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Part 1

RAIL INFRASTRUCTURE DEVELOPMENT AND EXPANSION ACT FOR THE 21ST CENTURY

SEPTEMBER 18, 2003.—Ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 2571]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 2571) to provide for the financing of high-speed rail infrastructure, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rail Infrastructure Development and Expansion Act for the 21st Century".

SEC. 2. HIGH-SPEED INTERCITY RAIL FACILITY BONDS.

(a) AMENDMENT.—Chapter 261 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 26106. High-speed rail infrastructure bonds

"(a) DESIGNATION.—The Secretary may designate bonds for purposes of subsection (f) or section 54 of the Internal Revenue Code of 1986 if—

"(1) the bonds are to be issued by—

"(A) a State, if the entire railroad passenger transportation corridor containing the infrastructure project to be financed is within the State;

"(B) 1 or more of the States that have entered into an agreement or an interstate compact consented to by Congress under section 410(a) of Public Law 105–134 (49 U.S.C 24101 nt); or

"(C) an agreement or an interstate compact described in subparagraph (B);

"(2) the bonds are for the purpose of financing—

"(A) projects that make a substantial contribution to providing the infrastructure and equipment required to complete a high-speed rail transportation corridor (including projects for the acquisition, financing, or refinancing of equipment and other capital improvements, including the intro-

duction of new high-speed technologies such as magnetic levitation systems, track or signal improvements, the elimination of grade crossings, development of intermodal facilities, improvement of train speeds or safety, or both, and station rehabilitation or construction), but only if the Secretary determines that the projects are part of a viable and comprehensive high-speed rail transportation corridor design for intercity passenger service, including a design for minimally operable segments of a corridor designated under section 104(d)(2) of title 23, United States Code; or

"(B) projects for the Alaska Railroad;

"(3) for a railroad passenger transportation corridor design that includes the use of rights-of-way owned by a freight railroad, a written agreement exists between the applicant and the freight railroad regarding such use and ownership, including compensation for such use and assurances regarding the adequacy of infrastructure capacity to accommodate both existing and future freight and passenger operations, and including an assurance by the freight railroad that collective bargaining agreements with the freight railroad's employees (including terms regulating the contracting of work) shall remain in full force and effect according to their terms for work performed by the freight railroad on such railroad passenger transportation corridor;

"(4) the corridor design eliminates existing railway-highway grade crossings that the Secretary determines would impede high-speed rail operations;

"(5) the applicant agrees to comply with—

"(A) the standards of section 24312, as in effect on September 1, 2002, with respect to the project in the same manner that the National Railroad Passenger Corporation is required to comply with such standards for construction work financed under an agreement made under section 24308(a); and

"(B) the protective arrangements established under section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 836) with respect to employees affected by actions taken in connection with the project to be financed by the bond; and

"(6) the applicant agrees not to pay the principal or interest on the bonds using funds derived directly or indirectly from the Highway Trust Fund, except as permitted by law as of the date of the enactment of this section.

"(b) BOND AMOUNT LIMITATION.—

"(1) IN GENERAL.—The amount of bonds designated under this section may not exceed—

"(A) in the case of subsection (f) bonds, $1,200,000,000 for each of the fiscal years 2004 through 2013; and

"(B) in the case of section 54 bonds, $1,200,000,000 for each of the fiscal years 2004 through 2013.

"(2) CARRYOVER OF UNUSED LIMITATION.—If for any fiscal year the limitation amount under subparagraph (A) or (B) of paragraph (1) exceeds—

"(A) with respect to subparagraph (A) of paragraph (1), the amount of subsection (f) bonds issued during such year; or

"(B) with respect to subparagraph (B) of paragraph (1), the amount of section 54 bonds issued during such year,

the limitation amount under subparagraph (A) or (B) of paragraph (1), as the case may be, for the following fiscal year (through fiscal year 2017) shall be increased by the amount of such excess.

"(c) PREFERENCE.—The Secretary shall give preference to the designation under this section of bonds for projects—

"(1) to be funded through a combination of subsection (f) bonds and section 54 bonds;

"(2) which propose to link rail passenger service with other modes of transportation;

"(3) expected to have a significant impact on air traffic congestion;

"(4) expected to also improve commuter rail operations;

"(5) where all environmental work has already been completed and the project is ready to commence; or

"(6) that have received financial commitments and other support of State and local governments.

"(d) TIMELY DISPOSITION OF APPLICATION.—The Secretary shall grant or deny a requested designation within 9 months after receipt of an application.

"(e) ANNUAL REPORTS.—

"(1) FROM ISSUER OF BONDS.—The issuer of bonds designated under subsection (a) shall report annually to the Secretary regarding the terms of outstanding designated bonds and the progress made with respect to the project financed by the bonds.

"(2) FROM SECRETARY.—The Secretary, in consultation with the Secretary of the Treasury, shall transmit to the Congress an annual report which includes—

"(A) reports received under paragraph (1); and

"(B) an assessment of the progress made toward completion of high-speed rail transportation corridors resulting from projects financed by bonds designated under subsection (a).

"(f) TAX TREATMENT OF SUBSECTION (f) BONDS.—

"(1) EXCLUSION FROM GROSS INCOME.—The interest on a bond designated by the Secretary under subsection (a) for purposes of this subsection shall be excluded from gross income under section 103 of the Internal Revenue Code of 1986, notwithstanding section 149(c) of such Code.

"(2) EXEMPTION FROM VOLUME CAP.—For purposes of section 146 of such Code, a bond designated by the Secretary under subsection (a) for purposes of this subsection shall be considered to be exempt from the volume cap of the issuing authority in the same manner as bonds listed in subsection (g) of such section 146.

"(g) REFINANCING RULES.—Bonds designated by the Secretary under subsection (a) may be issued for refinancing projects only if the indebtedness being refinanced (including any obligation directly or indirectly refinanced by such indebtedness) was originally incurred by the issuer—

"(1) after the date of the enactment of this section;

"(2) for a term of not more than 3 years;

"(3) to finance projects described in subsection (a)(2); and

"(4) in anticipation of being refinanced with proceeds of a bond designated under subsection (a).

"(h) PROVISIONS REGARDING HIGH-SPEED RAIL SERVICE.—

"(1) STATUS AS EMPLOYER OR CARRIER.—Any entity providing railroad transportation (within the meaning of section 20102) that begins operations after the date of enactment of this section and that uses property acquired pursuant to this section (except as provided in subsection (a)(2)(B)), shall be considered an employer for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.) and considered a carrier for purposes of the Railway Labor Act (45 U.S.C. 151 et seq.).

"(2) COLLECTIVE BARGAINING AGREEMENT.—Any entity providing high-speed intercity passenger railroad transportation (within the meaning of section 20102) that begins operations after the date of enactment of this section on a project funded in whole or in part by bonds designated under subsection (a), and replaces intercity rail passenger service that was provided by another entity as of the date of enactment of this section, shall enter into an agreement with the authorized bargaining agent or agents for employees of the predecessor provider that—

"(A) gives each employee of the predecessor provider priority in hiring according to the employee's seniority on the predecessor provider for each position with the replacing entity that is in the employee's craft or class and is available within three years after the termination of the service being replaced;

"(B) establishes a procedure for notifying such an employee of such positions;

"(C) establishes a procedure for such an employee to apply for such positions; and

"(D) establishes rates of pay, rules, and working conditions.

"(3) IMMEDIATE REPLACEMENT OF EXISTING RAIL PASSENGER SERVICE.—

"(A) NEGOTIATIONS.—If the replacement of preexisting intercity rail passenger service occurs concurrent with or within a reasonable amount of time before the commencement of the replacing entity's high-speed rail passenger service, the replacing entity shall give written notice of its plan to replace existing rail passenger service to the authorized collective bargaining agent or agents for the employees of the predecessor provider at least 90 days prior to the date it plans to commence service. Within 5 days after the date of receipt of such written notice, negotiations between the replacing entity and the collective bargaining agent or agents for the employees of the predecessor provider shall commence for the purpose of reaching agreement with respect to all matters set forth in paragraph (2)(A)–(D). The negotiations shall continue for 30 days or until an agreement is reached, whichever is sooner. If at the end of 30 days the parties have not entered into an agreement with respect to all such matters, the unresolved issues shall be submitted for arbitration in accordance with the procedure set forth in subparagraph (B).

"(B) ARBITRATION.—If an agreement has not been entered into with respect to all matters set forth in paragraph (2)(A)–(D) as provided in subparagraph (A) of this paragraph, the parties shall select an arbitrator. If the parties are unable to agree upon the selection of such arbitrator within 5 days, either or both parties shall notify the National Mediation Board, which shall provide a list of seven arbitrators with experience in arbitrating rail labor protection disputes. Within 5 days after such notification, the parties shall alternately strike names from the list until only one name remains, and that person shall serve as the neutral arbitrator. Within 45 days after selection of the arbitrator, the arbitrator shall conduct a hearing on the dispute and shall render a decision with respect to the unresolved issues set forth in paragraph (2)(A)–(D). This decision shall be final, binding, and conclusive upon the parties. The salary and expenses of the arbitrator shall be borne equally by the parties; all other expenses shall be paid by the party incurring them.

"(C) SERVICE COMMENCEMENT.—A replacing entity under this paragraph shall commence service only after an agreement is entered into with respect to the matters set forth in paragraph (2)(A)–(D) or the decision of the arbitrator has been rendered.

"(4) SUBSEQUENT REPLACEMENT OF EXISTING RAIL PASSENGER SERVICE.—If the replacement of existing rail passenger service takes place within 3 years after the replacing entity commences high-speed rail passenger service, the replacing entity and the collective bargaining agent or agents for the employees of the predecessor provider shall enter into an agreement with respect to the matters set forth in paragraph (2)(A)–(D). If the parties have not entered into an agreement with respect to all such matters within 60 days after the date on which the replacing entity replaces the predecessor provider, the parties shall select an arbitrator using the procedures set forth in paragraph (3)(B), who shall, within 20 days after the commencement of the arbitration, conduct a hearing and decide all unresolved issues. This decision shall be final, binding, and conclusive upon the parties.

"(i) ISSUANCE OF REGULATIONS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall issue regulations for carrying out this section.

"(j) DEFINITIONS.—For purposes of this section—

"(1) SUBSECTION (f) BOND.—The term 'subsection (f) bond' means a bond designated by the Secretary under subsection (a) for purposes of subsection (f).

"(2) SECTION 54 BOND.—The term 'section 54 bond' means a bond designated by the Secretary under subsection (a) for purposes of section 54 of the Internal Revenue Code of 1986 (relating to credit to holders of qualified high-speed rail infrastructure bonds).".

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections of chapter 261 of title 49, United States Code, is amended by adding after the item relating to section 26105 the following new item:

"26106. High-speed rail infrastructure bonds.".

SEC. 3. TAX CREDIT TO HOLDERS OF QUALIFIED HIGH-SPEED RAIL INFRASTRUCTURE BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to credits against tax) is amended by adding at the end the following new subpart:

"Subpart H—Nonrefundable Credit for Holders of Qualified High-Speed Rail Infrastructure Bonds

"Sec. 54. Credit to holders of qualified high-speed rail infrastructure bonds.

"SEC. 54. CREDIT TO HOLDERS OF QUALIFIED HIGH-SPEED RAIL INFRASTRUCTURE BONDS.

"(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a qualified high-speed rail infrastructure bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

"(b) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified high-speed rail infrastructure bond is 25 percent of the annual credit determined with respect to such bond.

"(2) ANNUAL CREDIT.—The annual credit determined with respect to any qualified high-speed rail infrastructure bond is the product of—

"(A) the applicable credit rate, multiplied by

"(B) the outstanding face amount of the bond.

"(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (2), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the day before the date of sale of the issue) on outstanding long-term corporate debt obligations (determined under regulations prescribed by the Secretary).

"(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance date' means—

"(A) March 15,

"(B) June 15,

"(C) September 15, and

"(D) December 15.

Such term includes the last day on which the bond is outstanding.

"(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

"(c) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this part (other than this subpart and subpart C).

"(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

"(d) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

"(e) QUALIFIED HIGH-SPEED RAIL INFRASTRUCTURE BOND.—For purposes of this part, the term 'qualified high-speed rail infrastructure bond' means any bond issued as part of an issue if—

"(1) the issuer certifies that the Secretary of Transportation has designated the bond for purposes of this section under section 26106(a) of title 49, United States Code, as in effect on the date of the enactment of this section,

"(2) 95 percent or more of the proceeds from the sale of such issue are to be used for expenditures incurred after the date of the enactment of this section for any project described in section 26106(a)(2) of title 49, United States Code,

"(3) the term of each bond which is part of such issue does not exceed 20 years,

"(4) the payment of principal with respect to such bond is the obligation solely of the issuer, and

"(5) the issue meets the requirements of subsection (f) (relating to arbitrage).

"(f) SPECIAL RULES RELATING TO ARBITRAGE.—

"(1) IN GENERAL.—Subject to paragraph (2), an issue shall be treated as meeting the requirements of this subsection if as of the date of issuance, the issuer reasonably expects—

"(A) to spend at least 95 percent of the proceeds from the sale of the issue for 1 or more qualified projects within the 3-year period beginning on such date,

"(B) to incur a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue, or to commence construction, with respect to such projects within the 6-month period beginning on such date, and

"(C) to proceed with due diligence to complete such projects and to spend the proceeds from the sale of the issue.

"(2) RULES REGARDING CONTINUING COMPLIANCE AFTER 3-YEAR DETERMINATION.—If at least 95 percent of the proceeds from the sale of the issue is not expended for 1 or more qualified projects within the 3-year period beginning on the date of issuance, but the requirements of paragraph (1) are otherwise met, an issue shall be treated as continuing to meet the requirements of this subsection if either—

"(A) the issuer uses all unspent proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of such 3-year period, or

"(B) the following requirements are met:

"(i) The issuer spends at least 75 percent of the proceeds from the sale of the issue for 1 or more qualified projects within the 3-year period beginning on the date of issuance.

"(ii) Either—

"(I) the issuer spends at least 95 percent of the proceeds from the sale of the issue for 1 or more qualified projects within the 4-year period beginning on the date of issuance, or

"(II) the issuer pays to the Federal Government any earnings on the proceeds from the sale of the issue that accrue after the end of the 3-year period beginning on the date of issuance and uses all unspent proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of the 4-year period beginning on the date of issuance.

"(g) RECAPTURE OF PORTION OF CREDIT WHERE CESSATION OF COMPLIANCE.—

"(1) IN GENERAL.—If any bond which when issued purported to be a qualified high-speed rail infrastructure bond ceases to be such a qualified bond, the issuer shall pay to the United States (at the time required by the Secretary) an amount equal to the sum of—

"(A) the aggregate of the credits allowable under this section with respect to such bond (determined without regard to subsection (c)) for taxable years ending during the calendar year in which such cessation occurs and the 2 preceding calendar years, and

"(B) interest at the underpayment rate under section 6621 on the amount determined under subparagraph (A) for each calendar year for the period beginning on the first day of such calendar year.

"(2) FAILURE TO PAY.—If the issuer fails to timely pay the amount required by paragraph (1) with respect to such bond, the tax imposed by this chapter on each holder of any such bond which is part of such issue shall be increased (for the taxable year of the holder in which such cessation occurs) by the aggregate decrease in the credits allowed under this section to such holder for taxable years beginning in such 3 calendar years which would have resulted solely from denying any credit under this section with respect to such issue for such taxable years.

"(3) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (2) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) NO CREDITS AGAINST TAX.—Any increase in tax under paragraph (2) shall not be treated as a tax imposed by this chapter for purposes of determining—

"(i) the amount of any credit allowable under this part, or

"(ii) the amount of the tax imposed by section 55.

"(h) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BOND.—The term 'bond' includes any obligation.

"(2) QUALIFIED PROJECT.—The term 'qualified project' means any project described in section 26106(a)(2) of title 49, United States Code.

"(3) TREATMENT OF CHANGES IN USE.—For purposes of subsection (e)(2), the proceeds from the sale of an issue shall not be treated as used for a qualified project to the extent that the issuer takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall prescribe regulations specifying remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a qualified high-speed rail infrastructure bond.

"(4) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

"(5) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any qualified high-speed rail infrastructure bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

"(6) REPORTING.—Issuers of qualified high-speed rail infrastructure bonds shall submit reports similar to the reports required under section 149(e).".

(b) AMENDMENTS TO OTHER CODE SECTIONS.—

(1) REPORTING.—Subsection (d) of section 6049 of the Internal Revenue Code of 1986 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

"(8) REPORTING OF CREDIT ON QUALIFIED HIGH-SPEED RAIL INFRASTRUCTURE BONDS.—

"(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(d) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).

"(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

"(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.".

(2) TREATMENT FOR ESTIMATED TAX PURPOSES.—

(A) INDIVIDUAL.—Section 6654 of such Code (relating to failure by individual to pay estimated income tax) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) SPECIAL RULE FOR HOLDERS OF QUALIFIED HIGH-SPEED RAIL INFRASTRUCTURE BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a qualified high-speed rail infrastructure bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.".

(B) CORPORATE.—Section 6655 of such Code (relating to failure by corporation to pay estimated income tax) is amended by adding at the end of subsection (g) the following new paragraph:

"(5) SPECIAL RULE FOR HOLDERS OF QUALIFIED HIGH-SPEED RAIL INFRASTRUCTURE BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a qualified high-speed rail infrastructure bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.".

(c) CLERICAL AMENDMENTS.—

(1) The table of subparts for part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Subpart H. Nonrefundable Credit for Holders of Qualified High-Speed Rail Infrastructure Bonds.".

(2) Section 6401(b)(1) of such Code is amended by striking "and G" and inserting "G, and H".

(d) ISSUANCE OF REGULATIONS.—Not later than 6 months after the date of the enactment of this section, the Secretary of the Treasury shall issue regulations for carrying out this section and the amendments made by this section.

(e) HIGH-SPEED INTERCITY RAIL FACILITIES.—

(1) REQUIREMENT TO MEET TITLE 49 REQUIREMENTS.—Section 142(i) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(4) ADDITIONAL REQUIREMENTS.—A bond issued as part of an issue described in subsection (a)(11) shall not be considered an exempt facility bond unless the requirements of paragraphs (1) through (6) of section 26106(a) of title 49, United States Code, are met.".

(2) REVISION OF SPEED REQUIREMENT.—Section 142(i)(1) of such Code is amended by striking "150 miles per hour" and inserting "110 miles per hour".

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

SEC. 4. HIGH-SPEED RAIL CORRIDOR DEVELOPMENT.

(a) CORRIDOR DEVELOPMENT.—

(1) AMENDMENTS.—Section 26101 of title 49, United States Code, is amended—

(A) in the section heading, by striking "**planning**" and inserting "**development**";

(B) in the heading of subsection (a), by striking "PLANNING" and inserting "DEVELOPMENT";

(C) by striking "corridor planning" each place it appears and inserting "corridor development";

(D) in subsection (b)(1)—

(i) by inserting ", or if it is an activity described in subparagraph (M)" after "high-speed rail improvements";

(ii) by striking "and" at the end of subparagraph (K);

(iii) by striking the period at the end of subparagraph (L) and inserting "; and"; and

(iv) by adding at the end the following new subparagraph:

"(M) the acquisition of locomotives, rolling stock, track, and signal equipment."; and

(E) in subsection (c)(2), by striking "planning" and inserting "development".

(2) CONFORMING AMENDMENT.—The item relating to section 26101 in the table of sections of chapter 261 of title 49, United States Code, is amended by striking "planning" and inserting "development".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 26104 of title 49, United States Code, is amended to read as follows:

"§ 26104. Authorization of appropriations

"(a) FISCAL YEARS 2004 THROUGH 2011.—There are authorized to be appropriated to the Secretary—

"(1) $70,000,000 for carrying out section 26101; and

"(2) $30,000,000 for carrying out section 26102,

for each of the fiscal years 2004 through 2011.

"(b) FUNDS TO REMAIN AVAILABLE.—Funds made available under this section shall remain available until expended.".

SEC. 5. REHABILITATION AND IMPROVEMENT FINANCING.

(a) DEFINITIONS.—Section 102(7) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 802(7)) is amended to read as follows:

"(7) 'railroad' has the meaning given that term in section 20102 of title 49, United States Code; and".

(b) GENERAL AUTHORITY.—Section 502(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(a)) is amended by striking "Secretary may provide direct loans and loan guarantees to State and local governments," and inserting "Secretary shall provide direct loans and loan guarantees to State and local governments, agreements or interstate compacts consented to by Congress under section 410(a) of Public Law 105–134 (49 U.S.C 24101 nt),".

(c) EXTENT OF AUTHORITY.—Section 502(d) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(d)) is amended—

(1) by striking "$3,500,000,000" and inserting "$35,000,000,000";

(2) by striking "$1,000,000,000" and inserting "$7,000,000,000"; and

(3) by adding at the end the following new sentence: "The Secretary shall not establish any limit on the proportion of the unused amount authorized under this subsection that may be used for 1 loan or loan guarantee.".

(d) COHORTS OF LOANS.—Section 502(f) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(f)) is amended—

(1) in paragraph (2)—

(A) by striking "and" at the end of subparagraph (D);

(B) by redesignating subparagraph (E) as subparagraph (F); and

(C) by adding after subparagraph (D) the following new subparagraph:

"(E) the size and characteristics of the cohort of which the loan or loan guarantee is a member; and"; and

(2) by adding at the end of paragraph (4) the following: "A cohort may include loans and loan guarantees. The Secretary shall not establish any limit on the proportion of a cohort that may be used for 1 loan or loan guarantee.".

(e) CONDITIONS OF ASSISTANCE.—Section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822) is amended—

(1) in subsection (f)(2)(A), by inserting ", if any" after "collateral offered"; and

(2) by adding at the end of subsection (h) the following:

"The Secretary shall not require an applicant for a direct loan or loan guarantee under this section to provide collateral. The Secretary shall not require that an applicant for a direct loan or loan guarantee under this section have previously sought the financial assistance requested from another source. The Secretary shall require recipients of direct loans or loan guarantees under this section to apply the standards of section 26106(a)(5) of title 49, United States Code, to their projects.".

(f) TIME LIMIT FOR APPROVAL OR DISAPPROVAL.—Section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822) is amended by adding at the end the following new subsection:

"(i) TIME LIMIT FOR APPROVAL OR DISAPPROVAL.—Not later than 90 days after receiving a complete application for a direct loan or loan guarantee under this section, the Secretary shall approve or disapprove the application.".

(g) FEES AND CHARGES.—Section 503 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 823) is amended by adding at the end the following new subsection:

"(l) FEES AND CHARGES.—Except as provided in this title, the Secretary may not assess any fees, including user fees, or charges in connection with a direct loan or loan guarantee provided under section 502.".

(h) SUBSTANTIVE CRITERIA AND STANDARDS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Transportation shall publish in the Federal Register and post on the Department of Transportation web site the substantive criteria and standards used by the Secretary to determine whether to approve or disapprove applications submitted under section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822).

PURPOSE OF THE LEGISLATION

H.R. 2571 would authorize approximately $60 billion in infrastructure funding for high-speed rail corridors and other rail infrastructure. This would be divided principally between authority for states participating in a high-speed rail corridor to issue tax-exempt and/or tax-credit bonds, and an expansion of the existing railroad infrastructure financing loan program established in TEA–21 (P.L. 105–178) from $3.5 billion in authorized principal to $35 billion. H.R. 2571 would also reauthorize and expand the existing Swift Rail Development Act program of general fund grants for planning and technology development related to high-speed rail corridors.

BACKGROUND AND NEED FOR THE LEGISLATION

H.R. 2571 was introduced by Mr. Young (of Alaska), Mr. Oberstar, Mr. Quinn, and Ms. Brown (of Florida) on June 24, 2003.

Over a ten-year period, states or interstate compacts would be permitted to issue $12 billion in federally tax-exempt bonds and $12 billion in federal tax-credit bonds for infrastructure improvements for high-speed passenger rail. The Secretary of Transportation would be authorized to approve overall corridor design. The design must include the following elements:

1. The applicant must have an agreement with the freight railroad if the latter's rights-of-way are to be used;

2. Railroad grade crossings that would impede high-speed operations must not be created and must be eliminated if existing now; and

3. An interstate compact must be in place for multi-state corridors.

Once a design has been approved, the Secretary of Transportation would be authorized to approve specific projects that make a substantial contribution to providing the infrastructure and equipment to complete a high-speed rail corridor (including corridors designated under section 104(d)(2) of title 23, U.S. Code).

The Secretary may give preference in approving bond financing to projects that:

—Use a mix of tax-credit and tax-exempt bonds;

—Link rail passenger service with other modes of transportation;

—Are expected to have a significant impact on air traffic congestion;

—Are expected to also improve commuter rail operations;

—Have all environmental work completed and are ready to commence; or

—Have received state or local financial and other support.

The Secretary would be permitted to designate $1.2 billion per year for 10 years of private-activity tax-exempt bonds, plus $1.2 billion per year for 10 years of tax-credit bonds. Authority to designate unused annual amounts of each type of bond would carry over to subsequent years. Tax-exempt bond amounts would be excluded from the $225 million cap on state-issued federally tax-exempt bonds. States would be required to submit annual reports on the status of bonds issued and bond-funded projects.

Potentially displaced workers would be provided protection through hiring preference for positions with new providers of high-speed rail passenger service.

In addition to the foregoing, H.R. 2571 would reauthorize and modify the existing Swift Rail Development Act, an existing program of federal assistance for planning and design of high-speed rail corridors, by extending the program authority through fiscal year 2009. The bill authorizes $100 million per year for high-speed rail technology and corridor development. In addition, the bill shifts the funding emphasis from technology development (increasing the current authorization from $25 million per year to $30 million per year) to corridor development (previously corridor planning) (increasing the current authorization from $10 million per year to $70 million per year) and allows acquisition of locomotives, rolling stock, and track and signal equipment with program funds.

H.R. 2571 also would expand the existing Railroad Rehabilitation and Infrastructure Financing (RRIF) direct loan and loan guarantee program by increasing funding authority from $3.5 billion to $35 billion of outstanding loan principal at any time.

The RRIF program would be modified as follows:

—Interstate compacts as well as states are made eligible for assistance.

—Magnetic levitation systems as well as conventional steel-wheel systems are eligible for assistance.

—Amount reserved for Class II and III railroads is increased from $1 billion to $7 billion out of $35 billion in total loan principal authority.

—Eliminates obstacles in the current RRIF program (structure of loan cohorts, collateral requirements, artificial limits on loan amounts, prior rejection requirement).

—The Secretary of Transportation must approve or disapprove an application within 180 days after receiving it.

—The Secretary may not assess applicant fees or other charges beyond those authorized in the statute.

—The Secretary is required to publish review standards and criteria within 30 days after enactment.

—Applicants must apply prevailing wage rate standards to construction projects.

H.R. 2571 provides nearly $60 billion in new funding for high speed rail and other forms of rail transportation. States will select and design their own corridors and choose the appropriate technology, as well as the financing mechanism, whether tax-credit or tax-exempt bonds, loans, loan guarantees, or Swift Act grants, or

a combination of these. The Swift Act will be expanded to include not just infrastructure, but the purchase of trains. The RRIF program will be expanded tenfold and impediments to the existing program will be removed. This legislation protects the interests of railroad employees and existing collective arrangements with rail carriers. The Committee believes that H. R. 2571 is crucial to the future of our nation's rail system.

SUMMARY OF THE LEGISLATION

Section 1. Short title

Section 1 names the bill the "Rail Infrastructure Development and Expansion Act for the 21st Century."

Section 2. High-speed intercity rail facility bonds

Section 2 amends Chapter 261 of Title 49 by adding Section 26106, which empowers the Secretary of Transportation to designate bonds for funding the development of high-speed rail in the United States, and amends the table of contents of this Chapter to reflect the addition of Section 26106. Under section 26106, the Secretary may designate two types of bonds: private-activity bonds, the interest on which is exempt from federal taxes, and tax-credit bonds, on which the government provides the holder a credit rather than the issuer paying interest to the holder. The Subsections of Section 26106 are summarized below.

Subsection (a) provides that the Secretary of Transportation may designate high-speed rail infrastructure bonds if six requirements are met.

- First, a State, group of States, or compact of States, depending on the circumstances, must be the proposed issuer of the bonds.
- Second, the bonds must finance projects that make a substantial contribution to providing the infrastructure and equipment required to eventually complete a high-speed rail transportation corridor design that the Secretary has determined viable. Those projects include, but are not limited to, some specifically enumerated projects types such as financing or refinancing equipment and capital improvements, eliminating grade crossings, or station rehabilitation or construction. The Secretary must also determine that the projects are part of a viable and comprehensive corridor design for intercity passenger rail. The "substantial contribution" requirement precludes projects that do not substantially advance the overall corridor towards high-speed rail transportation. The provision does permit an incremental approach to developing the corridor, both as to geographic scope and cruising speed increase.
- Third, if the rail corridor includes the use of rights-of-way owned by a freight railroad, the state applicant must demonstrate that it has entered into a written agreement with such freight railroad regarding the use of the rights-of-way, and that collective bargaining agreements with freight railroad employees (including terms regarding the contracting of work) shall remain in full force and effect.
- Fourth, the corridor design submitted by the applicant must eliminate railroad grade crossings that would impede high-speed rail operations.

• Fifth, the applicant must comply with the existing Amtrak prevailing wage standards and the labor protection benefits applicable under current law to the RRIF rail loan program.

• Sixth, the applicant must agree not to pay the principal or interest on any bonds using funds from the Highway Trust Fund, except as permitted by law on the date of enactment.

Subsection (b) limits the amount of bonds the Secretary may designate to be issued in each year to $1.2 billion per year from 2004 to 2013 of private activity, federal tax-exempt bonds and $1.2 billion per year from 2004 to 2013 of tax-credit bonds. This section also provides that any amount that the Secretary does not designate in a year may be carried over and designated in subsequent years.

Subsection (c) provides that when designating bonds, the Secretary shall give preference to projects that (1) are funded through a combination of both tax-exempt and tax-credit bonds; (2) propose to link rail passenger service to other passenger transportation modes, such as public transportation or air service; (3) expect to have a significant impact on air traffic congestion; (4) expect to also improve commuter rail operations; (5) have completed all environmental work and the project is ready to begin construction; and (6) have received all financial commitments and other support from state and local governments.

Subsection (d) streamlines the designation process by requiring that the Secretary grant or deny the applicant's request within 9 months after receiving the application.

Subsection (e) requires the issuer of the bonds to report annually to the Secretary. That report must include statements about the terms of the outstanding designated bonds and about the progress made on the project financed with the bonds. In addition, it requires the Secretary, in consultation with the Secretary of the Treasury, to submit to the Congress an annual report on the program and the bonds designated.

Subsection (f) addresses the tax treatment of tax-exempt bonds designated by the Secretary and issued by a State, States, or compact of States. In particular, it provides that the interest on those bonds is exempt from federal taxation. This subsection also exempts bonds issued pursuant to the Secretary's designation from any cap in the Internal Revenue Code on the amount of federal tax-exempt bonds a State may issue in one year.

Subsection (g) imposes certain requirements on the use of bond proceeds for refinancing projects.

Subsection (h) makes entities providing intercity high-speed rail passenger service (including magnetic levitation systems) that use property acquired through bonds designated by the Secretary subject to rail statutes, such as the Railway Labor Act and the Railroad Retirement Act of 1974. Any entity providing high-speed rail service commencing after the date of enactment which replaces another intercity carrier must enter a collective bargaining agreement covering employees of the displaced carrier. It further provides for priority hiring by new entities providing intercity high-speed rail passenger service of workers of an incumbent rail passenger provider who are displaced because of projects financed by bonds designated by the Secretary. It also establishes a process for implementing such hiring priority, pay, work rules and working condi-

tions. A process for negotiating new labor arrangements is also provided.

Subsection (i) requires the Secretary to issue implementing regulations within 6 months after enactment.

Subsection (j) defines the terms regarding (1) tax-exempt bonds and (2) tax-credit bonds.

Section 3. Tax credit to holders of qualified high-speed rail infrastructure bonds

Section 3 adds a new subpart to Part IV of subchapter A of chapter 1 of the Internal Revenue Code to create the tax-credit bonds that the Secretary may designate pursuant to the newly created Section 26106 of Title 49.

Section 4. High-speed rail corridor development

Section 4 reauthorizes the Swift Rail Development Act ("Swift Act") and makes some technical amendments.

Subsection (a) amends the Swift Act to address "corridor development" rather than "corridor planning." It also authorizes the acquisition of track, signals, rail rolling stock and locomotives under the program.

Subsection (b) reauthorizes the Swift Act at $100 million per year from Fiscal Year 2004 through Fiscal Year 2011. Of this $100 million, $70 million is for corridor development activities and $30 million is for technology development activities.

Section 5. Rehabilitation and Improvement Financing

This Section makes technical amendments to the Railroad Revitalization and Regulatory Reform Act of 1976 and provides for $35 billion in direct and guaranteed loans for financing rail capacity improvements through the Railroad Rehabilitation and Infrastructure Financing ("RRIF") program.

Certain technical amendments are necessary because only a small number of loans have been issued since the Transportation Equity Act for the 21st Century created the program in 1998 as a successor to the 1976 program established by Section 511 of the 4R Act. These technical amendments remove barriers that have prevented the program from working as Congress intended.

Subsection (a) amends the definition of "railroad" to include modern high-speed ground transportation technology such as magnetic levitation.

Subsection (b) amends the scope of entities that are eligible to participate in the RRIF program by including interstate compacts.

Subsection (c) authorizes the RRIF program at $35 billion in outstanding principal at any one time, with $7 billion set aside for non-Class I railroads. It also provides that the Secretary shall not establish any *a priori* limit on the amount of one loan or loan guarantee issued under the program.

Subsection (d) amends the structure of the loan cohorts, making the program more flexible and usable by railroads.

Subsection (e) clarifies that the applicant for a loan or loan guarantee under this program does not have to provide collateral (other than as an optional means of reducing a credit risk premium) or to demonstrate that it has sought other financial assistance before applying under the program, but must address certain labor issues.

Subsection (f) establishes a deadline of 90 days after the applicant submits an application for the Secretary to issue a decision approving or disproving an application.

Subsection (g) prohibits the Secretary from assessing fees or charges (other than the investigative charge already explicitly authorized) against an applicant under the RRIF program.

Subsection (h) requires the Secretary, within 30 days after enactment of the bill, to make publicly available and to publish on the Department's website the substantive criteria and standards used by the Secretary in rendering a decision to approve or disapprove an application. This subsection does not require a new rulemaking by the Secretary. Rather, it requires the Secretary to publish the criteria already in use, and to continue to make the criteria publicly available, even if amended or revised in the future.

LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

No hearings were held by the Committee on H.R. 2571 in the 108th Congress. However, extensive hearings were conducted on the predecessor bill, H.R. 2950, in the 107th Congress.

On June 25, 2003, the Full Committee met in open session and favorably reported H.R. 2571 by voice vote.

ROLLCALL VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each rollcall vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no rollcall votes.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

COST OF LEGISLATION

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objective of this legislation establishes a goal of State-directed construction of high-speed rail corridors, as well as rehabilitation and improvement of rail infrastructure generally. States are permitted to establish their own timetable and performance goals in

building high-speed corridors, and railroads (or joint ventures including railroads) are permitted to establish their own priorities in seeking direct or guaranteed loan funding.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 2571 from the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 28, 2003.

Hon. DON YOUNG,
Chairman, Committee on Transportation and Infrastructure, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2571, the Rail Infrastructure Development and Expansion Act for the 21st Century.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Rachel Milberg.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

H.R. 2571—Rail Infrastructure Development and Expansion Act for the 21st Century

Summary: H.R. 2571 would authorize states to issue $12 billion in tax-exempt bonds and $12 billion in tax-credit bonds to finance infrastructure for high-speed-rail transportation projects. The Joint Committee on Taxation (JCT) estimates that these two provisions would lower revenues by $815 million over the 2004–2008 period and by almost $4 billion over the next 10 years.

In addition to authorizing the bonds, H.R. 2571 would expand the Railroad Rehabilitation and Improvement Financing (RRIF) program. This program authorizes the Federal Railroad Administration (FRA) to provide direct loans and loan guarantees for the development of railroad infrastructure. H.R. 2571 would raise the ceiling on the total amount of outstanding loans or loan guarantees authorized under the RRIF program from $3.5 billion to $35 billion. CBO estimates that additional direct spending under this provision would be insignificant until after 2013.

Finally, H.R. 2571 would authorize the appropriation of $100 million each year over the 2004–2011 period to provide grants to public agencies for developing high-speed-rail corridors, and for improving the technology for high-speed-rail systems. Assuming appropriation of the authorized amounts, CBO estimates that implementing those provisions would cost $253 million over the 2004–2008 period and another $547 million after 2008.

To determine whether the bill contains intergovernmental or private-sector mandates, CBO reviewed all provisions of H.R. 2571, except for the tax-credit provisions of section 3 that would amend the Internal Revenue Code of 1986. The provisions we reviewed contain no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose

no costs on state, local, or tribal governments. States that are authorized to issue federally tax-exempt and tax-credit bonds would be participating in a federal program, and any costs they would incur would be voluntary. State and local governments would benefit from using bonds, grants, loans, and loan guarantees to finance high-speed-rail projects. JCT has determined that the tax provisions in H.R. 2571 contain no intergovernmental or private-sector mandates as defined in UMRA.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2571 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

	By fiscal year, in millions of dollars—					
	2003	2004	2005	2006	2007	2008
CHANGES IN REVENUES						
Estimated Revenues	0	−18	−70	−147	−240	−340
SPENDING SUBJECT TO APPROPRIATION [1]						
Spending Under Current Law for High-Speed-Rail Programs:						
Budget Authority [2]	30	0	0	0	0	0
Estimated Outlays	25	21	18	15	9	0
Proposed Changes:						
Authorization Level	0	100	100	100	100	100
Estimated Outlays	0	14	26	42	71	100
Spending Under H.R. 2571 for High-Speed-Rail Programs:						
Authorization Level [2]	30	100	100	100	100	100
Estimated Outlays	25	35	44	57	80	100

[1] Enacting the bill also would increase direct spending, but CBO estimates those effects would not be significant over the 2004–2013 period.
[2] The 2003 level is the amount appropriated for that year.
Sources: Congressional Budget Office and the Joint Committee on Taxation.

Basis of estimate: Enacting H.R. 2571 would lower revenues by authorizing states to sell tax-exempt and tax-credit bonds. Implementing H.R. 2571 would increase spending on grants to develop high-speed-rail corridors and improvements in technology for high-speed rail. This spending would be subject to appropriation. Enacting H.R. 2571 would increase direct spending after 2013 by expanding the RRIF program.

Revenues

Enacting H.R. 2571 would lower revenues to the federal government by authorizing states to issue $12 billion in tax-exempt and tax-credit bonds. The 10-year cost of the bond provisions is summarized in Table 2.

TABLE 2.—REVENUE EFFECTS OF H.R. 2571

	By fiscal year, in millions of dollars—									
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Tax-exempt Bonds	−4	−16	−32	−51	−70	−88	−106	−124	−141	−158
Tax-credit Bonds	−14	−54	−115	−189	−270	−351	−432	−513	−594	−675
Total Changes in Revenues	−18	−70	−147	−240	−340	−439	−538	−637	−735	−833

Tax-Exempt Bonds. H.R. 2571 would authorize states to issue $1.2 billion in tax-exempt bonds each year over the 2004–2013 pe-

riod, and states would use the bond proceeds to finance infrastructure for high-speed-rail projects. States would pay both principal and interest to bondholders; however, interest on the tax-exempt bonds would be excluded from federal income taxes, lowering revenues to the federal government. JCT estimates that the additional tax-exempt bonds that would be authorized under the bill would lower revenues by $173 million over the 2004–2008 period and by $790 million over the next 10 years.

Tax-Credit Bonds. H.R. 2571 would authorize states to issue $1.2 billion in tax-credit bonds each year over the 2004–2013 period and use the bond proceeds to finance infrastructure for high-speed-rail projects. States would repay only the principal to bondholders; the federal government would provide interest to the bondholders in the form of credit against their federal income tax liability, thus lowering revenues to the federal government.[1] JCT estimates that the tax-credit bonds would lower revenues by $642 million over the 2004–2008 period and by $3.2 billion over the next 10 years.

Spending subject to appropriation

For this estimate, CBO assumes that H.R. 2571 will be enacted this fall and that amounts authorized will be appropriated for each year. Outlay estimates are based on historical spending patterns and information from FRA.

High-Speed Rail Corridors. Under current law, FRA provides grants to public agencies for planning corridors for high-speed-rail projects. H.R. 2571 would authorize the appropriation of $70 million each year over the 2004–2011 period for this program, and the bill would allow agencies to use grants for acquiring locomotives, rolling stock, track, and signal equipment. CBO estimates that extending this grant program would cost $177 million over the 2004–2011 period and another $383 million after 2008, assuming appropriation of the authorized funds.

Technology for High-Speed Rail. H.R. 2571 would authorize the appropriation of $30 million each year over the 2004–2011 period to continue FRA's program aimed at improving high-speed-rail technology. CBO estimates this provision would cost $76 million over the 2004–2008 period and another $164 million after 2008, assuming appropriation of the authorized funds.

Direct spending

Under the RRIF program, FRA provides direct loans and loan guarantees for the development of railroad infrastructure. H.R. 2571 would increase the total amount of outstanding loans or loan guarantees authorized under the RRIF program from $3.5 billion to $35 billion. CBO estimates that the RRIF program operates at a net cost to the federal government; however, because we expect that the total level of loans and loan guarantees is unlikely to exceed the program's existing authority until after 2013, CBO estimates that enacting H.R. 2571 would not result in any significant additional costs for this program over the next 10 years.

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[1] Providing tax credits has the same impact on the federal budget as outlays for interest costs. For a more complete discussion of the potential use of tax-credit bonds for transportation programs, see A Comparison of Tax-Credit Bonds, Other Special-Purpose Bonds, and Appropriations in Financing Federal Transportation Programs, Congressional Budget Office, June 2003, available at *www.cbo.gov*.

Under the RRIF program, borrowers can pay a premium to the government to cover the estimated subsidy costs of their loans, thus securing a loan or loan guarantee without further appropriation. After borrowers have repaid their loans, current law requires the government to return the amount of premiums that exceeded the actual subsidy cost of their loans and guarantees. The government is not authorized to collect additional money, however, if the premiums do not fully cover the subsidy cost of the loans and loan guarantees. This asymmetry in the program structure is the reason why CBO expects that RRIF is likely to have a net cost to the government over many years. The actual subsidy cost of each loan or loan guarantee made under the RRIF program may be higher or lower than what FRA initially collects from the borrower; however, after the excess premiums have been repaid, some premiums may be lower than the actual subsidy cost, but none will be higher.

The RRIF program was authorized in 1998 by the Transportation Equity Act for the 21st Century. Since 1998, FRA has approved four loans and disbursed $107 million; however, those figures include a $100 million loan to Amtrak, and CBO expects Amtrak will repay the loan early in fiscal year 2004. Based on information from FRA, railroad associations, and railroads, CBO does not expect that FRA will disburse more than the $3.5 billion in loan principal authorized under current law before 2013. The bill would restrict the Administration from requiring applicants to offer collateral or seek financial assistance from other sources before applying for credit under RRIF. Although those changes to the program might increase demand for credit under RRIF, CBO expects that over the next 10 years, railroads are still likely to apply for relatively small loans in comparison to the size of the program under current law.

Intergovernmental and private-sector impact: CBO reviewed all provisions of H.R. 2571 except for the tax-credit provisions of section 3 that would amend the Internal Revenue Code of 1986. The provisions we reviewed contain no intergovernmental or private-sector mandates as defined in UMRA and would impose no cost on state, local, or tribal governments. States that are authorized to issue federally tax-exempt and tax-credit bonds would be participating in a federal program and any costs they would incur would be voluntary. State and local governments would benefit from using bonds, grants, loans, and loan guarantees to finance high-speed-rail projects.

JCT has determined that the tax provisions in H.R. 2571 contain no intergovernmental or private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Costs: Rachel Milberg; Impact on State, Local, and Tribal Governments: Gregory Waring; and Impact on the Private Sector: Jean Talarico.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (3)(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure

finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act. (Public Law 104–4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1994 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local or tribal law. The Committee states that H.R. 2571 does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act. (Public Law 104–1).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

CHAPTER 261 OF TITLE 49, UNITED STATES CODE

CHAPTER 261—HIGH-SPEED RAIL ASSISTANCE

Sec.
26101. Corridor [planning] *development*.

* * * * * * *

26106. High-speed rail infrastructure bonds.

§ 26101. Corridor [planning] *development*

(a) CORRIDOR [PLANNING] *DEVELOPMENT* ASSISTANCE.—(1) The Secretary may provide under this section financial assistance to a public agency or group of public agencies for corridor planning for up to 50 percent of the publicly financed costs associated with eligible activities.

* * * * * * *

(b) ELIGIBLE ACTIVITIES.—(1) A corridor [planning] *development* activity is eligible for financial assistance under subsection (a) if the Secretary determines that it is necessary to establish appropriate engineering, operational, financial, environmental, or socioeconomic projections for the establishment of high-speed rail service in the corridor and that it leads toward development of a prudent financial and institutional plan for implementation of specific high-speed rail improvements*, or if it is an activity described in subparagraph (M)*. Eligible corridor [planning] *development* activities include—

(A) environmental assessments;

* * * * * * *

(F) coordination with State and metropolitan area transportation planning and corridor [planning] *development* with other States;

* * * * * * *

(K) preparation of financing plans and prospectuses; [and]

(L) creation of public/private partnerships[.]*; and*

(M) the acquisition of locomotives, rolling stock, track, and signal equipment.

(2) No financial assistance shall be provided under this section for corridor [planning] *development* with respect to the main line of the Northeast Corridor, between Washington, District of Columbia, and Boston, Massachusetts.

* * * * * * *

(c) CRITERIA FOR DETERMINING FINANCIAL ASSISTANCE.—Selection by the Secretary of recipients of financial assistance under this section shall be based on such criteria as the Secretary considers appropriate, including—

(1) * * *

(2) the extent to which the proposed [planning] *development* focuses on systems which will achieve sustained speeds of 125 mph or greater;

* * * * * * *

[§ 26104. Authorization of appropriations

[(a) FISCAL YEAR 1995.—There are authorized to be appropriated to the Secretary $29,000,000 for fiscal year 1995, for carrying out sections 26101 and 26102 (including payment of administrative expenses related thereto).

[(b) FISCAL YEAR 1996.—(1) There are authorized to be appropriated to the Secretary $40,000,000 for fiscal year 1996, for carrying out section 26101 (including payment of administrative expenses related thereto).

[(2) There are authorized to be appropriated to the Secretary $30,000,000 for fiscal year 1996, for carrying out section 26102 (including payment of administrative expenses related thereto).

[(c) FISCAL YEAR 1997.—(1) There are authorized to be appropriated to the Secretary $45,000,000 for fiscal year 1997, for carrying out section 26101 (including payment of administrative expenses related thereto).

[(2) There are authorized to be appropriated to the Secretary $40,000,000 for fiscal year 1997, for carrying out section 26102 (including payment of administrative expenses related thereto).

[(d) FISCAL YEAR 1998.—(1) There are authorized to be appropriated to the Secretary $10,000,000 for fiscal year 1998, for carrying out section 26101 (including payment of administrative expenses related thereto).

[(2) There are authorized to be appropriated to the Secretary $25,000,000 for fiscal year 1998, for carrying out section 26102 (including payment of administrative expenses related thereto).

[(e) FISCAL YEAR 1999.—(1) There are authorized to be appropriated to the Secretary $10,000,000 for fiscal year 1999, for carrying out section 26101 (including payment of administrative expenses related thereto).

[(2) There are authorized to be appropriated to the Secretary $25,000,000 for fiscal year 1999, for carrying out section 26102 (including payment of administrative expenses related thereto).

[(f) FISCAL YEAR 2000.—(1) There are authorized to be appropriated to the Secretary $10,000,000 for fiscal year 2000, for carrying out section 26101 (including payment of administrative expenses related thereto).

[(2) There are authorized to be appropriated to the Secretary $25,000,000 for fiscal year 2000, for carrying out section 26102 (including payment of administrative expenses related thereto).

[(g) FISCAL YEAR 2001.—(1) There are authorized to be appropriated to the Secretary $10,000,000 for fiscal year 2001, for carrying out section 26101 (including payment of administrative expenses related thereto).

[(2) There are authorized to be appropriated to the Secretary $25,000,000 for fiscal year 2001, for carrying out section 26102 (including payment of administrative expenses related thereto).

[(h) FUNDS TO REMAIN AVAILABLE.—Funds made available under this section shall remain available until expended.]

§ 26104. Authorization of appropriations

(a) FISCAL YEARS 2004 THROUGH 2011.—There are authorized to be appropriated to the Secretary—

(1) $70,000,000 for carrying out section 26101; and

(2) $30,000,000 for carrying out section 26102,

for each of the fiscal years 2004 through 2011.

(b) FUNDS TO REMAIN AVAILABLE.—Funds made available under this section shall remain available until expended.

* * * * * * *

§ 26106. High-speed rail infrastructure bonds

(a) DESIGNATION.—The Secretary may designate bonds for purposes of subsection (f) or section 54 of the Internal Revenue Code of 1986 if—

(1) the bonds are to be issued by—

(A) a State, if the entire railroad passenger transportation corridor containing the infrastructure project to be financed is within the State;

(B) 1 or more of the States that have entered into an agreement or an interstate compact consented to by Con-

gress under section 410(a) of Public Law 105–134 (49 U.S.C 24101 nt); or

(C) an agreement or an interstate compact described in subparagraph (B);

(2) the bonds are for the purpose of financing—

(A) projects that make a substantial contribution to providing the infrastructure and equipment required to complete a high-speed rail transportation corridor (including projects for the acquisition, financing, or refinancing of equipment and other capital improvements, including the introduction of new high-speed technologies such as magnetic levitation systems, track or signal improvements, the elimination of grade crossings, development of intermodal facilities, improvement of train speeds or safety, or both, and station rehabilitation or construction), but only if the Secretary determines that the projects are part of a viable and comprehensive high-speed rail transportation corridor design for intercity passenger service, including a design for minimally operable segments of a corridor designated under section 104(d)(2) of title 23, United States Code; or

(B) projects for the Alaska Railroad;

(3) for a railroad passenger transportation corridor design that includes the use of rights-of-way owned by a freight railroad, a written agreement exists between the applicant and the freight railroad regarding such use and ownership, including compensation for such use and assurances regarding the adequacy of infrastructure capacity to accommodate both existing and future freight and passenger operations, and including an assurance by the freight railroad that collective bargaining agreements with the freight railroad's employees (including terms regulating the contracting of work) shall remain in full force and effect according to their terms for work performed by the freight railroad on such railroad passenger transportation corridor;

(4) the corridor design eliminates existing railway-highway grade crossings that the Secretary determines would impede high-speed rail operations;

(5) the applicant agrees to comply with—

(A) the standards of section 24312, as in effect on September 1, 2002, with respect to the project in the same manner that the National Railroad Passenger Corporation is required to comply with such standards for construction work financed under an agreement made under section 24308(a); and

(B) the protective arrangements established under section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 836) with respect to employees affected by actions taken in connection with the project to be financed by the bond; and

(6) the applicant agrees not to pay the principal or interest on the bonds using funds derived directly or indirectly from the Highway Trust Fund, except as permitted by law as of the date of the enactment of this section.

(b) BOND AMOUNT LIMITATION.—

(1) IN GENERAL.—The amount of bonds designated under this section may not exceed—

(A) in the case of subsection (f) bonds, $1,200,000,000 for each of the fiscal years 2004 through 2013; and

(B) in the case of section 54 bonds, $1,200,000,000 for each of the fiscal years 2004 through 2013.

(2) CARRYOVER OF UNUSED LIMITATION.—If for any fiscal year the limitation amount under subparagraph (A) or (B) of paragraph (1) exceeds—

(A) with respect to subparagraph (A) of paragraph (1), the amount of subsection (f) bonds issued during such year; or

(B) with respect to subparagraph (B) of paragraph (1), the amount of section 54 bonds issued during such year,

the limitation amount under subparagraph (A) or (B) of paragraph (1), as the case may be, for the following fiscal year (through fiscal year 2017) shall be increased by the amount of such excess.

(c) PREFERENCE.—The Secretary shall give preference to the designation under this section of bonds for projects—

(1) to be funded through a combination of subsection (f) bonds and section 54 bonds;

(2) which propose to link rail passenger service with other modes of transportation;

(3) expected to have a significant impact on air traffic congestion;

(4) expected to also improve commuter rail operations;

(5) where all environmental work has already been completed and the project is ready to commence; or

(6) that have received financial commitments and other support of State and local governments.

(d) TIMELY DISPOSITION OF APPLICATION.—The Secretary shall grant or deny a requested designation within 9 months after receipt of an application.

(e) ANNUAL REPORTS.—

(1) FROM ISSUER OF BONDS.—The issuer of bonds designated under subsection (a) shall report annually to the Secretary regarding the terms of outstanding designated bonds and the progress made with respect to the project financed by the bonds.

(2) FROM SECRETARY.—The Secretary, in consultation with the Secretary of the Treasury, shall transmit to the Congress an annual report which includes—

(A) reports received under paragraph (1); and

(B) an assessment of the progress made toward completion of high-speed rail transportation corridors resulting from projects financed by bonds designated under subsection (a).

(f) TAX TREATMENT OF SUBSECTION (f) BONDS.—

(1) EXCLUSION FROM GROSS INCOME.—The interest on a bond designated by the Secretary under subsection (a) for purposes of this subsection shall be excluded from gross income under section 103 of the Internal Revenue Code of 1986, notwithstanding section 149(c) of such Code.

(2) EXEMPTION FROM VOLUME CAP.—For purposes of section 146 of such Code, a bond designated by the Secretary under

subsection (a) for purposes of this subsection shall be considered to be exempt from the volume cap of the issuing authority in the same manner as bonds listed in subsection (g) of such section 146.

(g) REFINANCING RULES.—Bonds designated by the Secretary under subsection (a) may be issued for refinancing projects only if the indebtedness being refinanced (including any obligation directly or indirectly refinanced by such indebtedness) was originally incurred by the issuer—

(1) after the date of the enactment of this section;

(2) for a term of not more than 3 years;

(3) to finance projects described in subsection (a)(2); and

(4) in anticipation of being refinanced with proceeds of a bond designated under subsection (a).

(h) PROVISIONS REGARDING HIGH-SPEED RAIL SERVICE.—

(1) STATUS AS EMPLOYER OR CARRIER.—Any entity providing railroad transportation (within the meaning of section 20102) that begins operations after the date of enactment of this section and that uses property acquired pursuant to this section (except as provided in subsection (a)(2)(B)), shall be considered an employer for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.) and considered a carrier for purposes of the Railway Labor Act (45 U.S.C. 151 et seq.).

(2) COLLECTIVE BARGAINING AGREEMENT.—Any entity providing high-speed intercity passenger railroad transportation (within the meaning of section 20102) that begins operations after the date of enactment of this section on a project funded in whole or in part by bonds designated under subsection (a), and replaces intercity rail passenger service that was provided by another entity as of the date of enactment of this section, shall enter into an agreement with the authorized bargaining agent or agents for employees of the predecessor provider that—

(A) gives each employee of the predecessor provider priority in hiring according to the employee's seniority on the predecessor provider for each position with the replacing entity that is in the employee's craft or class and is available within three years after the termination of the service being replaced;

(B) establishes a procedure for notifying such an employee of such positions;

(C) establishes a procedure for such an employee to apply for such positions; and

(D) establishes rates of pay, rules, and working conditions.

(3) IMMEDIATE REPLACEMENT OF EXISTING RAIL PASSENGER SERVICE.—

(A) NEGOTIATIONS.—If the replacement of preexisting intercity rail passenger service occurs concurrent with or within a reasonable amount of time before the commencement of the replacing entity's high-speed rail passenger service, the replacing entity shall give written notice of its plan to replace existing rail passenger service to the authorized collective bargaining agent or agents for the employees of the predecessor provider at least 90 days prior to the date it plans to commence service. Within 5 days after the

date of receipt of such written notice, negotiations between the replacing entity and the collective bargaining agent or agents for the employees of the predecessor provider shall commence for the purpose of reaching agreement with respect to all matters set forth in paragraph (2)(A)–(D). The negotiations shall continue for 30 days or until an agreement is reached, whichever is sooner. If at the end of 30 days the parties have not entered into an agreement with respect to all such matters, the unresolved issues shall be submitted for arbitration in accordance with the procedure set forth in subparagraph (B).

(B) ARBITRATION.—If an agreement has not been entered into with respect to all matters set forth in paragraph (2)(A)–(D) as provided in subparagraph (A) of this paragraph, the parties shall select an arbitrator. If the parties are unable to agree upon the selection of such arbitrator within 5 days, either or both parties shall notify the National Mediation Board, which shall provide a list of seven arbitrators with experience in arbitrating rail labor protection disputes. Within 5 days after such notification, the parties shall alternately strike names from the list until only one name remains, and that person shall serve as the neutral arbitrator. Within 45 days after selection of the arbitrator, the arbitrator shall conduct a hearing on the dispute and shall render a decision with respect to the unresolved issues set forth in paragraph (2)(A)–(D). This decision shall be final, binding, and conclusive upon the parties. The salary and expenses of the arbitrator shall be borne equally by the parties; all other expenses shall be paid by the party incurring them.

(C) SERVICE COMMENCEMENT.—A replacing entity under this paragraph shall commence service only after an agreement is entered into with respect to the matters set forth in paragraph (2)(A)–(D) or the decision of the arbitrator has been rendered.

(4) SUBSEQUENT REPLACEMENT OF EXISTING RAIL PASSENGER SERVICE.—If the replacement of existing rail passenger service takes place within 3 years after the replacing entity commences high-speed rail passenger service, the replacing entity and the collective bargaining agent or agents for the employees of the predecessor provider shall enter into an agreement with respect to the matters set forth in paragraph (2)(A)–(D). If the parties have not entered into an agreement with respect to all such matters within 60 days after the date on which the replacing entity replaces the predecessor provider, the parties shall select an arbitrator using the procedures set forth in paragraph (3)(B), who shall, within 20 days after the commencement of the arbitration, conduct a hearing and decide all unresolved issues. This decision shall be final, binding, and conclusive upon the parties.

(i) ISSUANCE OF REGULATIONS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall issue regulations for carrying out this section.

(j) DEFINITIONS.—For purposes of this section—

(1) SUBSECTION (f) BOND.—The term "subsection (f) bond' means a bond designated by the Secretary under subsection (a) for purposes of subsection (f).

(2) SECTION 54 BOND.—The term "section 54 bond' means a bond designated by the Secretary under subsection (a) for purposes of section 54 of the Internal Revenue Code of 1986 (relating to credit to holders of qualified high-speed rail infrastructure bonds).

INTERNAL REVENUE CODE OF 1986

Subtitle A—Income Taxes

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CHAPTER 1—NORMAL TAXES AND SURTAXES

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Subchapter A—Determination of Tax Liability

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PART IV—CREDITS AGAINST TAX

Subpart A. Nonrefundable person credits.

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Subpart H. Nonrefundable Credit for Holders of Qualified High-Speed Rail Infrastructure Bonds.

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Subpart H—Nonrefundable Credit for Holders of Qualified High-Speed Rail Infrastructure Bonds

Sec. 54. Credit to holders of qualified high-speed rail infrastructure bonds.

SEC. 54. CREDIT TO HOLDERS OF QUALIFIED HIGH-SPEED RAIL INFRASTRUCTURE BONDS.

(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a qualified high-speed rail infrastructure bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

(b) AMOUNT OF CREDIT.—

(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified high-speed rail infrastructure bond is 25 percent of the annual credit determined with respect to such bond.

(2) ANNUAL CREDIT.—The annual credit determined with respect to any qualified high-speed rail infrastructure bond is the product of—

(A) the applicable credit rate, multiplied by

(B) the outstanding face amount of the bond.

(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (2), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the day before the date of sale of the issue) on outstanding long-term corporate debt obligations (determined under regulations prescribed by the Secretary).

(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term "credit allowance date" means—

(A) March 15,

(B) June 15,

(C) September 15, and

(D) December 15.

Such term includes the last day on which the bond is outstanding.

(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

(c) LIMITATION BASED ON AMOUNT OF TAX.—

(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

(B) the sum of the credits allowable under this part (other than this subpart and subpart C).

(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

(d) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

(e) QUALIFIED HIGH-SPEED RAIL INFRASTRUCTURE BOND.—For purposes of this part, the term "qualified high-speed rail infrastructure bond" means any bond issued as part of an issue if—

(1) the issuer certifies that the Secretary of Transportation has designated the bond for purposes of this section under section 26106(a) of title 49, United States Code, as in effect on the date of the enactment of this section,

(2) 95 percent or more of the proceeds from the sale of such issue are to be used for expenditures incurred after the date of the enactment of this section for any project described in section 26106(a)(2) of title 49, United States Code,

(3) the term of each bond which is part of such issue does not exceed 20 years,

(4) the payment of principal with respect to such bond is the obligation solely of the issuer, and

(5) the issue meets the requirements of subsection (f) (relating to arbitrage).

(f) SPECIAL RULES RELATING TO ARBITRAGE.—

(1) IN GENERAL.—Subject to paragraph (2), an issue shall be treated as meeting the requirements of this subsection if as of the date of issuance, the issuer reasonably expects—

(A) to spend at least 95 percent of the proceeds from the sale of the issue for 1 or more qualified projects within the 3-year period beginning on such date,

(B) to incur a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue, or to commence construction, with respect to such projects within the 6-month period beginning on such date, and

(C) to proceed with due diligence to complete such projects and to spend the proceeds from the sale of the issue.

(2) RULES REGARDING CONTINUING COMPLIANCE AFTER 3-YEAR DETERMINATION.—If at least 95 percent of the proceeds from the sale of the issue is not expended for 1 or more qualified projects within the 3-year period beginning on the date of issuance, but the requirements of paragraph (1) are otherwise met, an issue shall be treated as continuing to meet the requirements of this subsection if either—

(A) the issuer uses all unspent proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of such 3-year period, or

(B) the following requirements are met:

(i) The issuer spends at least 75 percent of the proceeds from the sale of the issue for 1 or more qualified projects within the 3-year period beginning on the date of issuance.

(ii) Either—

(I) the issuer spends at least 95 percent of the proceeds from the sale of the issue for 1 or more qualified projects within the 4-year period beginning on the date of issuance, or

(II) the issuer pays to the Federal Government any earnings on the proceeds from the sale of the issue that accrue after the end of the 3-year period beginning on the date of issuance and uses all unspent proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of the 4-year period beginning on the date of issuance.

(g) RECAPTURE OF PORTION OF CREDIT WHERE CESSATION OF COMPLIANCE.—

(1) IN GENERAL.—If any bond which when issued purported to be a qualified high-speed rail infrastructure bond ceases to be such a qualified bond, the issuer shall pay to the United

States (at the time required by the Secretary) an amount equal to the sum of—

(A) the aggregate of the credits allowable under this section with respect to such bond (determined without regard to subsection (c)) for taxable years ending during the calendar year in which such cessation occurs and the 2 preceding calendar years, and

(B) interest at the underpayment rate under section 6621 on the amount determined under subparagraph (A) for each calendar year for the period beginning on the first day of such calendar year.

(2) FAILURE TO PAY.—If the issuer fails to timely pay the amount required by paragraph (1) with respect to such bond, the tax imposed by this chapter on each holder of any such bond which is part of such issue shall be increased (for the taxable year of the holder in which such cessation occurs) by the aggregate decrease in the credits allowed under this section to such holder for taxable years beginning in such 3 calendar years which would have resulted solely from denying any credit under this section with respect to such issue for such taxable years.

(3) SPECIAL RULES.—

(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (2) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

(B) NO CREDITS AGAINST TAX.—Any increase in tax under paragraph (2) shall not be treated as a tax imposed by this chapter for purposes of determining—

(i) the amount of any credit allowable under this part, or

(ii) the amount of the tax imposed by section 55.

(h) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) BOND.—The term "bond" includes any obligation.

(2) QUALIFIED PROJECT.—The term "qualified project" means any project described in section 26106(a)(2) of title 49, United States Code.

(3) TREATMENT OF CHANGES IN USE.—For purposes of subsection (e)(2), the proceeds from the sale of an issue shall not be treated as used for a qualified project to the extent that the issuer takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall prescribe regulations specifying remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a qualified high-speed rail infrastructure bond.

(4) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

(5) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any qualified high-speed rail infrastructure bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

(6) REPORTING.—Issuers of qualified high-speed rail infrastructure bonds shall submit reports similar to the reports required under section 149(e).

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Subchapter B—Computation of Taxable Income

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PART IV—TAX EXEMPTION REQUIREMENTS FOR STATE AND LOCAL BONDS

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Subpart A—Private Activity Bonds

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SEC. 142. EXEMPT FACILITY BOND.

(a) * * *

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(i) HIGH-SPEED INTERCITY RAIL FACILITIES.—

(1) IN GENERAL.—For purposes of subsection (a)(11), the term "high-speed intercity rail facilities" means any facility (not including rolling stock) for the fixed guideway rail transportation of passengers and their baggage between metropolitan statistical areas (within the meaning of section 143(k)(2)(B)) using vehicles that are reasonably expected to operate at speeds in excess of **[**150**]** *110* miles per hour between scheduled stops, but only if such facility will be made available to members of the general public as passengers.

* * * * * * *

(4) ADDITIONAL REQUIREMENTS.—A bond issued as part of an issue described in subsection (a)(11) shall not be considered an exempt facility bond unless the requirements of paragraphs (1) through (6) of section 26106(a) of title 49, United States Code, are met.

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Subtitle F—Procedure and Administration

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CHAPTER 61—INFORMATION AND RETURNS

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Subchapter A—Returns and Records

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PART III—INFORMATION RETURNS

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Subpart B—Information Concerning Transactions With Other Persons

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SEC. 6049. RETURNS REGARDING PAYMENTS OF INTEREST.

(a) * * *

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(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) * * *

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(8) REPORTING OF CREDIT ON QUALIFIED HIGH-SPEED RAIL INFRASTRUCTURE BONDS.—

(A) IN GENERAL.—For purposes of subsection (a), the term "interest" includes amounts includible in gross income under section 54(d) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).

(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.

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CHAPTER 65—ABATEMENTS, CREDITS, AND REFUNDS

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Subchapter A—Procedure in General

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SEC. 6401. AMOUNTS TREATED AS OVERPAYMENTS.

(a) * * *

(b) EXCESSIVE CREDITS.—

(1) IN GENERAL.—If the amount allowable as credits under subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) exceeds the tax imposed by subtitle A (reduced by the credits allowable under subparts A, B, D, [and

G] *G, and H* of such part IV), the amount of such excess shall be considered an overpayment.

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CHAPTER 68—ADDITIONS TO THE TAX, ADDITIONAL AMOUNTS, AND ASSESSABLE PENALTIES

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Subchapter A—Additions to the Tax and Additional Amounts

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PART I—GENERAL PROVISIONS

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SEC. 6654. FAILURE BY INDIVIDUAL TO PAY ESTIMATED INCOME TAX.

(a) * * *

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(m) SPECIAL RULE FOR HOLDERS OF QUALIFIED HIGH-SPEED RAIL INFRASTRUCTURE BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a qualified high-speed rail infrastructure bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.

[(m)] *(n)* REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.

SEC. 6655. FAILURE BY CORPORATION TO PAY ESTIMATED INCOME TAX.

(a) * * *

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(g) DEFINITIONS AND SPECIAL RULES.—

(1) * * *

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(5) SPECIAL RULE FOR HOLDERS OF QUALIFIED HIGH-SPEED RAIL INFRASTRUCTURE BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a qualified high-speed rail infrastructure bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.

RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

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TITLE I—GENERAL PROVISIONS

* * * * * * *

DEFINITIONS

SEC. 102. As used in this Act, unless the context otherwise indicates, the term—

(1) * * *

* * * * * * *

[(7) "railroad" means a rail carrier subject to part A of subtitle IV of title 49, United States Code, and includes the National Railroad Passenger Corporation; and]

(7) "railroad" has the meaning given that term in section 20102 of title 49, United States Code; and

* * * * * * *

TITLE V—RAILROAD REHABILITATION AND IMPROVEMENT FINANCING

* * * * * * *

SEC. 502. DIRECT LOANS AND LOAN GUARANTEES.

(a) GENERAL AUTHORITY.—The [Secretary may provide direct loans and loan guarantees to State and local governments,] *Secretary shall provide direct loans and loan guarantees to State and local governments, agreements or interstate compacts consented to by Congress under section 410(a) of Public Law 105–134 (49 U.S.C. 24101 nt),* government sponsored authorities and corporations, railroads, and joint ventures that include at least 1 railroad.

* * * * * * *

(d) EXTENT OF AUTHORITY.—The aggregate unpaid principal amounts of obligations under direct loans and loan guarantees made under this section shall not exceed [$3,500,000,000] *$35,000,000,000* at any one time. Of this amount, not less than [$1,000,000,000] *$7,000,000,000* shall be available solely for projects primarily benefiting freight railroads other than Class I carriers. *The Secretary shall not establish any limit on the proportion of the unused amount authorized under this subsection that may be used for 1 loan or loan guarantee.*

* * * * * * *

(f) INFRASTRUCTURE PARTNERS.—

(1) * * *

(2) CREDIT RISK PREMIUM AMOUNT.—The Secretary shall determine the amount required for credit risk premiums under this subsection on the basis of—

(A) the circumstances of the applicant, including the amount of collateral offered*, if any*;

* * * * * * *

(D) consultation with the Congressional Budget Office; [and]

(E) the size and characteristics of the cohort of which the loan or loan guarantee is a member; and

[(E)] *(F)* any other factors the Secretary considers relevant.

* * * * * * *

(4) COHORTS OF LOANS.—In order to maintain sufficient balances of credit risk premiums to adequately protect the Federal Government from risk of default, while minimizing the length of time the Government retains possession of those balances, the Secretary shall establish cohorts of loans. When all obligations attached to a cohort of loans have been satisfied, credit risk premiums paid for the cohort, and interest accrued thereon, which were not used to mitigate losses shall be returned to the original source on a pro rata basis. *A cohort may include loans and loan guarantees. The Secretary shall not establish any limit on the proportion of a cohort that may be used for 1 loan or loan guarantee.*

* * * * * * *

(h) CONDITIONS OF ASSISTANCE.—The Secretary shall, before granting assistance under this section, require the applicant to agree to such terms and conditions as are sufficient, in the judgment of the Secretary, to ensure that, as long as any principal or interest is due and payable on such obligation, the applicant, and any railroad or railroad partner for whose benefit the assistance is intended—

(1) * * *

* * * * * * *

The Secretary shall not require an applicant for a direct loan or loan guarantee under this section to provide collateral. The Secretary shall not require that an applicant for a direct loan or loan guarantee under this section have previously sought the financial assistance requested from another source. The Secretary shall require recipients of direct loans or loan guarantees under this section to apply the standards of section 26106(a)(5) of title 49, United States Code, to their projects.

(i) TIME LIMIT FOR APPROVAL OR DISAPPROVAL.—Not later than 90 days after receiving a complete application for a direct loan or loan guarantee under this section, the Secretary shall approve or disapprove the application.

SEC. 503. ADMINISTRATION OF DIRECT LOANS AND LOAN GUARANTEES.

(a) * * *

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(l) FEES AND CHARGES.—Except as provided in this title, the Secretary may not assess any fees, including user fees, or charges in connection with a direct loan or loan guarantee provided under section 502.

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