides detailed arguments pro and con.*

Option 2 -- Additional grants. Treasury proposes that the $100 million per year be used for direct grants to SIBs for specific transportation projects. The SIBs would use the funds to provide some form of credit support to the projects. *See memo for details.*

Finally, if you're inclined toward option 1, please note that Sec. Rubin would like to speak with you before you give final approval.

Helen Howell Helen

THE PRESIDENT HAS SEEN
3-12-97

DECISION

MEMORANDUM FOR THE PRESIDENT

FROM: Franklin D. Raines
Gene Sperling

SUBJECT: Elements of the "Innovative Financing" Program in the Administration's ISTEA Reauthorization Bill

This memorandum seeks your decision on the nature of the 'Innovative Financing' program that is to be included in the Administration's ISTEA reauthorization proposal.

As currently drafted, the Innovative Financing title has two parts. The first would provide Federal grants of $150 million per year to State Infrastructure Banks (SIBs). SIBs would use these funds to offer credit support for State/local transportation projects (e.g., by writing down the interest that borrowers must pay). All agencies support this provision.

The second part of the Innovative Financing title would allow the Federal government to make direct loans, on favorable terms and conditions, for up to 33 percent of the cost of a State/local transportation project. Preliminary OMB estimates indicate that the $100 million per year in budget authority available for this purpose would support up to $400 million in loans. NEC, OMB, DOT and White House Legislative Affairs support this provision. Treasury objects. Treasury proposes instead that the $100 million per year be used for direct grants (e.g., adding the $100 million to the $150 million per year already provided for SIBs).

OPTION 1 -- Direct Federal Loans with Flexible Repayment Provisions

Under this option, the Federal government would offer loans to State/local sponsors of revenue-generating (toll) transportation projects of "national economic significance." The Federal loans could cover up to one-third of total project costs. The State/locality would cover the remaining project costs by issuing tax-exempt bonds.

During the first 10 years of the loan, the Secretary of Transportation could defer repayment of principal and/or interest on the Federal loan if the cash flows from the project were insufficient to cover these items. Any deferred payments would be added to the balance of the loan and would accrue interest at the Federal cost of funds. At the end of 10 years, the balance of the Federal loan would be refinanced with a 20-year Federal loan, at Treasury interest rates, with no further deferral of repayment allowed.

Since borrowers would pay interest at the Federal cost of funds, the budget cost of these loans would arise only from losses associated with default. In the case of default, the Federal government and the other project lenders would have equal standing: each could claim project assets in proportion to the amount of loans they had outstanding.

PRO:

Leveraging Federal investment in transportation. Compared to existing Federal grants, these loans would provide a much lower subsidy to any one project, thus leveraging the total amount of transportation investment stimulated by Federal assistance. Preliminary OMB estimates indicate that, in contrast to existing direct grants subsidizing 80 percent of project costs, the Federal loan would provide financial assistance equivalent to a direct subsidy of between 8 and 22 percent of project costs.

More efficient use of the Nation's transportation infrastructure. By subsidizing the construction of transportation projects that charge user fees, the program would increase the efficiency with which the Nation's transportation infrastructure is used.

CON:

Treasury acknowledges the advantages of the proposed credit subsidies, but objects to the form in which the subsidies would be provided. Treasury argues that the DOT proposal is at odds with longstanding Federal credit policy, and would set a precedent that would be difficult to avoid with a host of other Federal subsidy programs. Treasury objections include:

Enhancement of tax-exempt debt. Treasury argues that the direct loan program would violate Federal policies, and perhaps current tax law, prohibiting the use of Federal funds to enhance the credit-worthiness of State/local tax-exempt debt. The prohibition against enhancement is designed to discourage the use of tax-exempt debt:

- reducing tax-exempt debt reduces the associated revenue loss to the Treasury;

- making State/local tax-exempt debt less attractive increases the demand for Treasury debt, and lowers the interest rate that the Federal government must pay.

Existing Federal policy would allow a direct Federal loan covering 100 percent of the cost of a State/local transportation project. However, Treasury argues that a Federal loan for 33 percent of project costs would constitute an 'enhancement' of the State/local tax-exempt debt that covers the remaining project cost. Treasury argues that the enhancement would arise from the market's belief that the Federal government would grant the project further subsidies rather than allow the project to fail and the Federal loan to go into default. DOT notes that a market perception of enhancement would be overcome by a consistent Federal policy against forebearance.

"Subordination" of Federal debt. Treasury argues that the most problematic aspect of the DOT proposal, however, is the fact that the Federal loans would involve more risk than the tax-exempt loans: during the first 10 years of the loan, the State/local borrower would be able to

defer payments on the Federal loan, but would be required to make uninterrupted payments to private lenders of the tax-exempt debt. During the first ten years of the loan, the Federal government would take on more credit risk than the private lenders. Treasury argues that the Federal loan is therefore 'subordinate' to the tax-exempt debt.

DOT argues that the Federal loan would not be subordinate in any material sense: both the Federal loan and the tax-exempt debt would have equal claim on the project assets in the event of default.

Scoring uncertainty. Treasury argues that it would difficult to measure the risk associated with toll transportation projects, for such projects are infrequent, lumpy investments. (Since 1961, only $39 billion in revenue bonds have been issued for transportation toll projects; one percent of this amount has defaulted.) DOT acknowledges the uncertainty, but note that any measurement uncertainty would be reflected in a higher OMB estimate of the credit subsidy cost of the loans; on average, the OMB credit subsidy estimate should accurately reflect the long-term budget cost of the Federal loans.

OPTION 2 -- Provide Additional Grants to State Infrastructure Banks

Under this option, the Secretary of Transportation would allocate the $100 million per year to SIBs for specific transportation projects. The SIBs would use the funds to provide some form of credit support to the projects (e.g., an interest-rate write down).

PRO:

Consistent with Treasury's interpretation of Federal credit policy. Since any direct enhancement of tax-exempt debt would be provided directly by SIBs rather than the Federal government, this option would be consistent with Federal credit policy.

Budget Certainty. By providing grants rather than loans, this option would eliminate all of the budget uncertainty associated with scoring credit programs.

CON:

Fewer transportation projects would be built. NEC, DOT and OMB believe that the Federal government would subsidize fewer projects under Option 2 than under Option 1. First, Option 1 allows States/localities to borrow at the federal cost of funds, while Option 2 requires States/localities to access the credit market at the SIB cost of funds. Second, Option 1 would provide a financial instrument not routinely offered by private capital markets (a 30 year loan with limited deferral of principal and interest during the first ten years); given the unusual nature of the credit instrument, borrowers would have to pay a premium to purchase a private-sector equivalent of Option 1.

NEC, OMB and DOT argue that the absence of a private market equivalent to Option 1 may reflect a capital market imperfection due to the short time horizons of private investors; they note that the Federal government can offer more 'patient' capital. In response, Treasury argues that no market failure exists: we observe no similar private sector loans only because the risks are high and borrowers are unwilling to pay the required premium. Treasury notes that, with perfect capital markets, States should be indifferent between a direct Federal loan and a grant equalling the OMB-estimated subsidy cost of the loan (which the State could use to write-down the cost of a private loan); since States prefer direct Federal loans, Treasury concludes that OMB must be underestimating the true budget cost of the loan. DOT notes, however, that if capital markets were imperfect, States could finance more infrastructure with direct Federal loans than with the grant equivalent. Unfortunately, we have no empirical test of whether private capital markets are perfect.

RECOMMENDATIONS

NEC, OMB and DOT recommend that you approve Option 1. Treasury recommends that you approve Option 2. If you are inclined to approve Option 1, Secretary Rubin would like to speak with you before you give final approval.

DECISION

✓ Approve Option 1

___ Approve Option 2

___ Discuss Further

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

October 8, 1997 (SENT)
(Senate)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

S. 1173 Intermodal Surface Transportation Efficiency Act of 1997
(Warner (R) Virginia and 17 cosponsors)

Reauthorizing the Nation's surface transportation programs is the Administration's top transportation priority for this session of Congress. The Administration is pleased that S. 1173 is a 6-year bill, and that it addresses many of the President's priorities as reflected in the Administration's proposal. For example, the bill includes important environmental protection, welfare-to-work, and worker protection provisions; and expands the uses of the highway and mass transit capital funds. In addition, the Administration supports many of the safety provisions under consideration by the Commerce Committee.

The Bipartisan Budget Agreement. The Bipartisan Budget Agreement (BBA) between the President and the Congress increased highway spending by $10 billion. While the Senate reported bill is more consistent with the BBA than the 6-year bill considered by the House Transportation and Infrastructure Committee, S. 1173 still exceeds the total transportation spending levels assumed in the BBA – including an additional $2 billion in mandatory outlays. However, the Administration understands that it is the managers' intent to modify the bill so that it remains within the bounds of the carefully crafted BBA. The Administration supports this goal and urges the Senate to craft a bill that is fully consistent with the BBA. The Administration would strongly oppose amendments to the bill which would further increase funding levels above those agreed upon in the BBA.

Amendment Concerns. The Administration commends the Senate for retaining ISTEA's disadvantaged business enterprise goals and uniform certification provision for highway projects, and strongly opposes any amendments to repeal or weaken these provisions. In addition, the Administration would oppose any amendments to weaken: the National Environmental Policy Act, the Congestion Mitigation and Air Quality Improvement Program (including allowing single occupancy vehicle projects to receive funding under the Program), or the Clean Air Act. The Administration is also committed to retaining ISTEA's labor standards and employee protection requirements afforded working people on federally assisted projects (including those assisted by State infrastructure banks), and would oppose any amendments repealing or limiting these protections. The Administration would also oppose changing the transit formula by adopting any form of minimum allocation for transit.

Major Concerns. The Administration supports Senate passage of a 6-year transportation bill, but will seek amendments to S. 1173 to address the concerns described below and the additional concerns discussed in the attachment.

- The bill should be modified to be fully consistent with the Bipartisan Budget Agreement.

- The bill's safety provisions should be strengthened by -- retaining the unbelted crash testing requirement; penalizing repeat drunk driving offenders at the same blood alcohol level as first offenders; including the Administration's criteria in the seat belt incentive program for States to increase seat belt use rates; and eliminating the special exemption from the Federal seat belt use law for New Hampshire.

- S. 1173 should be amended to authorize the full $2.2 billion requested by the Administration for the Appalachian Development Highway System, and the full $161 million requested for National Park roads and parkways. The funding levels currently authorized in the bill are inadequate to support these important programs.

- The bill should provide additional flexibility to State and local governments in establishing hiring preferences for in-State welfare recipients, in order to meet the aggressive targets included in the recent welfare reform law.

Finally, the Administration supports the use of alternate fuels to improve our nation's air quality, and therefore strongly supports the extension of the excise tax exemption for ethanol (but without phasing down the rates of the benefits).

Pay-As-You-Go Scoring. S. 1173 as reported would increase direct spending; therefore it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. Therefore, if the bill were enacted and these costs are not offset during the remainder of this Congressional session, a pay-as-you-go sequester would be triggered at the end of the session. OMB's preliminary scoring estimates of this bill are presented in the table below. Final scoring of this legislation may differ from these estimates.

PAY-AS-YOU-GO ESTIMATES
($ in millions)

	1998	1999	2000	2001	2002	2003	98-03
Outlays	71	244	335	402	463	529	2,044

* * * * *

Attachment: Additional Concerns

The Administration supports Senate passage of a 6-year transportation bill, but will seek amendments to S. 1173 to address the major concerns described above and the additional concerns discussed in this attachment. The bill should be amended to:

- Expand its intermodal focus by permitting State and local governments to use Surface Transportation Program (STP) funds for publicly owned freight rail infrastructure.

- Retain the current 10 percent set-aside of STP funds for transportation enhancements.

- Delete Section 1115 which would unnecessarily expand Federal Lands Program eligibility to include non-Federal aid eligible roads.

- Delete two provisions that would dilute the effectiveness of the Hazard Elimination program by unnecessarily extending the program to the Interstate System (which is already our safest system of roads), and unnecessarily expanding program eligibility to include non-safety traffic calming projects.

- Prevent confusion and duplication by deleting the provision that would give States the option of using or not using the metric system in connection with highway construction contracts.

- Further expand the definition of capital to make contracted paratransit services for individuals with disabilities an eligible expense.

- Advance transportation projects more prudently and leverage private and non-Federal investment by substituting the Administration's State Infrastructure Bank and Credit Enhancement proposals for the bill's current Innovative Infrastructure Finance provisions.

- In addition, the Administration is concerned that the proposed Magnetic Levitation Transportation Technology Deployment Program does not adequately take into consideration evidence on the costs and benefits of projects that would be eligible under the program.

Sec. 1236. Design Flexibility.

SUMMARY

This section clarifies section 109 of title 23, United States Code, regarding planned future traffic needs and the Secretary's responsibilities in reviewing State plans for proposed highway projects. This modification eliminates the requirement that the Secretary ensure that a State plan for a highway project must accommodate future traffic demands. The revised section only requires that the Secretary ensure that future traffic needs were considered.

DISCUSSION

This change gives States and localities additional flexibility in designing and constructing highway projects under this title.

Subtitle C—Finance

CHAPTER 1—GENERAL PROVISIONS

A considerable gap exists between transportation infrastructure needs and available Federal resources. It is important that national transportation policy anticipate the future and reach out for ideas on creative ways to finance our infrastructure needs. The programs provided in this subtitle will increase the strategic investment in transportation infrastructure.

Sec. 1301. State Infrastructure Bank Program.

SUMMARY

This section codifies the State Infrastructure Bank (SIB) Pilot Program authorized in the NHS Designation Act of 1995.

DISCUSSION

This section includes modifications to increase the flexibility of the SIB program. The current 10-State limit on the number of participants in the SIB program is eliminated, thus enabling any State to establish a State Infrastructure Bank. The percentage limitation regarding funds a State can transfer to use State infrastructure banks is eliminated. The need to maintain separate highway and transit accounts within a SIB is also terminated.

The 10-state limit unnecessarily restricted States from pursuing this financial mechanism and the percentage limitation unnecessarily limits States' use of this mechanism. The need to maintain separate highway and transit accounts also imposed an accounting burden on States that was inconsistent with financial flexibility desired in a financing entity such as a State Infrastructure Bank.

CHAPTER 2—TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION

SUMMARY

This chapter establishes a Federal credit program for surface transportation, entitled the "Transportation Infrastructure Finance and Innovation Act." The program is designed to provide funding for large projects with their own revenue streams, which can obtain

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PROVISIONS

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DISCUSSION

This program offers the sponsors of major transportation projects a new tool to enhance limited Federal resources, stimulate additional investment in our Nation's infrastructure, and encourage greater private sector participation in meeting our transportation needs.

The TIFIA program is targeted toward projects that have been difficult to finance through traditional means due to their scale and complexity. Projects must be designated by the Secretary as "regionally" or "nationally" significant, and they must have the potential to be self-supporting from user charges or other non-Federal dedicated funding sources. In addition, eligible projects must cost more than $100 million or represent an amount greater than 50 percent of a State's annual apportionment. For ITS projects, the cost must be at lease $30 million.

Forms of assistance that can be provided under this program include loans, loan guarantees, and lines of credit. In all cases the Federal participation will be as a minor investor. Federal participation is limited to 33 percent of total project costs. The $530 million total program over the six-year authorization can leverage total Federal assistance of up to $10.6 billion in loans and lines of credit.

This new credit assistance program is a limited, six-year pilot program. The ultimate objective of the program is to phase out Federal participation in these large projects and encourage private capital investment to fulfill this function.

The provision allows the Secretary to provide to all title 23-eligible projects (including highways, transit, high speed rail, railroad highway crossing projects, and others) Federal credit assistance if the projects meet the eligibility criteria outlined in the provision.

For example, some States are pursuing major initiatives to establish high speed rail systems. The State of Florida reports that its proposed high speed rail project would require Federal credit assistance financing support. The 320-mile system from Miami to Orlando to Tampa would introduce 200 mile-per-hour trains to the United States and operate on right-of-way exclusively reserved for its trains. The State of Florida plans to allocate funds from its transportation trust fund over a 40-year period for this project. This investment will establish an innovative partnership with the private sector that is contributing significant equity to the project and is intending to operate the system over a 40-year period. Such projects that demonstrate new technology in the United States marketplace and are financed with significant private sector capital comprise the types of projects envisioned to receive credit assistance authorized under this provision.

As introduced, the bill also contained two provisions expressly applying the "Davis-Bacon" prevailing wage requirement to funds made available under this chapter and to projects assisted with those funds: Section 1314(c)(1) would have applied the provisions of title 23, United States Code, section 113, thereby expressly applying the prevailing wage requirement to highway projects undertaken under TIFIA; section 1314(c)(5) would have applied the provisions of title 49, United States Code, section 5333, thereby expressly applying the prevailing wage requirement to mass transportation projects undertaken under TIFIA. These two provisions were deleted from the reported bill. For highway projects, the provision applying title 23, United States Code, section 113 was considered redundant, because section 113 already applies by its own terms. For mass transportation projects, the committee deferred consideration of the application of title 49, United States Code, section 5333 to the Committee on Banking, Housing, and Urban Affairs, which has jurisdiction over mass transportation projects.

Sec. 1311. Short Title.

This section identifies a new Federal credit assistance program for surface transportation facilities as the "Transportation Infrastructure Finance and Innovation Act of 1997."

Sec. 1312. Findings.

This section recites Congressional findings that a comprehensive surface transportation infrastructure system is crucial to the economic health of the Nation and that traditional methods of funding transportation projects, including Federal grants, are insufficient to meet the Nation's infrastructure investment needs.

Sec. 1313. Definitions.

This section sets forth the definitions for terms used in this chapter, including "project," "eligible project costs," "obligor," "local servicer," and "substantial completion."

Sec. 1314. Determination of Eligibility and Project Selection.

This section defines the threshold eligibility criteria for a project to receive Federal credit assistance and outlines the basis upon which the Secretary will select among potential candidates. The Secretary's determination of a project's eligibility will be based on both quantitative and qualitative factors, including State and local support, project size, whether the project has a revenue stream, and whether the project is of national or regional significance.

Sec. 1315. Secured Loans.

This section establishes a temporary lending program whereby the Secretary may make direct Federal loans or guarantee loans from private lenders in fiscal years 1998 through 2003 to demonstrate to the capital markets the viability of making transportation infrastructure investments where returns depend on excess project cash flows. It is intended to help the capital markets develop the capability to replace the role of the Federal government by the end of the authorization period in helping finance the costs of large projects of national significance.

Sec. 1316. Lines of Credit.

This section authorizes the Secretary to enter into agreements to make direct loans to projects at future dates upon certain conditions occurring. Such agreement would be in the form of a standby line of credit.

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Sec. 1317. Project Servicing.

The program will use State or local governmental agencies to assist the Secretary in servicing each credit instrument. The State may designate its State infrastructure bank or another public agency to serve as the local servicing agent for the credit instrument.

Sec. 1318. Office of Infrastructure Finance.

This section adds a new section to chapter 1 of title 49, requiring the Secretary to establish an Office of Infrastructure Finance to manage the credit program and provide related technical and educational assistance.

Sec. 1319. State and Local Permits.

This section states that this title in no way supersedes any existing State or local laws, regulations, or project approval requirements.

Sec. 1320. Regulations.

This section provides that the Secretary can issue regulations that are appropriate concerning this chapter.

Sec. 1321. Funding.

This section provides contract authority to fund the budgetary or subsidy costs of the Federal credit instruments. Subsidy costs, which are defined in and required to be funded by budget authority under the Federal Credit Reform Act of 1990, represent the present value of expected cash flows for each credit instrument, taking into account the default risk as well as any interest rate subsidy. Since this title requires all secured loans to be made at a rate equal to the comparable term U.S. Treasury rate, there will be no interest subsidy element. A total of $60 million for each of fiscal years 1998 and 1999; $90 million for each of fiscal years 2000 and 2001; and $115 million for each of fiscal years 2002 and 2003 is authorized under this title. The contract authority would remain available until expended and would be derived from the Highway Trust Fund.

The bill caps the nominal amount of credit instruments supported by this contract authority at $1.2 million for each of fiscal years 1998 and 1999; $1.8 million for fiscal years 2000 and 2001; and $2.0 million for fiscal years 2002 and 2003.

Sec. 1322. Report to Congress.

This section requires the Secretary to summarize the activities and results of the assistance programs and mechanisms provided under this title, including whether they are succeeding in encouraging the private capital markets to invest in large transportation infrastructure projects. The report shall be made within 4 years of enactment of the subtitle and include recommendations on whether the program should be continued or phased out by the end of the authorization period as planned.

Timing. The October 8, 1997, SAP puts the Administration on record as opposing Senator Chafee's innovative financing proposal in S. 1173, the ISTEA reauthorization. There will be opportunities to reemphasize this position formally in the future, in particular in the Senate Floor or the Conference SAP. Since the House opposes this program, innovative financing will be a conference issue. Less formally, Treasury and/or Transportation staff could inform Senate staff of our opposition. Since Transportation supports this program off the record, an alternative to directly informing staff of our concerns would be to ask Transportation to be silent on this issue.

Funding Levels. The Senate bill exceeds the President's request for highways, highway safety, and transit by approximately $50 billion over 6 years. Given these large increases, there is less of a need to bend our principles to make more funding available for these programs in the future. The Administration's proposed innovative financing program will still be available to serve some projects in need.

S. 1173
- tax exempt financing

S. 1676(?) - Chafee amendment
- wld have make it taxable

yesterday
- he amended the amendment