

RAIL INFRASTRUCTURE DEVELOPMENT AND EXPANSION
ACT FOR THE 21ST CENTURY

NOVEMBER 6, 2003.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. THOMAS, from the Committee on Ways and Means,
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 Ways and Means, 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 thereon with amendments and without recommendation.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 2, strike line 1 and all that follows through line 23 on page 26 (sections 2 and 3 of the bill) and redesignate the succeeding sections accordingly.

CONTENTS

	Page
I. Summary and Background	2
A. Purpose and Summary	2
B. Background and Need for Legislation	2
C. Legislative History	2
II. Explanation of the Bill	2
A. Overview of Rules Governing the Issuance of Tax-Exempt and Tax-Credit Bonds	2
B. Description of Sections 2 and 3 of H.R. 2571, as Ordered Reported by the Committee on Transportation and Infrastructure	5
III. Votes of the Committee	7
IV. Budget Effects of the Bill	8
A. Committee Estimate of Budgetary Effects	8
B. Statement Regarding New Budget Authority and Tax Expendi- tures Budget Authority	9
C. Cost Estimate Prepared by the Congressional Budget Office	9
D. Macroeconomic Impact Analysis	12
V. Other Matters To Be Discussed Under the Rules of the House	12

A. Committee Oversight Findings and Recommendations	12
B. Statement of General Performance Goals and Objectives	12
C. Constitutional Authority Statement	12
D. Information Relating to Unfunded Mandates	12
E. Applicability of House Rule XXI 5(b)	13
F. Tax Complexity Analysis	13
VI. Changes in Existing Law Made by the Bill, As Reported	13

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

The bill, H.R. 2571 (the “Rail Infrastructure Development and Expansion Act for the 21st Century”), as reported by the Committee on Transportation and Infrastructure, provides for the financing of high-speed rail infrastructure, and for other purposes. Sections two and three of the reported bill provide for the issuance of \$12 billion in tax-exempt bonds and \$12 billion in tax credit bonds to finance high-speed rail infrastructure. The provisions approved by the Committee strike sections two and three of the bill as reported by the Committee on Transportation and Infrastructure.

B. BACKGROUND AND NEED FOR LEGISLATION

Members of Congress have introduced many proposals involving the use of tax-exempt bonds and tax-credit bonds to finance various activities. The provisions approved by the Committee reflect the need for the Committee on Ways and Means to evaluate and address these proposals in a comprehensive fashion.

C. LEGISLATIVE HISTORY

COMMITTEE ACTION

On June 25, 2003, the Committee on Transportation and Infrastructure favorably reported H.R. 2571 by voice vote. The bill was then referred to the Committee on Ways and Means.

On October 28, 2003, the Committee on Ways and Means marked up the provisions of the bill as reported by the Committee on Transportation and Infrastructure and reported the provisions, as amended, on October 28, 2003, by voice vote.

II. EXPLANATION OF THE BILL

A. OVERVIEW OF RULES GOVERNING THE ISSUANCE OF TAX-EXEMPT AND TAX-CREDIT

PRESENT LAW

Tax-exempt bonds

In general

Interest on debt incurred by States or local governments is excluded from income if the proceeds of the borrowing are used to carry out governmental functions of those entities or the debt is repaid with governmental funds. Interest on bonds that nominally are issued by States or local governments, but the proceeds of which are used (directly or indirectly) by a private person and payment of which is derived from funds of such a private person is tax-

able unless the purpose of the borrowing is approved specifically in the Code or in a non-Code provision of a revenue Act. These bonds are called “private activity bonds.” The term “private person” includes the Federal Government and all other individuals and entities other than States or local governments.

Private activities eligible for financing with tax-exempt private activity bonds

Present law includes several exceptions permitting States or local governments to act as conduits providing tax-exempt financing for private activities.

States or local governments may issue tax-exempt “exempt facility bonds” to finance property for certain private businesses. Business facilities eligible for this financing include transportation (airports, ports, local mass commuting, and high speed intercity rail facilities); privately owned and/or privately operated public works facilities (sewage, solid waste disposal, water, local district heating or cooling, and hazardous waste disposal facilities); privately-owned and/or operated low-income rental housing; and certain private facilities for the local furnishing of electricity or gas. Bonds issued to finance “environmental enhancements of hydro-electric generating facilities” and qualified public educational facilities also may qualify as exempt facility bonds.

Tax-exempt financing also is authorized for capital expenditures for small manufacturing facilities and land and equipment for first-time farmers, local redevelopment activities, and eligible empowerment zone and enterprise community businesses. Tax-exempt private activity bonds also may be issued to finance limited non-business purposes: certain student loans and mortgage loans for owner-occupied housing. Both capital expenditures and limited working capital expenditures of charitable organizations described in section 501(c)(3) of the Code may be financed with tax-exempt private activity bonds (“qualified 501(c)(3) bonds”).

In most cases, the aggregate volume of private activity tax-exempt bonds is restricted by annual aggregate volume limits imposed on bonds issued by issuers within each State. These annual volume limits, which are indexed for inflation, currently equal \$75 per resident of the State, or \$228,580,000 million, if greater.¹

Exempt facility bonds for high-speed intercity rail facilities

Private activity bonds can be issued for high-speed intercity rail facilities.² A facility qualifies as a high-speed intercity rail facility if it is a facility (other than rolling stock) for fixed guideway rail transportation of passengers and their baggage between metropolitan statistical areas.³ The facilities must use vehicles that are reasonably expected to operate at speeds in excess of 150 miles per hour between scheduled stops and the facilities must be made available to members of the general public as passengers. If the bonds are to be issued for a nongovernmental owner of the facility, such owner must irrevocably elect not to claim depreciation or cred-

¹Rev. Proc. 2002-70 2002-2 C.B. 845.

²Sec. 142(a)(11) and sec. 142(i).

³A metropolitan statistical area for this purpose is defined by reference to section 143(k)(2)(B). Under that provision, the term metropolitan statistical area includes the area defined as such by the Secretary of Commerce.

its with respect to the property financed by the net proceeds of the issue.⁴

The Code imposes a special redemption requirement for these types of bonds. Any proceeds not used within three years of the date of issuance of the bonds must be used within the following six months to redeem such bonds.⁵

Seventy-five percent of the principal amount of the bonds issued for high-speed rail facilities is exempt from the volume limit.⁶ If all the property to be financed by the net proceeds of the issue is to be owned by a governmental unit, then such bonds are completely exempt from the volume limit.

Tax-credit bonds for qualified zone academies

As an alternative to traditional tax-exempt bonds, States and local governments are given the authority to issue “qualified zone academy bonds” (“QZABs”).⁷ “Qualified zone academy bonds” are defined as any bond issued by a State or local government, provided that (1) at least 95 percent of the proceeds are used for the purpose of renovating, providing equipment to, developing course materials for use at, or training teachers and other school personnel in a “qualified zone academy”, and (2) private entities have promised to contribute to the qualified zone academy certain equipment, technical assistance or training, employee services, or other property or services with a value equal to at least 10 percent of the bond proceeds.

A total of \$400 million of qualified zone academy bonds was authorized to be issued annually in calendar years 1998 through 2003. The \$400 million aggregate bond cap is allocated to the States according to their respective populations of individuals below the poverty line. Each State, in turn, allocates the credit authority to qualified zone academies within such State.

Financial institutions that hold qualified zone academy bonds are entitled to a nonrefundable tax credit in an amount equal to a credit rate multiplied by the face amount of the bond. A taxpayer holding a qualified zone academy bond on the credit allowance date is entitled to a credit. The credit is includable in gross income (as if it were a taxable interest payment on the bond), and may be claimed against regular income tax and alternative minimum tax liability.

The Treasury Department sets the credit rate at a rate estimated to allow issuance of the qualified zone academy bonds without discount and without interest cost to the issuer. The maximum term of the bond is determined by the Treasury Department, so that the present value of the obligation to repay the bond was 50 percent of the face value of the bond.

⁴Sec. 142(i)(2).

⁵Sec. 142(i)(3).

⁶Sec. 146(g)(4).

⁷Sec. 1397E.

B. DESCRIPTION OF SECTIONS 2 AND 3 OF H.R. 2571, AS ORDERED
REPORTED BY THE COMMITTEE ON TRANSPORTATION AND INFRA-
STRUCTURE

Section 2 of H.R. 2571: High-speed rail infrastructure bonds

Section 2 amends Chapter 261 of Title 49 by adding a new section 26106. This section permits the Secretary of Transportation to designate bonds for funding the development of high-speed rail in the United States. The Secretary of Transportation 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 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 of Transportation determined viable. Those projects include, but are not limited to, some specifically enumerated project types such as financing or refinancing equipment and capital improvements, eliminating grade crossings, or station rehabilitation and construction. The Secretary of Transportation must also determine that the projects are part of a comprehensive corridor design for intercity passenger rail. Projects for the Alaska Railroad are also qualified projects.

- 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 regulating 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 section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976.

- 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.

The amount of bonds the Secretary of Transportation may designate to be issued in each year is limited to \$1.2 billion per year from 2004 to 2013 of private activity tax-exempt bonds and \$1.2 billion per year from 2004 to 2013 of tax-credit bonds. Any amount that the Secretary of Transportation does not designate in a year may be carried over and designated in subsequent years (through fiscal year 2017).

When designating bonds, the Secretary of Transportation is to 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.

The Secretary of Transportation is to grant or deny the applicant's request within nine months after receiving the application.

The issuer of the bonds is to report annually to the Secretary of Transportation. 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 of Transportation, in consultation with the Secretary of the Treasury, to submit to the Congress an annual report on the program and the bonds designated.

Interest on bonds designated by the Secretary of Transportation and issued by a State, States, or compact of States is exempt from Federal taxation, notwithstanding section 149(c) of the Code.⁸ In addition, the bill provides that such bonds are exempt from the volume limitation on private activity bonds.

Bonds designated by the Secretary of Transportation may be issued for refinancing projects if certain requirements are met.

The bill makes entities providing intercity high-speed rail passenger service that use property acquired through bonds designated by the Secretary of Transportation subject to rail statutes, such as the Railway Labor Act and the Railroad Retirement Act of 1974. This rule does not apply to projects for the Alaska Railroad. 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. The agreement must further provide 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. The agreement must also establish a process for implementing such hiring priority, pay work rules and working conditions. A process for negotiating new labor arrangements is also provided by the bill.

The Secretary of Transportation is to issue implementing regulations within 6 months after the date of enactment.

Section 3 of H.R. 2571: Tax Credit to Holders of Qualified High-Speed Rail Infrastructure Bonds

Section 3 amends the Code to create tax-credit bonds that the Secretary may designate pursuant to the newly created Section 26106 of Title 49.

The bill creates a new type of tax-credit bond, qualified high-speed rail infrastructure bonds. In lieu of interest, the bondholder receives a tax credit equal to the applicable credit rate multiplied by the outstanding face amount of the bond. The "credit rate" for

⁸Under present law, Section 149(c) of the Code provides that "no interest on any bond shall be exempt from taxation under [the Code] unless such interest is exempt from tax under [the Code] without regard to any provision of law which is not contained in [the Code] and which is not contained in a revenue Act."

the qualified high-speed rail infrastructure bonds is the rate equal to the average market yield (as of the day before the date of sale of the issue) on outstanding long-term corporate debt obligations. Credits accrue quarterly and are includable in the gross income of the taxpayer. The credit is allowable against regular income tax and alternative minimum tax liability. Unused credits may be carried over to succeeding taxable years. Unlike qualified zone academy bonds, which may be held only by certain financial institutions, any taxpayer would be eligible to be a holder of a qualified high-speed rail infrastructure bond and thereby claim the credit.

To be a qualified high-speed rail infrastructure bond, five requirements must be met: (1) the issuer must certify that the Secretary of Transportation has designated the bond under the new section 26106 of Title 49 for purposes of the tax-credit provision; (2) 95 percent or more of the proceeds from the sale of the issue are to be used for expenditures incurred after the date of enactment for a qualified project (as defined in the new section 26106 of Title 49); (3) the term of each bond that is part of the issue cannot exceed 20 years; (4) the payment of the principal with respect to such bond is the obligation solely of the issuer; and (5) the issue must meet certain arbitrage requirements.

If any qualified high-speed rail infrastructure bond ceases to be such a qualified bond, the issuer is required to reimburse the Treasury for all tax credits (including interest) that accrued within three years of the date of noncompliance. If the issuer fails to make a full and timely reimbursement of tax credits, holders of the bonds are liable for any remaining amounts.

Section 3 also changes the requirements for present-law high-speed intercity rail exempt facility bonds under sections 142(a)(11) and 142(i) of the Code. The minimum speed requirement for vehicles using high-speed rail facilities is reduced from 150 miles per hour to vehicles reasonably expected to operate in excess of 110 miles per hour between scheduled stops. In addition, to be a qualified high-speed intercity rail facility bond, section 3 of the bill requires that such bonds meet the same requirements for designation as high-speed infrastructure bonds described in section 2.

REASONS FOR CHANGE

The Committee notes that there are many proposals to expand the use of tax-exempt and tax-credit bonds for various projects. The Committee believes that such proposals should be considered by the Committee in a comprehensive rather than piece-meal fashion. Further, the Committee believes that legislation involving tax-exempt and tax credit bonds should originate in the Ways and Means Committee, after careful consideration by the Committee of such proposals.

EXPLANATION OF PROVISION

The Committee strikes sections 2 and 3 of H.R. 2571 from the bill.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statements are made con-

cerning the votes of the Committee on Ways and Means in its consideration of the bill, H.R. 2571.

MOTION TO REPORT THE BILL

The bill, H.R. 2571, as amended, was ordered reported, without recommendation, by voice vote (with a quorum being present).

VOTE ON AMENDMENT

A rollcall vote was conducted on the following amendment:

An amendment by Chairman Thomas, to strike sections 2 and 3 of the bill (relating to rules governing issuance of tax-exempt and tax-credit bonds), as introduced and reported by the Committee on Transportation and Infrastructure, was agreed to by a rollcall vote of 24 yeas to 15 nays. The vote was as follows:

Representatives	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Thomas	✓	Mr. Rangel .....	.....	✓	.....
Mr. Crane	✓	Mr. Stark .....	.....	✓	.....
Mr. Shaw	✓	Mr. Matsui .....	.....	✓	.....
Mrs. Johnson	✓	Mr. Levin .....	.....	.....	.....
Mr. Houghton	✓	Mr. Cardin .....	.....	✓	.....
Mr. Herger	✓	Mr. McDermott .....	.....	✓	.....
Mr. McCrery	✓	Mr. Kleczka .....	.....	✓	.....
Mr. Camp	✓	Mr. Lewis (GA) .....	.....	✓	.....
Mr. Ramstad	✓	Mr. Neal .....	.....	✓	.....
Mr. Nussle	✓	Mr. McNulty .....	.....	✓	.....
Mr. Johnson	✓	Mr. Jefferson .....	.....	✓	.....
Ms. Dunn	✓	Mr. Tanner .....	.....	.....	.....
Mr. Collins	✓	Mr. Becerra .....	.....	✓	.....
Mr. Portman	✓	Mr. Doggett .....	.....	✓	.....
Mr. English	✓	Mr. Pomeroy .....	.....	✓	.....
Mr. Hayworth	✓	Mr. Sandlin .....	.....	✓	.....
Mr. Weller	✓	Ms. Tubbs Jones .....	.....	✓	.....
Mr. Hulshof	✓				
Mr. McClinnis	✓				
Mr. Lewis (KY)	✓				
Mr. Foley	✓				
Mr. Brady	✓				
Mr. Ryan	✓				
Mr. Cantor	✓				

IV. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d)(2) of the rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the revenue provisions of the bill, H.R. 2571 as reported.

The bill, as reported, is estimated to have the following effects on budget receipts for fiscal years 2003–2008:

ESTIMATED BUDGET EFFECTS OF THE TAX PROVISIONS CONTAINED IN H.R. 2571, THE "RAIL INFRASTRUCTURE DEVELOPMENT AND EXPANSION ACT FOR THE 21ST CENTURY," AS INTRODUCED AND ORDERED REPORTED BY THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS

[Fiscal years 2004–2008, in millions of dollars]

Provision	Effective	2004	2005	2006	2007	2008	2004–08
1. Strike Provision to Allow High-Speed Rail Infrastructure Bonds.	DOE	4	16	32	51	70	173
2. Strike Provision to Allow a Tax Credit to Holders of Qualified High-Speed Rail Infrastructure Bonds.	DOE	14	54	115	189	270	641
Net Total		18	70	147	240	340	814

Legend for "Effective" column: DOE=date of enactment.

Note.—Details may not add to totals due to rounding.

Source: Joint Committee on Taxation.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES BUDGET AUTHORITY

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 31, 2003.

Hon. WILLIAM "BILL" M. THOMAS,
*Chairman, Committee on Ways and Means,
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 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.

H.R. 2571 also 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.

H.R. 2571 contains 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. State and local governments would benefit from using grants, loans, and loan guarantees to finance high-speed-rail projects and any costs they face would be incurred voluntarily.

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
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:						
Authorized 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	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 A full-year appropriation for fiscal year 2004 has not yet been enacted.

Basis of Estimate: 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 also could increase direct spending by expanding the RRIF program; but CBO estimates those effects would not be significant over the 2004–2013 period.

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 for the high-speed-rail assistance program 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 2004–2008 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.

Under the RRIF program, borrowers can pay a premium to the government to cover the estimated subsidy cost 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 including a \$100 million loan to Amtrak. 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: H.R. 2571 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. State and local governments would benefit from using grants, loans, and loan guarantees to finance high-speed-rail projects and any costs they face would be incurred voluntarily.

Previous CBO estimate: On August 28, 2003, CBO transmitted a cost estimate for H.R. 2571 as ordered reported by the House Committee on Transportation and Infrastructure on June 25, 2003.

In addition to the provisions discussed in this estimate, the earlier version of the bill would authorize states to issue tax-exempt and tax-credit bonds to finance infrastructure for high-speed-rail transportation projects. The Joint Committee on Taxation estimated that the bond provisions would lower federal revenues, and CBO's cost estimate included those estimates.

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

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

D. MACROECONOMIC IMPACT ANALYSIS

In compliance with clause 3(h)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made by the Joint Committee on Taxation with respect to the provisions of the bill amending the Internal Revenue Code of 1986: the effects of the bill on economic activity are so small as to be incalculable within the context of a model of the aggregate economy.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was a result of the Committee's oversight review concerning the tax burden on taxpayers that the Committee concluded that it is appropriate to report the bill as amended to the House of Representatives with no recommendation.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

C. CONSTITUTIONAL AUTHORITY STATEMENT

With respect to clause 3(d)(1) of the rule XIII of the Rules of the House of Representatives (relating to Constitutional Authority), the Committee states that the Committee's action in reporting this bill is derived from Article I of the Constitution, Section 8 ("The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises * * *"), and from the 16th Amendment to the Constitution.

D. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Act of 1995 (P.L. 104-4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has deter-

mined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

E. APPLICABILITY OF HOUSE RULE XXI 5(b)

Rule XXI 5(b) of the Rules of the House of Representatives provides, in part, that “A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present.” The Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not involve any Federal income tax rate increases within the meaning of the rule.

F. TAX COMPLEXITY ANALYSIS

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 (the “IRS Reform Act”) requires the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Department of the Treasury) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the House Committee on Ways and Means, the Senate Committee on Finance, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses.

The staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that amend the Internal Revenue Code and that have “widespread applicability” to individuals or small businesses.

VI. 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*.

* * * * *

§ 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 car-

rying 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.*

RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

* * * * *

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) * * *

* * * * *

(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.*

* * * * *