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Part 2

RAIL INFRASTRUCTURE DEVELOPMENT AND EXPANSION ACT FOR THE 21ST CENTURY

FEBRUARY 3, 2006.—Ordered to be printed

Mr. THOMAS, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H.R. 1631]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 1631) to provide for the financing of high-speed rail infrastructure, and for other purposes, having considered the same, report thereon with an amendment and without recommendation.

CONTENTS

The amendment is as follows:

Strike sections 2 and 3 of the bill and redesignate the succeeding sections accordingly.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

The bill, H.R. 1631 (the “Rail Infrastructure Development and Expansion Act for the 21st Century”), as reported by the Committee on Transportation and Infrastructure, provides for the fi-

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nancing 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

On April 27, 2005, the Committee on Transportation and Infrastructure favorably reported H.R. 1631 by voice vote. The bill was referred to the Committee on Ways and Means on April 14, 2005.

On February 1, 2006, the Committee on Ways and Means marked up the provisions of the bill within its jurisdiction and reported the provisions, as amended, on February 1, 2006, by voice vote.

EXPLANATION OF THE BILL

A. Overview of Rules Governing the Issuance of Tax-Exempt and Tax-Credit Bonds

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 taxable 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 (air-ports, 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," qualified public educational facilities, qualified green building and sustainable design projects and qualified highway or surface freight transfer 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. For calendar year 2005, these annual volume limits, which are indexed for inflation, equal $80 per resident of the State, or $239,180,000 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 credits 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

[1] Rev. Proc. 2004–71.

[2] Sec. 142(a)(11) and sec. 142(i).

[3] A 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.

[4] Sec. 142(i)(2).

[5] Sec. 142(i)(3).

[6] Sec. 146(g)(4).

be owned by a governmental unit, then such bonds are completely exempt from the volume limit.

Arbitrage and other requirements

The tax exemption for State and local bonds does not apply to any arbitrage bond.[7] An arbitrage bond is defined as any bond that is part of an issue if any proceeds of the issue are reasonably expected to be used (or intentionally are used) to acquire higher yielding investments or to replace funds that are used to acquire higher yielding investments.[8] In general, arbitrage profits may be earned only during specified periods (e.g., defined "temporary periods") before funds are needed for the purpose of the borrowing or on specified types of investments (e.g., "reasonably required reserve or replacement funds"). Subject to limited exceptions, investment profits that are earned during these periods or on such investments must be rebated to the Federal government.

An issuer must file with the IRS certain information in order for a bond issue to be tax-exempt.[9] Generally, this information return is required to be filed no later than the 15th day of the second month after the close of the calendar quarter in which the bonds were issued.

Tax-credit bonds

In general

As an alternative to traditional tax-exempt bonds, the Code permits three types of tax-credit bonds. States and local governments have the authority to issue "qualified zone academy bonds," "clean renewable energy bonds," and "Gulf tax credit bonds."[10]

Qualified zone academy bonds

"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 is authorized to be issued annually in calendar years 1998 through 2005. 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

[7] Sec. 103(a) and (b)(2).

[8] Sec. 148.

[9] Sec. 149(e).

[10] Sec. 1397E, sec. 54, and sec. 1400N(1). Clean renewable energy bonds also may be issued by a clean renewable energy bond lender, an Indian tribal government, or a cooperative electric company.

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.

Qualified zone academy bonds are subject to neither arbitrage nor spending requirements. Treasury regulations require that the proceeds of a qualified zone academy bond be spent with due diligence. Issuers of qualified zone academy bonds are not required to file information returns with the Treasury.

Clean renewable energy bonds

Clean renewable energy bonds ("CREBs") are defined as any bond issued by a qualified issuer if, in addition to the requirements discussed below, 95 percent or more of the proceeds of such bonds are used to finance capital expenditures incurred by qualified borrowers for facilities that qualify for the tax credit under section 45 ("qualified projects" other than Indian coal production facilities), without regard to the placed-in-service date requirements of that section. There is a national CREB limitation of $800,000,000. Bonds must be issued before December 31, 2007.

Like qualified zone academy bonds, CREBs are not interest-bearing obligations. Rather, the taxpayer holding CREBs on a credit allowance date would be entitled to a tax credit. The amount of the credit is determined by multiplying the bond's credit rate by the face amount on the holder's bond. The credit rate on the bonds is determined by the Secretary and is to be a rate that permits issuance of CREBs without discount and interest cost to the qualified issuer. The credit accrues quarterly and is includible in gross income (as if it were an interest payment on the bond), and can be claimed against regular income tax liability and alternative minimum tax liability.

CREBs are subject to a maximum maturity limitation. The maximum maturity is the term which the Secretary estimates will result in the present value of the obligation to repay the principal on a CREBs being equal to 50 percent of the face amount of such bond. Moreover, the provision requires level amortization of CREBs during the period such bonds are outstanding.

CREBs also are subject to the arbitrage requirements of section 148 that apply to traditional tax-exempt bonds. Principles under section 148 and the regulations thereunder apply for purposes of determining the yield restriction and arbitrage rebate requirements applicable to CREBs.

In addition, to qualify as CREBs, the qualified issuer must reasonably expect to and actually spend 95 percent or more of the proceeds of such bonds on qualified projects within the five-year period that begins on the date of issuance. To the extent less than 95 percent of the proceeds are used to finance qualified projects during the five-year spending period, bonds will continue to qualify as CREBs if unspent proceeds are used within 90 days from the end of such five-year period to redeem any "nonqualified bonds." The five-year spending period may be extended by the Secretary upon the qualified issuer's request demonstrating that the failure to satisfy the five-year requirement is due to reasonable cause and the projects will continue to proceed with due diligence.

Unlike qualified zone academy bonds, issuers of CREBs are required to report issuance to the IRS in a manner similar to the information returns required for tax-exempt bonds.

Gulf tax credit bonds

Gulf tax credit bonds may be issued by the States of Louisiana, Mississippi, and Alabama. To qualify as Gulf tax credit bonds, 95 percent or more of the proceeds of such bonds must be used to (i) pay principal, interest, or premium on a bond (other than a private activity bond) that was outstanding on August 28, 2005, and was issued by the State issuing the Gulf tax credit bonds, or any political subdivision thereof, or (ii) make a loan to any political subdivision of such State to pay principal, interest, or premium on a bond issued by such political subdivision. In addition, the issuer of Gulf tax credit bonds must provide additional funds to pay principal, interest, or premium on outstanding bonds equal to the amount of Gulf tax credit bonds issued to repay such outstanding bonds. Gulf tax credit bonds must be a general obligation of the issuing State and must be designated by the Governor of such State. The maximum maturity on Gulf tax credit bonds is two years. In addition, present-law arbitrage rules that restrict the ability of State and local governments to invest bond proceeds apply to Gulf tax credit bonds.

Gulf tax credit bonds must be issued in calendar year 2006. The maximum amount of Gulf tax credit bonds that may be issued is $200 million in the case of Louisiana, $100 million in the case of Mississippi, and $50 million in the case of Alabama. Gulf tax credit bonds may not be used to pay principal, interest, or premium on any bond with respect to which there is any outstanding refunded or refunding bond. Moreover, Gulf tax credit bonds may not be used to pay principal, interest, or premium on any prior bond if the proceeds of such prior bond were used to provide any property described in section 144(c)(6)(B) (i.e., any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal purpose of which is the sale of alcoholic beverages for consumption off premises).

As with CREBs, issuers of Gulf tax credit bonds are required to report issuance to the IRS in a manner similar to the information returns required for tax-exempt bonds.

B. Description of Sections 2 and 3 of H.R. 1631

Selection 2 of H.R. 1631: 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, for 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 complete a high-speed rail transportation corridor that the Secretary of Transportation determines are part of a viable and comprehensive high-speed rail transportation corridor design for intercity passenger service. Those projects include, but are not limited to, the financing or refinancing of equipment and capital improvements, the elimination of grade crossings, the development of intermodal facilities, improvement of train speeds or safety, or station rehabilitation and construction. 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 regarding the contracting of work) shall remain in full force and effect.
- Fourth, the corridor design submitted by the applicant must eliminate existing railway-highway grade crossings that the Secretary of Transportation determines 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 2006 to 2015 of private activity tax-exempt bonds and $1.2 billion per year from 2006 to 2015 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 2019).

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) are expected to have a significant impact on air traffic congestion; (4) are expected to improve commuter rail operations; (5) have completed all environmental work and the project is ready to begin construction; or (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, the bill requires the Secretary of Transportation, in consultation with the Secretary of the Treasury, to submit to the Congress an annual report including the reports provided by the issuers and an assessment of the progress made toward completion of high-speed rail transportation corridors resulting from projects financed with 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.[11] 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 six months after the date of enactment.

Section 3 of H.R. 1631: Tax Credit to Holders of Qualified High-Speed Rail Infrastructure Bonds

Section 3 amends the Code to create the tax-credit bonds that the Secretary may designate pursuant to the newly created section 26106 of Title 49. It also imposes additional requirements on exempt facility bonds for high-speed intercity rail facilities.

Qualified high-speed rail infrastructure tax-credit bonds

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 the qualified high-speed rail infrastructure bonds is the rate equal

[11] Under present law, section 149(c) of the Code provides that "no interest on any bond sha1l 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."

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, 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 described above); (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 meets certain spending and 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 would be liable for any remaining amounts.

Additional requirements for exempt facility bonds for high-speed intercity rail facilities authorized by section 142(a)(11) of the Code

The bill reduces the train speed requirements from 150 miles per hour to 110 miles per hour for exempt facility bonds issued for high-speed intercity rail. In addition, a bond will not be treated as an exempt facility bond for high-speed intercity rail unless such bond meets the six requirements described above for high-speed rail infrastructure bonds (e.g., designation by the Secretary of Transportation, and meets requirements relating to qualified projects, rights-of-way agreements, railway-highway grade crossings, prevailing wage standards and labor protection benefits, and an agreement not to pay interest or principal using funds derived from the Highway Trust Fund except as permitted by law).

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, as with any revenue provision, 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. 1631 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 concerning the votes of the Committee on Ways and Means in its consideration of the bill, H.R. 1631.

MOTION TO REPORT THE BILL

The bill, H.R. 1631, 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 H.R. 1631, as introduced and reported by the Committee on Transportation and Infrastructure, was agreed to by a roll call vote of 20 yeas to 15 nays. The vote was as follows:

Representatives	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Thomas	X			Mr. Rangel		X	
Mr. Shaw	X			Mr. Stark		X	
Mrs. Johnson	X			Mr. Levin		X	
Mr. Herger	X			Mr. Cardin		X	
Mr. McCrery				Mr. McDermott		X	
Mr. Camp	X			Mr. Lewis (GA)		X	
Mr. Ramstad	X			Mr. Neal		X	
Mr. Nussle				Mr. McNulty		X	
Mr. Johnson	X			Mr. Jefferson			
Mr. English	X			Mr. Tanner		X	
Mr. Hayworth	X			Mr. Becerra		X	
Mr. Weller				Mr. Doggett		X	
Mr. Hulshof	X			Mr. Pomeroy		X	
Mr. Lewis (KY)	X			Ms. Tubbs Jones		X	
Mr. Foley	X			Mr. Thompson		X	
Mr. Brady	X			Mr. Larson		X	
Mr. Reynolds	X			Mr. Emanuel		X	
Mr. Ryan	X						
Mr. Cantor	X						
Mr. Linder	X						
Mr. Beauprez	X						
Ms. Hart	X						
Mr. Chocola	X						
Mr. Nunes	X						

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. 1631 as reported.

The bill, as reported, is estimated to have the following effects on budget receipts for fiscal years 2006–2011:

**ESTIMATED REVENUE EFFECTS OF H.R. 1631,
THE "RAIL INFRASTRUCTURE DEVELOPMENT AND EXPANSION ACT FOR THE 21ST CENTURY,"
AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS**

Fiscal Years 2006 - 2011

[Millions of Dollars]

Provision	Effective	2006	2007	2008	2009	2010	2011	2006-11
Tax Provisions From H.R. 1631, as Ordered Reported by the Committee on Transportation and Infrastructure								
1. Allow High-Speed Rail Infrastructure Bonds [1]	DOE	-3	-15	-32	-51	-71	-92	-264
2. Allow a Tax Credit to Holders of Qualified High-Speed Rail Infrastructure Bonds	DOE	-12	-56	-122	-200	-286	-376	-1,052
Total of Tax Provisions From H.R. 1631, as Ordered Reported by the Committee on Transportation and Infrastructure		**-15**	**-71**	**-154**	**-251**	**-357**	**-468**	**-1,316**
H.R. 1631, as Ordered Reported by the Committee on Ways and Means								
1. Strike Provision to Allow High-Speed Rail Infrastructure Bonds [1]	DOE	3	15	32	51	71	92	264
2. Strike Provision to Allow a Tax Credit to Holders of Qualified High-Speed Rail Infrastructure Bonds	DOE	12	56	122	200	286	376	1,052
Total of H.R. 1631, as Ordered Reported by the Committee on Ways and Means		**15**	**71**	**154**	**251**	**357**	**468**	**1,316**
NET TOTAL		---	---	---	---	---	---	---

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding. Date of enactment is assumed to be April 1, 2006.

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

[1] The estimate also reflects modifications to present-law requirements for exempt facility bonds for high-speed intercity rail facilities.

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, February 3, 2005.

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. 1631, 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 CB0 staff contact is Gregory Waring.

Sincerely,

DONALD B. MARRON, *Acting Director.*

Enclosure.

H.R. 1631—Rail Infrastructure Development and Expansion Act for the 21st Century

Implementing H.R. 1631 would have no budgetary impact because its provisions were enacted as a part of H.R. 3, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59). As in that act, H.R. 1631 would authorize the appropriation of $100 million each year over the 2006–2013 period to provide grants to public agencies for developing high-speed-rail corridors and for improving the technology for high-speed-rail systems. Provisions in H.R. 1631 that would expand the Railroad Rehabilitation and Improvement Financing program were also enacted as a part of Public Law 109–59.

On May 12, 2005, CBO transmitted a cost estimate for H.R. 1631 as ordered reported by the House Committee on Transportation and Infrastructure on April 27 , 2005. In addition to the provisions described above, the Transportation Committee version of the bill also would authorize states to issue tax-exempt and tax-credit bonds to finance infrastructure for highspeed-rail transportation projects. The Joint Committee on Taxation estimated that the bond provisions would lower federal revenues, and CBO's cost estimate for that version of the legislation included those estimates.

Neither version of the legislation contains intergovernmental or private-sector mandates as defined by the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate Gregory Waring. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

D. MACROECONOMIC IMPACT ANALYSIS

Because the bill as reported does not amend the Internal Revenue Code of 1986, no macroeconomic impact analysis is required under clause 3(h)(2) of rule XIII of the Rules of the House of Representatives.

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 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 (Pub. L. No. 104–4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

E. APPLICABILITY OF HOUSE RULE XXI 5(b)

(ii) 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.

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):

TITLE 49, UNITED STATES CODE

* * * * * * *

SUBTITLE V—RAIL PROGRAMS

* * * * * * *

PART D—HIGH-SPEED RAIL

CHAPTER 261—HIGH-SPEED RAIL ASSISTANCE

* * * * * * *

§ 26101. Corridor development

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

(2) No less than 20 percent of the publicly financed costs associated with eligible activities shall come from State and local sources, which State and local sources may not include funds from any Federal program.

(b) ELIGIBLE ACTIVITIES.—(1) A corridor 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)*, or if it is an activity described in subparagraph (M). Eligible corridor development activities include—

(A) * * *

* * * * * * *

(K) preparation of financing plans and prospectuses;

(L) creation of public/private partnerships; and

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

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* * * * * * *

(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 development focuses on systems which will achieve sustained speeds of 125 mph or greater;

* * * * * * *

[§ 26104. Authorization of appropriations

[(a) FISCAL YEARS 2006 THROUGH 2013.—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 2006 through 2013.

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

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RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

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TITLE I—GENERAL PROVISIONS

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DEFINITIONS

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

(1) "Association" means the United States Railway Association;

* * * * * * *

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

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TITLE V—RAILROAD REHABILITATION AND IMPROVEMENT FINANCING

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SEC. 502. DIRECT LOANS AND LOAN GUARANTEES.

(a) GENERAL AUTHORITY.—The Secretary shall provide direct loans and loan guarantees to—

(1) State and local governments;

(2) interstate compacts consented to by Congress under section 410(a) of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 note);

(3) government sponsored authorities and corporations;

(4) railroads;

(5) joint ventures that include at least one railroad; and

(6) solely for the purpose of constructing a rail connection between a plant or facility and a second rail carrier, limited option rail freight shippers that own or operate a plant or other facility that is served by no more than a single 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 $35,000,000,000 at any one time. Of this amount, not less than $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. *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*, if any;

* * * * * * *

(D) consultation with the Congressional Budget Office;

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

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

(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. *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.—(1) 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—

(A) * * *

* * * * * * *

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.

(j) REPAYMENT SCHEDULES.—

(1) IN GENERAL.—The Secretary shall establish a repayment schedule requiring payments to commence not later than the sixth anniversary date of the original loan disbursement.

(2) ACCRUAL.—Interest shall accrue as of the date of disbursement, and shall be amortized over the remaining term of the loan beginning at the time the payments begin.

(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.

(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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