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TAX EXEMPT BONDS FOR HIGH SPEED RAIL PROJECTS

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

S. 1245

MARCH 24, 1988

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C O N T E N T S

OPENING STATEMENTS

COMMITTEE PRESS RELEASE

PUBLIC WITNESSES

APPENDIX

Alphabetical List and Material Submitted

TAX EXEMPT BONDS FOR HIGH SPEED RAIL PROJECTS

THURSDAY, MARCH 24, 1988

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The committee met, pursuant to notice, at 10:25 a.m. in room SD-106, Dirksen Senate Office Building, Hon. Lloyd Bentsen (chairman) presiding.

Present: Senators Bentsen, Heinz, and Durenberger.

[The press release announcing the hearing follows:]

[The prepared written statements of Senators Bentsen and Heinz and a description of S. 1245 by the Joint Committee on Taxation appears in the appendix.]

BENTSEN ANNOUNCES FINANCE COMMITTEE HEARING ON TAX EXEMPT BONDS FOR HIGH SPEED RAIL PROJECTS

WASHINGTON, D.C.—Senator Lloyd Bentsen (D., Texas), Chairman, announced Wednesday that the full Committee will hold a hearing on a bill (S. 1245) to allow tax exempt bonds to be issued for privately owned high speed rail projects.

The hearing will be held on *Thursday, March 24, 1988 at 10:00 a.m.* in Room SD-215 of the Dirksen Senate Office Building.

The bill, co-authored by Senator Lawton Chiles (D., Florida) and Senator Bob Graham (D., Florida), would provide privately owned or operated high speed rail projects the opportunity to utilize tax-exempt bond financing. Tax exempt financing currently is available for certain other types of transportation projects, including the construction of airports, seaports and mass transit systems.

OPENING STATEMENT OF HON. LLOYD BENTSEN, A U.S. SENATOR FROM TEXAS, CHAIRMAN, SENATE FINANCE COMMITTEE

The CHAIRMAN. Gentlemen, I apologize to you for being delayed in starting the hearing, but I was unavoidably detained.

The subject of the hearing this morning, of course, is High Speed Rail. It is really also a hearing on our nation's future transportation needs. Anyone that has traveled on airplanes lately and has seen some of the congestion that we have in our airports and in our airways, understands that we are approaching full capacity. As I just found out coming here this morning from the CIA, where we were at a meeting, our highways are equally congested. I apologize again for the delay.

We have a role to play in improving that situation. And we have two very distinguished Senators from the State of Florida who are going to speak to that point. Rather than giving you my full statement this morning, I will put that in the record.

Senator Chiles, would you proceed?

[The Chairman's prepared statement appears in the appendix.]

STATEMENT OF HON. LAWTON CHILES, A U.S. SENATOR FROM THE STATE OF FLORIDA

Senator CHILES. Thank you, Mr. Chairman.

I appreciate—we both do—the chance to appear before the committee today. I will ask you to put my detailed statement—I will spare you that—in the record today. But I would like to summarize just a few of the points in that.

The CHAIRMAN. Of course.

Senator CHILES. The bill that we have proposed would offer to high speed rail the same opportunities for tax-exempt bond financing available to other forms of transportation, like air and seaports, together with mass transit commuting facilities. The legislation would authorize States to issue tax-exempt bonds for high speed rail inner-city transportation projects. It envisions a partnership of public agencies and private corporations in the interest of the public without direct financial support from the Federal Government.

We need this legislation to help meet our transportation needs for the rest of this century and beyond. We are approaching a transportation crisis in the country, as you spoke of. We are largely dependent on technology that was developed a hundred years ago. We now see, as we attempt to meet our future needs, trying to do that solely through building more lanes on our highways is simply not feasible.

In Florida, just for example, it is estimated that between Miami and West Palm Beach we have to add 44 lanes to take care of the travel needs by the end of this decade. We know that is not feasible; no matter how many lanes you put on, you still have to build many ramps to get people on and off, and of course the cost of that is prohibitive.

When it comes to air travel, we are already beginning to see the limits to further expansion of airports for inner-city commutes. Orlando is now doubling the size of its airport. And with all the plans for that expansion, which includes more runways, and a new tower facility they haven't figured out yet how to move people out of that airport and to Disney and other places they are going. So, they are talking about some kind of a rail for that.

Airports require substantial direct Federal financial involvement, and they pose numerous environmental and safety problems.

The simple fact is, the current modes of transportation have largely reached their limits, and costly congestion will be unavoidable without some new solutions.

The question now facing us is not when we will develop high speed rail systems but when we will begin, how far behind the rest of the world will we allow ourselves to fall before we move into the future? Delay certainly is going to exact a high premium. Failure to address our future transportation infrastructure needs today is going to render us less competitive in the world economy tomorrow. We see all of our major trading partners are already ahead of us in this arena. The West Germans and the Japanese have had remarkable success with high speed rail. The French have had trains running since 1981 that top 160 miles an hour. More people than were ever expected are riding the French train, and the reve-

nues have exceeded all expectations. The Europeans know something good when they see it, and plans are now underway to stretch the system into Belgium and even across the English Channel. The Japanese have been operating a high speed rail system for nearly a quarter of a century, and they have invested more than a billion dollars in magnetic levitation technology to make possible speeds in excess of 250 miles per hour. They understand that a modern producing nation won't survive unless it has efficient means to move its product and its people.

At least one member of this committee has taken up the cause—Senator Moynihan has introduced a bill to study magnetic levitation technology. While we certainly need that research, and I applaud that, it is not going to make much sense to develop the technology on the one hand and prohibit its use on the other, so we have got to promote transportation for the future today

In Florida the private sector is responding to the challenge. By tomorrow we expect to see bids from at least nine firms, representing more than 50 businesses. The cost to these people is something like a half a million dollars just to prepare their bid, and since 1984 about $14 million has been spent in Florida preparing high speed rail proposals. So there is a hell of a lot of interest; a lot of players are trying to be involved. I think that shows the depth of their commitment. The private sector wants to get involved. We certainly think it would be a mistake to discourage them.

I think the rest of the country is watching Florida, and a good number of other States are now studying the prospects for a high speed rail system. I think they will reach the same conclusion we have: High speed rail is the future.

The bill that Senator Graham and I have, S. 1245, would amend the Tax Code in a manner consistent with the 1986 Tax Reform Act.

When we debated that bill, I told this committee I was concerned that the new tax law might be seen as closing the door on tax-exempt financing for high speed rail, and I was very pleased when the Conference—and you helped very much in this, Mr. Chairman, and thank you for that—the Conference Report on Tax Reform made it clear there was no intent to prejudice the tax-exempt financing for high speed rail or to prejudge it.

The High Speed Rail Bond Act would correct the current Tax Code bias that favors air and seaport, but it does it all for the same treatment to high speed rail.

Our bill would include high speed rail as an exempt facility for purposes of Section 142 of the Code. It would also provide an exemption from State volume caps and waive existing rules that restrict more than 25 percent of bond proceeds to be used to buy land.

Finally, the bill has a delayed effective date, so its provision won't take effect until Fiscal 1992.

In Florida we set up a high speed rail commission in 1984. Several of our commissioners will testify here today. They have done an outstanding job in hiring staff, preparing studies, planning potential routes, identifying investors, and talking with government officials to bring the project together. We think they deserve a lot of credit for their vision and hard work.

So we are proud to say that in Florida much time and planning has gone into meeting the needs of the future. Our commission has concluded that high speed rail can be developed through the private sector without direct Federal financial involvement, and all we are asking is tax treatment equal to other forms of transportation.

It is time that we caught up with the competition. Florida is ready to move. Many States are right behind us. I hope the committee will see fit to help us move together into the next century.

We thank you again, Mr. Chairman, for giving us the opportunity of this hearing and for the help that you gave us last year.

The CHAIRMAN. You are very generous in your comments. Thank you, Senator Chiles.

Senator Graham.

[The prepared statement of Senator Chiles appears in the appendix.]

STATEMENT OF HON. BOB GRAHAM, A U.S. SENATOR FROM THE STATE OF FLORIDA

Senator GRAHAM. Mr. Chairman I also wish to express my appreciation for your generosity in affording us this early hearing on an issue that is very important to the future of our State, and I believe it will be increasingly seen as important to the future of this nation

Transportation, more than any other public or private investment, has shaped what America is. In the Nineteenth Century the railroads opened up Florida for development. In the Twentieth Century the interstate highway system and the jet airplane have made Florida accessible to the millions of people who now live there or come as tourists. The Twenty-first Century, I believe, could be equally shaped by the development of the new technology of high speed raii transportation.

Our State, Mr. Chairman, is facing an unprecedented demand on its transportation system. In 1987 the population of Florida was approximately 11 million. By the end of the century it will be over 15 million. In 1987 we had in excess of 35 million tourists visit our State. The estimate is that by the year 2000 almost 60 million tourists will come to Florida. In 1986, on our seven major highway corridors, we had an average of 700,000 daily trips; by the year 2000 those same corridors will be expected to carry 1.4 million daily trips.

To meet this demand over a 15 year period, the number of miles of expressway will have to be increased by 1,420, and the miles of arterial highway by 1,590.

The question is not whether we are going to meet our transportation requirements; the question is not whether there is going to be a public involvement in meeting that requirement; it is what the form will take and what the most cost-effective mix of modes of transportation will be.

Since 1981 there has been an increasing interest in Florida in high speed rail as a new mode of transportation. As Senator Chiles has stated, in 1984 the High Speed Rail Commission was established, and you will be hearing shortly from some of its members.

The members have been an unusually dedicated group of citizens who have brought this project from a concept to the beginnings of reality.

There have been some principles which have undergirded this effort; one of those principles is that it would be a public-private partnership. It is not intended that this be a publicly subsidized transportation system. The closest analogy to what we have in mind in Florida would be the relationship between a public airport authority which constructs the basic terminals, runways, and support systems, using as the means of financing the revenue which is paid by the users of that airport, and then the commercial airlines who provide the actual transportation equipment that connect airport to the rest of the nation and the world. That analogy, with the High Speed Rail Commission being the airport authority and the various private firms who have expressed a interest in operating the system being the commercial airlines, is the closest analogy to what we have in mind in Florida.

We also propose to assist in financing this by incorporating into the high speed rail some of the appreciation in real estate values which the rail system will itself create.

When I rode on the high speed rail system in France, I was struck with the fact—and there will be persons here who can confirm or modify the statement I am about to make—that the largest new shopping center in France is located in Lyon at the terminus of the high speed rail from Paris to Lyon. The reason that that tremendous commercial development has occurred has been because of the high speed rail and the volumes of people who come through that site on a daily basis.

We are proposing to incorporate some of those appreciation in value which will be created by the high speed rail by allowing the High Speed Rail Commission and the firm which received the franchise to operate on it to own not only the site of the station but also some adjacent property which will be affected by the existence of that station.

We also propose that this be a market-driven system. The graphic indicates some of the suggested corridors of the system. The most attention has been focused on the area from Tampa to Orlando, and then Orlando to Miami. But the final route will be selected between the Commission and the firm which is selected to operate it, based on its economic feasibility. It is not intended that this would be a subsidized system.

The Federal role in this is primarily the role outlined by Senator Chiles and the legislation which he has introduced and which he has championed for so many years, and that is to recognize that this is a form of transportation appropriate to receive the same treatment that we currently afford to seaports, airports, and other forms of transportation, recognizing their essential public service qualities. This would provide tax-exempt financing for the construction of the system and its essential hardware support, also to allow for an exemption from the cap on annual sales, because when this system is under construction, which we hope will be early in the 1990's, there will be years in which there will be substantial financing demand in order to meet the construction schedule.

We also are very supportive of legislation which has been introduced by Senator Moynihan to recognize the appropriateness of Federal participation in research and development on new forms of transportation. Senator Moynihan has been particularly interested in magnetic levitation, and in authorizing the use of interstate corridors for multi-transportation purposes, since they represent one of the most attractive areas in which to construct a new form of high speed rail that requires a free and open corridor that wouldn't be constantly interdicted with crossing roads or other rail lines

The Federal role is a supportive one. It is consistent with the policy that transportation is an important national public interest and should be accorded the benefit of tax-free financing. High speed rail fits precisely into that national policy.

Mr. Chairman, I appreciate the opportunity that you have afforded us. You are going to hear extremely interesting presentations from people who have spent many years in bringing this project to America and applying the best of the experience that is available in Europe and Japan to the American condition.

This is going to be a high priority for our State and its congressional delegation. Senator Chiles and I look forward to working with you and this committee in bringing it to fruition.

Mr. Chairman, I have a written statement which I would like to provide for the record.

The CHAIRMAN. We will take it in its entirety in the record.

[The prepared statement of Senator Graham appears in the appendix.]

The CHAIRMAN. The progress that Florida has made on high speed rail is very impressive and I think you two gentlemen are principally responsible for that progress. Senator Chiles has accomplished a great deal here in Washington, and Senator Graham, when you were Governor of the State of Florida, I understand you really laid the groundwork for the Florida high speed rail project.

Does the Administration have a position on the bill you have introduced?

Senator CHILES. At this time I don't know that they do.

The CHAIRMAN. Well, certainly we do have the example of tax-exempt financing for real property at airports, terminals, and other means of transportation. And that fits with what you are proposing for high speed rail.

On the other side, of course, rolling stock, airplanes, and that sort of thing have not been eligible under the definition. Do you try to cover any of the rolling stock?

Senator GRAHAM. We would propose that the tax refinancing be available for the rail and the rolling stock.

The CHAIRMAN. Well, that would go beyond what we presently have, wouldn't it?

Senator GRAHAM. Mr. Chairman, I would have to express ignorance as to whether, for instance, in inner-city transportation finance such as a subway system, if the tax-free financing, should it involve a public-private partnership, would extend to the rolling stock. I don't know what the public policy is in that regard.

Senator CHILES. Mr. Chairman, we think there is a difference in the high technology and the high risk, in effect, of that high technology that you are using in your rolling stock.

The CHAIRMAN. I am interested in what you said about using increase in the value of real estate to help finance the projects. You talked about Lyon, and the terminus there. What about all of that property in between stations? There is really no appreciation in value, is there?

Senator GRAHAM. The primary assumption is that the appreciation of value would be at the site of the stations.

The CHAIRMAN. Where the people get on and off. That is where land values would appreciate, isn't it?

Senator CHILES. We are not asking, in the financing, that it be anything like the shopping centers. It would only be that station, that connection with the high speed rail itself, not the other

The CHAIRMAN. As I look at that map up there, in trying to better understand it, you are proposing to run the system through some major cities. Does it stop in those cities?

Senator GRAHAM. Again, Mr. Chairman, the answer to that is going to be made by the marketplace. In the French and Japanese systems, in order to get the efficiency of high speed, you have to have a relatively extended distance from station to station. You can't be stopping every 5 or 10 miles.

The CHAIRMAN. No; not and remain a high speed train.

Is it your view that tax-free bonds are critical to putting together a consortium to build the Florida high speed rail project?

Senator CHILES. Everything that the people have told us, and they will emphasize that to you today, is a critical ingredient. Because again, of course, we are not seeking Federal funds; we are not seeking grant funds; we are talking about—but it is critical.

The CHAIRMAN. But you are talking about a loss of revenue to the Government.

Senator CHILES. Yes.

The CHAIRMAN. And this is where we have had Treasury and the Administration pushing very hard to close that down.

Senator CHILES. Yes.

Senator GRAHAM. That is true, Senator, if you assume that the Federal Government is going to back away from its traditional position of assisting States and communities in meeting their transportation obligations. The fact is that most of the land-based transportation in Florida as well as other States has been heavily federally supported since the end of World War II. And if Florida, to meet its population growth and its economic demands, has to build 44 additional lanes between Miami and West Palm Beach between now and the year 2000, that represents a tremendous federal cost sharing.

This, if compared to what the alternative transportation expenditures by the Federal Government would be, would be a relatively modest federal participation.

Senator CHILES. Mr. Chairman, we estimate now that roughly $13 million would be the cost in 1992, rising by about $10 million each year for the next several years.

The CHAIRMAN. How much did you say?

Senator CHILES. $13 million in 1992, and rising by about $10 million a year for the next several years after that.

There is a technical estimating difficulty in trying to estimate the true cost, and part of that is because we do expect a significant

amount of the tax-exempt bonds issued for high speed rail to substitute for other tax-exempt bonds that are now there. So there will be a substitution.

But we would like to have our staff work with the Joint Committee on taxation to try to make that estimate. But that is the ballpark figure.

The CHAIRMAN. Gentlemen, I know we have a vote coming up fairly soon, and we have some other witnesses, so I will defer.

It is an exciting project, and I am interested in it, very much so.

I would defer now to my colleague Senator Heinz for any questions he might have.

OPENING STATEMENT OF HON. JOHN HEINZ, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA

Senator HEINZ. Mr. Chairman, thank you very much.

As an author of the High Speed Rail Compact Act several years ago, I am interested in this issue, and I commend our Senators from Florida, Graham and Chiles, plus others for taking such a great interest in this. And I commend you, Mr. Chairman, for holding this hearing.

I just want to simply state that there is great potential for true high speed rail. It is exciting in particular to the people of my home State of Pennsylvania. We believe there is enormous economic promise, and that would be true not just for us but for each of the nine high speed rail projects being planned in America in terms of economic development, transportation, and service.

But I would just like to point out that, in addition to all of the economic benefits we are all familiar with, recently in my State and some other States our attention has been focused on the issue of railroad or train safety.

It is a fact that the high speed trains in Japan and France have gone literally billions of passenger miles without any injury or fatality. Unfortunately, that is not a claim we can make in the United States—an example is the Amtrak train that crashed near Philadelphia not so long ago. We do need that kind of fatality-free, injury-free service in America. And because of the documented experience in other countries, it is not in the least visionary to point out that these high speed trains can further and will further the interests of safety, not only in and of themselves but by helping to relieve crowding in air and highway transportation as well.

Mr. Chairman, I have a few other thoughts I would like to share, but I will do them for the benefit of the record, if I may, with your consent.

The CHAIRMAN. Surely, Senator.

[Senator Heinz' prepared statement appears in the appendix.]

The CHAIRMAN. Thank you very much for your attendance. We are delighted to have you.

Senator CHILES. Thank you again, Mr. Chairman, for giving us the hearing.

The CHAIRMAN. It is good to have you here.

Senator GRAHAM. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Reid, we are delighted to have you. These other two Senators are talking about a project within the

confines of a single State. You are talking about one that is going to take the cooperative effort of two States, and it puts a bit of a different approach on this. We are very pleased to have your contribution this morning.

STATEMENT OF HON. HARRY REID, A U.S. SENATOR FROM THE STATE OF NEVADA

Senator REID. Thank you very much, Mr. Chairman, for allowing me to be here.

I am happy to be here to testify in support of this legislation, which applies to all States.

I, as Senator Chiles and Senator Graham, am appreciative of your holding the hearing, recognizing what a tremendous burden you have with being Chairman of the Finance Committee and being involved with the very operation of this Congress; so I am appreciative of your holding this hearing which is specialized in nature.

Mr. Chairman, this is an area where the government of this country can promote much needed transportation technology. I support the effort to facilitate the development of a high speed ground transportation system and would ask that this be recognized in this hearing.

I have a special interest in this topic as a result of the extensive work that the State of Nevada has done—and I have been involved in this—on a super-speed rail transportation project that would go from Las Vegas to Ontario, California.

Mr. Chairman, the legislatures of the State of California and the State of Nevada have already recognized the importance of this and have passed legislation to allow this to go forward in those two States. This legislation would certainly make it a reality, however.

This project would link Las Vegas to Ontario, California, southern California, by a state-of-the-art ground transportation system that will allow passengers to travel this 250 miles in about an hour, reaching top speeds of 300 miles per hour during the route.

The system would employ magnetic levitation, or "mag lev" technology. I believe that mag lev is the technology of the future, and we must encourage the development of these advanced transportation systems.

Mr. Chairman, I just left a hearing in a subcommittee that has been chaired by Senator Moynihan, who has been extremely interested in this technology, and he asked that I impart this to you:

We recently held hearings in the past couple of weeks on this mag lev system, and it was an extremely interesting hearing. We had before us the two men that invented the mag lev system. It was interesting that they did it out of frustration. These are two physicists. They were in a traffic jam, and they, back in 1966, said, "We shouldn't have to go through this." They went back to their laboratories, and the two of them invented the mag lev system.

It is interesting to note that advancements have been made in this system by two countries—namely, West Germany and Japan. They could have had the patent for Japan for $500. But being the scientists that they were, they said, "Well, that's probably not

worth the $500," and they didn't get the patent in Japan that they could have.

Mr. Chairman, I believe that our government should promote the developments which will help put us back where we belong as leaders of this transportation technology. We invented it. We should be leading the industry in this effort, and we are not. It is being done by other countries, even though it was American scientists that invented this.

As I indicated to you, Senator Moynihan recently held hearings on using the interstates freeway right-of-way systems for the construction of this magnetic levitation system. Senator Graham and I attended the hearing, and I am sure that the Senators from Florida will agree that technology is really fascinating.

These super-speed systems could really revolutionize our nation's transportation system and decrease our dependency on foreign fossil fuels.

I urge the committee to act favorably on S. 1245.

In closing, Mr. Chairman, I would say that I think it is important that your committee—and you certainly have the expertise to do this—would look at all of the ramifications. Senator Graham and Senator Chiles did indicate that they felt it would not be a revenue loss because of some of the things they mentioned—this tremendous highway system that would have to be built if this were not done.

I think if a close scrutiny of what is trying to be done here, if we look at the overall picture, we would find that it would not be a revenue loss to this country but really a revenue gain that would get us out of some of the projects that we are typically looking to—that is, how to build new freeway interchanges.

You know, we have the population boom in southern Nevada, and all of the officials from all of the cities in southern Nevada were in my office earlier this week with the League of Cities, all with demands for highway funds to build on-ramps and off-ramps and interchanges, and all of these types of things. The demand for these would certainly be lessened if we could do something with our high speed train system.

So, Mr. Chairman, thank you very much again for holding this hearing and showing the leadership in this area that you have done in so many areas over the years that you have served this country so well.

The CHAIRMAN. Well, you are very generous in your statement, Senator.

[Senator Reid's prepared statement appears in the appendix.]

The CHAIRMAN. What kind of support are you getting out of California on this?

Senator REID. We are getting excellent support, Mr. Chairman. In fact, the State Legislature of California passed a law that would allow this technology to go forward.

I am certainly being very succinct in that statement, but the California Legislature with the Nevada Legislature have both acted favorably to begin an extensive review of this legislation, to work together, because it would be an interstate system.

The CHAIRMAN. How would the speed you are projecting on this magnetic levitation system compare with what is in effect in other countries at the present time?

Senator REID. I am sad to say this, but we have had to look—the City of Las Vegas has had to look—at two places, principally Germany, West Germany, and Japan, and we in effect are looking at their technology, which I think is a shame.

The hearing that we had recently in Senator Moynihan's committee, of which I am a member, indicated that we should be using technology here so that we could be using the steel mills in Pennsylvania that are not being used to their optimum, and developing this technology. We don't build it here now, and we should.

Was that responsive to your question, Mr. Chairman?

The CHAIRMAN. Yes.

Senator Heinz, do you have any comments?

Senator HEINZ. No comments, Mr. Chairman.

The CHAIRMAN. Senator Reid, thank you very much.

Senator REID. Thank you very much.

The CHAIRMAN. I appreciate your contribution, and I appreciate the leadership you are showing on this issue.

We have a panel now that we would like to call before us: Mr. David Blumberg, Chairman of the Florida High Speed Rail Transportation Commission; Mr. John Pike Powers, Jr., Managing Partner, Fulbright and Jaworski, Austin, Texas; Harriet Stanley, Chair of the Finance Panel of the High Speed Rail Association; Richard Davenport, President of the Amerifirst Development Corporation; and Robert Blanchette, who is President of TGV of Florida, Inc.

Oh, I beg your pardon. Senator Durenberger, any comments?

STATEMENT OF HON. DAVID DURENBERGER, A U.S. SENATOR FROM THE STATE OF MINNESOTA

Senator DURENBERGER. Mr. Chairman, I would just make the comment that I have a strong interest, as all of these people know, in high speed rail.

I have an equally strong interest in tax-exempt bond financing. And they come in conflict around something called "the $50 cap," which did not get put in the Tax Reform Act by the Finance Committee. It is the State cap on tax-exempt bonds, and it came in on the other side. There is a between high speed rail and the tax-exempt bond volume cap, which is so small that a high speed rail project would consume the entire volume of a State's bond activity. I think that what this hearing shows is that the volume cap adupted in 1986 is far too small to enable state and local governments to finance worthwhile public projects

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator.

Mr. Powers, would you proceed with your testimony?

I just wanted to balance off some of this Florida testimony. [Laughter.]

Mr. POWERS. Well, I appreciate that.

Senator HEINZ. Mr. Chairman, may I take this opportunity to insert in the record the testimony and statement of Richard A Geist? Mr. Geist is the chairman of the High Speed Rail Associa-

tion as well as the Pennsylvania High Speed Inter-City Rail Passenger Commission.

The CHAIRMAN. Without objection, it will be done.

Senator HEINZ. Thank you.

[Mr. Geist's prepared statement appears in the appendix.]

The CHAIRMAN. Mr. Powers.

STATEMENT OF JOHN PIKE POWERS, JR., MANAGING PARTNER, FULBRIGHT & JAWORSKI, AUSTIN, TX

Mr. POWERS. Thank you, Mr. Chairman.

My name is Pike Powers. I practice law in Austin, Texas. It is my pleasure to appear here today, Mr. Chairman, on behalf of my clients the West German High Speed Rail Consortium. But I am also speaking on behalf, in generic, general terms, for the Texas High Speed Rail Project as it is currently contemplated in our State, and also, as Senator Heinz indicated just a moment ago, to indicate our support and cooperation with the National High Speed Rail Association chaired by Mr. Geist of Pennsylvania, a national organization of some 200 members who have been actively working for some four to five years in support of high speed rail projects around this country.

Mr. Chairman, we from the Texas High Speed Rail Project have been working for roughly two or three years in our State and have prepared a couple of preliminary feasibility studies indicating that a high speed rail project in our State would indeed be feasible and possible.

We think that the early preliminary indications are that this kind of project would be a great economic boost to our State as well as addressing the transportation planning needs of the future.

We seek, just as the people from Florida do, tax treatment in this legislation equal to other forms of transportation. We seek the right public-private mix or partnership in order to accomplish the goals and objectives of obtaining just what I have described or indicated a moment ago

In a nutshell, Mr. Chairman, we believe that Texas and basically the early feasibility studies deal with a route between Houston, Dallas, and Fort Worth, some 273 miles, with later, hopefully, contemplated expansion to the cities of San Antonio and Austin, to indeed tie all of the Texas Triangle together.

We think that is a very feasible project. The distance is appropriate between the cities of Houston, Dallas, and Fort Worth. As you will no doubt see from the literature, 200 to 500 miles is indicated as being the right distance for high speed rail in this country or elsewhere.

We think we have no unusual construction obstacles—tunnels, et cetera. You know the land between those cities quite well, Mr. Chairman, and I hope you would agree that we wouldn't have inordinate construction costs. We have available right of way that is currently for sale. In addition the right of way between Dallas and Fort Worth is owned by those two cities.

In conclusion, the final element of making the Texas route a very desirable one lies in the fact that it is a very heavily traveled business air corridor. At the time of our 1985 study, now supple-

mented in 1987 for the last session of the Texas Legislature we found that there were some 250 airflights a day between the various Houston and Dallas airports, indicating not only that air capacity was being saturated or about to be exceeded but that there was a significant block of business travelers who might seek an alternative in traveling between those two cities, a distance of 244 miles, on this system.

So, we believe, Senator Bentsen and members of this committee, that there is indeed a real opportunity for a project of this type and to put the right financing in place would make a critical difference as we go forward. We believe that this help, as indicated in S. 1245, is financially needed because of the investment risks that are involved, that high speed rail provides a substantial public benefit to the nation, fostering high technology in our State and in others, and that all modes of transportation should be treated equally.

We additionally believe that there is significant economic development impact or benefits and new job creation that are possible by these types of projects.

The specific legislation is exactly the kind of facility that Section 142 of the Internal Revenue Code was written for. We believe, moreover, Mr. Chairman, that the Treasury regulations bear out that assertion, that the Tax Reform Act of 1986 confirms that conclusion, as does Revenue Ruling 76-11.

The Texas Turnpike Authority, in summary, Mr. Chairman, under legislative direction from the last session, has recently commissioned an expanded and final study of the feasibility of high speed rail to serve the entire Texas Triangle. This analysis will be performed by a team of nationally recognized consultants and will be independently reviewing the findings of my clients over the coming months and report to the next session of the Texas Legislature in December of 1988.

This team retained by the Turnpike Authority will analyze the feasibility of the corridors that I have just indicating, including Austin and San Antonio, and we hope will obtain the right mix of public-private financial participation, along with recommended specific actions by that next legislative session convening in January of 1989.

These activities by the public and private sector are visible evidence, Mr. Chairman, of Texas progress in considering the reality of high speed rail service prior to the Twenty-first Century.

We urge this committee to report favorably the High Speed Inner-City Rail Transportation Bond Financing Act of 1988. We believe it is sound public policy if enacted into law and would give the right signals to the State of Texas that financing of this type would be supported by Congress

Thank you very much for the opportunity to be here.

The CHAIRMAN. Thank you very much, Mr. Powers, and I will want to ask you some questions about your testimony. I think it is very helpful.

[Mr. Powers' prepared statement appears in the appendix.]

The CHAIRMAN. Ms. Stanley, would you proceed?

STATEMENT OF HARRIETT STANLEY, CHAIR, PENNSYLVANIA HIGH SPEED RAIL ASSOCIATION, PHILADELPHIA, PA

Ms. STANLEY. Mr. Chairman, my name is Harriett Stanley. I am a vice president of Prudential-Bache Capital Funding, where my specialization is transportation finance. I am appearing here today as a result of five years of hands-on experience setting the financial feasibility of high speed rail transportation systems, and I am proud to say in developing successful investment grade financing plans for at least one of these systems.

I appreciate the opportunity very much to show my support for Senate Bill 1245, which would authorize the limited use of tax-exempt bonds by State governments to help finance high speed rail systems.

The crux of the legislation that you folks are considering today is whether or not the Federal Government will choose to assist in the overall development of a needed high speed rail alternative. I suggest that it is fair that you do that, so that high speed rail has the same access to the tax-exempt markets that is enjoyed by other public-purpose transportation projects.

Mr. Chairman, you asked earlier if anyone could specifically tell you whether or not tax exemption was essential to these projects moving ahead, and as someone who deals in those markets every day I can tell you that the answer to that is yes.

I urge you to make the Federal Government a visible partner in high speed rail development, and there is very ample precedent for doing this.

I believe Senate 1245 is right on the mark. It allows States to have access to tax-exempt markets for certain limited high speed rail purposes. My work in the field indicates that access to the tax-exempt markets will be the single most critical factor in determining whether or not a state-of-the-art high speed rail system is built anywhere in this nation before the end of the century

Mr. Chairman, I have spent a substantial portion of the last five years actually doing the financial feasibility analysis of proposed high speed rail systems. That assignment has exposed me to every aspect of the preparatory work, and I submit these remarks from my perspective, either having worked on or been exposed to the financial structure of virtually every system proposed in the country.

With your permission I would like to very briefly review the fundamental economic and financial questions that need to be resolved before the first system can be built in the country.

The first question is one of cost. The major expense component of a high speed rail system is not land acquisition, it is not construction cost, and it is not the expense of the high speed train sets. It is the financing cost, and by that I mean the capitalized interest and the debt service.

The second question is one of size. The sheer magnitude of a capital financing program for any high speed rail system runs probably from $3-10 billion. This includes construction costs and capitalized interest as well. This may very well be too large a single project for any entity, whether it is private or public, to take on a loan. Therefore, the development of high speed rail in this country

represents a great opportunity to truly have a public-private partnership.

In that vein, Senate 1245 offers what seems to be a very small but important change to current law and that change is one that allows high speed rail systems to be publicly financed and privately owned, so long as the transportation facility is open for public use and serves a genuine public purpose.

From a strictly financial standpoint, it is the combination of the questions of cost and size that creates a need for tax exemption. The financing costs I mentioned earlier increase geometrically when taxable debt is used. Even with tax-exempt debt, the capital requirements for a high speed rail system are very likely to cause the capital markets to push interest rates higher as a means of maintaining market equilibrium. With total reliance on capital debt—and I have worked these numbers many times myself—the market dislocations will be greatly intensified.

The third question is one of investment risk. Because of the absence of a track record for high speed rail technology in the United States and the very real likelihood of some nine to 20 years of operations without repayment of capital or return on investment, investment capital will be very difficult if not impossible to attract.

That brings us to the often discussed concept of equity investment in high speed rail systems. Unfortunately, my experience shows that equity investments are easier to contemplate and easier to discuss than they are to find or to structure into a financing plan. Frankly, in my five years of high speed rail work and that is including negotiations with many of the free market's most heavily capitalized banking institutions, I have not yet found an equity investor who is willing to forego any return on his investment for a period ranging from nine to 20 years. Nor have I found a potential equity investor who will even consider risking capital on a project that neither the State or Federal Governments are visibly supporting.

Therefore the involvement of the Federal Government in the development of high speed rail could be what I call a form of political equity. And frankly, I think that form of political equity will send the right kinds of signals to the financial markets that high speed rail is a priority.

Mr. Chairman, I would like to conclude by using some investment banking jargon frequently associated with this.

Much of the work of building a high speed rail financing plan comes down to one operational sentence, and that sentence is: How does one cover the hole?

The "hole" I am referring to is the period of time before the revenue and expense lines cross; the time after capitalized interest has run out and before the fare box and ancillary revenues come in.

In the literally hundreds of scenarios I have either developed or analyzed the hole begins in the early operational period and lasts between nine and 20 years. It can be covered in a number of ways, ranging from project loans which are repaid with interest to debt service guarantees.

The CHAIRMAN. Ms. Stanley, I will have to call upon our next speaker.

Ms. STANLEY. Thank you.

The CHAIRMAN. Thank you.
[Ms. Stanley's prepared statement appears in the appendix.]
The CHAIRMAN. Mr. Davenport.

STATEMENT OF RICHARD A. DAVENPORT, PRESIDENT, AMERIFIRST DEVELOPMENT CORP., MIAMI, FL

Mr. DAVENPORT. Thank you, Mr. Chairman, members of the Committee.

My name is Richard Davenport. I am here today representing Florida High Speed Rail Corporation, a consortium of 28 national and international firms that have joined together to submit a proposal to the State of Florida to design, finance, build and operate a privately funded high speed passenger rail system in cooperation with State Government. We will file our application to do so tomorrow, March 25, 1988. If all goes well, initial high speed revenue service between Miami, Orlando, and Tampa will commence in 1995, the 150th anniversary of our statehood.

Florida is the fastest growing major State in the nation. Its existing infrastructure deficiencies are estimated to be in excess of $60 billion. Between 900 and 1,000 people per day move into Florida, exacerbating an already serious situation.

Florida's needs are particularly acute in the area of transportation. Florida is a long, narrow, predominately flat peninsula with its major cities along the coastal areas. In many areas population growth and transportation corridors are constrained to a narrow strip of land along the coast, due to fragile environmental conditions further inland. I such areas, no further major rail or highway corridors are feasible without undue cost and the dislocation of families' homes and businesses.

Florida High Speed Rail Corporation has spent over five years and almost $10 million out of a total $24 million budget analyzing the feasibility of high speed rail service in Florida and in the preparation of our application. We believe the project will form a major part of the answer to Florida's critical infrastructure needs.

Our application proposes to use a combination of existing and new rights-of-way which will be cost efficient, produce virtually no dislocation, and which will have very little adverse environmental impact. In fact, our proposed high speed rail system will have a definite positive effect on the environment due to the reduction of vehicular exhaust fumes.

Our system will feature an all electric train capable of speeds in excess of 150 miles per hour that is being designed specifically for the Florida environment by ASEA Brown Boveri. ASEA has extensive high speed rail experience in Sweden, Germany, and the United States.

Shearson, Lehman, Hutton, our financial advisor, has worked with the consortium to structure the complex financing required for this public-private partnership. We believe the project is feasible. However, we feel it is financially at a competitive disadvantage when compared to the tax-exempt financing available for highways, airports and seaports. Financing for these transport systems is tax exempt. High speed rail systems are not currently tax exempt.

We therefore appreciate the opportunity to testify in support of Senate 1245, which would authorize the various States to issue tax-exempt bonds for high speed rail transportation facilities.

Florida High Speed Rail Corporation is not intending to request any Federal grants-in-aid, nor are we currently seeking any direct State subsidies. However, the financing for the project is difficult to structure and place, as Ms. Stanley mentioned. We feel this is due to:

The size of the project, which is estimated to range between $2 billion and $5 billion;

The perceived investment risks, due to a lack of domestic familiarity with high speed rail technology;

The anticipated long period of operation prior to a substantial return to investors;

The complexities inherent in any public-private partnership;

The cap on State-sponsored tax-exempt financing which is not specifically exempted from such limits; and lastly,

The premium the market demands for taxable bonds as contrasted with non-taxable issues.

We believe Senate 1245 provides substantial public benefit to all States and should be enacted as soon as possible. We believe the proposed legislation advances public policy:

By allowing States to choose from various transportation alternatives without regard to Tax Code considerations;

By providing incentives for another form of public transportation infrastructure without creating new Federal grant programs; and

By allowing private sector involvement, which we believe promotes overall cost effectiveness.

Florida High Speed Rail corporation supports the minor changes in existing tax laws which we feel will cure existing inequities and promote world-class, state-of-the-art high speed rail systems in Florida and other States.

We request that the Congress act this session to make privately-owned high speed rail systems which serve the public eligible for tax exemption as proposed in Senate 1245.

Thank you.

The CHAIRMAN. Thank you very much, Mr. Davenport.

[Mr. Davenport's prepared statement appears in the appendix.]

The CHAIRMAN. Mr. Blumberg.

STATEMENT OF DAVID BLUMBERG, CHAIRMAN, FLORIDA HIGH SPEED RAIL TRANSPORTATION COMMISSION, MIAMI, FL, ACCOMPANIED BY MR. RICHARD R. SWANN, CHAIRMAN AND CHIEF EXECUTIVE OFFICER

Mr. BLUMBERG. Thank you, Mr. Chairman and members of the committee.

First, on behalf of our commission, I would like to express the thanks of the citizens of Florida for the leadership of our two Senators on this issue. They are always in the forefront of efforts to shape new technological solutions to today's problems, and their efforts are greatly appreciated.

We would like to thank you, too, Mr. Chairman, for affording us the courtesy of this hearing.

The CHAIRMAN. Mr. Blumberg, you certainly do have two very able Senators, and we really are sorry to see Senator Chiles leaving. You don't think he has in mind changing places with Senator Graham, do you?

Mr. BLUMBERG. No, sir.

The CHAIRMAN. I mean, taking on the previous position Senator Graham held in Florida.

Mr. BLUMBERG. We are all sad in Florida at losing our Senior Senator here. He enjoys great affection among a wide spectrum of people in Florida.

I would like to, if I may, offer our written statement for the record and then summarize some of its main points, many of which I will drop out in view of the excellent testimony that has gone before me.

With me today is Commissioner Richard Swann, an attorney and banker, who will assist on the tax aspects of the legislation. We also have Florida High Speed Rail Commissioners George Barber, Doc Dougherty, and David Rush attending this hearing.

Mr. Chairman, as I said, we appreciate the opportunity to testify in support of S. 1245. The State of Florida strongly supports this legislation, as does the High Speed Rail Association representing other States interested in high speed rail systems, some of whom you have heard from.

S. 1245 would extend your decisions in the Tax Reform Act, allowing tax-exempt financing for highways, airports and seaports to apply to an exciting alternative mode of transportation.

These systems will be capable of providing revenue service within the next few years at speeds between 120 miles per hour and 300 miles per hour, depending on the technology used. In contrast, passenger trains in the U.S. today currently operate at 50 miles per hour up to 80 miles per hour in the New York-Washington corridor, which undoubtedly you have utilized.

Today's hearing truly will be a milestone event in the history of high speed rail technology within the United States. At issue is whether the Federal Government will choose to assist State Governments in constructing one or more high speed rail systems, not through Federal construction grants but through access to tax-exempt financing. This congressional decision is critically important, in the short run, to our Commission and our State, since we have set a deadline of tomorrow, March 25, to receive applications from private sector teams wanting to be awarded the Florida franchise. The applications we receive literally will be the result of years of work by the potential franchisees and will likely cost each team $12 to $15 million just to prepare.

The order of magnitude on the system itself runs from some $2 billion for the more conventional 120 mile per hour systems, and speeds up to 350 miles an hour for mag lev. at a cost of up to $5 billion.

We need to know Congress' answer to our request for tax-exempt financing for the public transportation portions of our system before we can evaluate the applicants' final plans. In Florida we are ready to go. The State Government has spent millions of dollars and will spend more in getting this project to fruition.

Other States who are still looking into the feasibility of high speed rail will also be affected by Congress's decision on this issue.

Our Commission intends to develop jointly with the private sector a state-of-the-art high speed rail passenger system connecting, as you saw, those three cities, major cities, with stops in between.

In answer to one of the previous questions, we can still provide service to interim stops by bypassing them on various trips.

The CHAIRMAN. Yes.

Mr. BLUMBERG. I see you understand that concept.

The CHAIRMAN. It is the same type of thing we have in the Washington-Boston route.

Mr. BLUMBERG. Yes, sir.

Under our current schedule, the franchise will be awarded in 1991 for initial high speed rail operations by 1995.

The CHAIRMAN. Mr. Blumberg, I am going to have to ask you to summarize, as they have started a vote on the floor of the Senate.

Mr. BLUMBERG. Yes, sir.

I would then defer to Commissioner Swann, who will tell you the specific tax-exempt provisions that we need.

The CHAIRMAN. Mr. Swann, you will have to keep it very short, because we also have Mr. Blanchette on the schedule to testify.

STATEMENT OF RICHARD R. SWANN

Mr. SWANN. All right, Mr. Chairman.

There are three primary considerations here as it relates to the tax:

First of all, we would be asking to create a new category of exempt facility bonds for public transportation, that for high speed rail; to allow those bonds to be issued outside the volume caps; and to permit the public infrastructure projects to be undertaken through the public-private partnerships of State agencies and private corporations.

I will cut this very short.

The CHAIRMAN. Yes, because I think those points were pretty well made, Mr. Swann.

Mr. SWANN. All right, then I will just pass on.

The CHAIRMAN. Thank you very much.

[Mr. Blumberg's and Mr. Swann's prepared testimony appears in the appendix.]

The CHAIRMAN. Mr. Blanchette.

STATEMENT OF ROBERT W. BLANCHETTE, PRESIDENT, TGV OF FLORIDA, INC., WASHINGTON, DC

Mr. BLANCHETTE. Thank you, Mr. Chairman.

I represent the TGV technology. We are competing in and following all the corridors, particularly Las Vegas, Washington to New York, and Florida. I think Florida is the most advanced of all of them.

My only observation is this: I have in various capacities worried, either as a public servant or a private citizen, about infrastructure

problems in transportation. In every case, we have had to come in and rescue an operation after it has failed.

Florida represents a unique opportunity to do things right before we have to "raise the Titanic," as we did the Penn Central and Amtrak and Conrail. This is the only chance we have ever had in this country to do something before the crisis exists. Florida has everything in place—it has the technology, which we offer, which we believe is state-of-the-art and ready to go—and it has a very innovative concept. Normally, a public project like this is 100 percent public. But under Governor Graham's innovation the gap is being narrowed, so that in what is normally a public venture, there is an attempt to induce the private sector into this equation. First is a tranche which would constitute real estate revenue. We don't know what that is, but it would narrow the gap of public funding.

Second, and critically important, is the borrowing and financing gap of some $1 billion over the course of 30 years that the financing cost would be reduced if tax-exempt bonds can be issued.

Not only will the Federal Government assist in the project and save itself the kind of infrastructure aid it will have to give, inevitably, to Florida, but in addition it will send a message to the United States and to Florida that it is willing to play the proper role in a trinity of private, Federal, and State efforts.

If I can lodge my testimony with the record of these proceedings, it enlarges on all of those points, Mr. Chairman.

Thank you.

The CHAIRMAN. We will take it in its entirety.

[Mr. Blanchette's prepared testimony appears in the appendix.]

The CHAIRMAN. When you are building this high speed train; the different approaches—mag lev and the others—do they all require a major rebuilding of the road bed? Who is the expert?

Mr. DAVENPORT. I can speak for our system, Mr. Chairman.

We will use the same corridor.

The CHAIRMAN. Yes, I understand that.

Mr. DAVENPORT. We will have a dedicated road bed within that corridor.

The CHAIRMAN. So that road bed itself would be substantially advanced over the conventional road bed we see now?

You know, I just rode the Metroliner to New York the other day, and I wished I had had a seatbelt.

Mr. BLANCHETTE. Well, Mr. Chairman, I can answer that, as a past Federal Railroad administrator, responsible for the good parts of that railroad you rode yesterday.

High speed rail requires certain minimum curvatures to attain speed. Second, and critically important, highway grade crossings and high speed rail are natural enemies. There can be no crossings at grade on any railroad in excess of 90 miles an hour consistent with public safety. Whether you modify and upgrade a road bed, you must make it 100 percent safe. It would be like having a farm crossing over an interstate highway. No one would countenance that, and no one could countenance, whether you use existing rights of way or new rights of way, any crossings at grade.

The CHAIRMAN. Mr. Powers tell me about this proposal for the Texas system. How long would it take you to get from Houston to Dallas? And obviously, if you have been probing the economics of

it, you have been thinking about load factors and cost. What would a ticket cost? I want to see how it competes with the airline cost.

Mr. POWERS. The ticket cost, Mr. Chairman, that we project would be roughly between $12 to $17 cheaper than competitive airfares between those cities.

The CHAIRMAN. How long would it take?

Mr. POWERS. How long would it take? Between Houston and Dallas we believe somewhere in the area, depending on the speed of the train, which approaches 200 miles plus, 80 to 100 minutes. And then on to Fort Worth is approximately another 20 minutes.

The CHAIRMAN. All right.

I see that they are halfway through that roll call, and if I don't leave now I will miss it.

Thank you very much for your attendance. I appreciate it. It will be helpful to us.

[Whereupon, at 11:27 a.m., the hearing was concluded.]

APPENDIX

ALPHABETICAL LIST AND MATERIAL SUBMITTED

STATEMENT FOR SENATOR LLOYD BENTSEN
SENATE FINANCE COMMITTEE HEARING ON HIGH SPEED RAIL

THE SUBJECT OF TODAY'S HEARING IS HIGH SPEED RAIL. IT IS ALSO A HEARING ON OUR NATION'S FUTURE TRANSPORTATION NEEDS. ALREADY WE SEE MANY OF OUR AIRPORTS AND AIRWAYS APPROACHING OR EXCEEDING FULL CAPACITY. THE SAME IS TRUE OF THE NATION'S HIGHWAYS.

THE FEDERAL GOVERNMENT WILL CERTAINLY HAVE A ROLE TO PLAY IN ENSURING THAT SAFE AND AFFORDABLE TRANSPORTATION REMAINS AVAILABLE TO THE AMERICAN PEOPLE. BUT IF WE ARE TO SUCCEED, THERE MUST BE A PARTNERSHIP BETWEEN THE FEDERAL GOVERNMENT, STATE AND LOCAL GOVERNMENTS AND THE PRIVATE SECTOR.

THIS HEARING EXAMINES ONE OF THE PIECES OF THE PUZZLE. WE WILL HEAR FROM WITNESSES WHO WILL TELL US WHY THEY BELIEVE THAT HIGH SPEED RAIL SHOULD AND WILL DEVELOP INTO A CRITICAL PART OF OUR NATION'S TRANSPORTATION SYSTEM, INCLUDING THE TRANSPORTATION SYSTEM OF MY STATE, TEXAS. WE WILL ALSO EXAMINE WHAT THE APPROPRIATE ROLE OF THE FEDERAL GOVERNMENT AND THE FEDERAL TAX SYSTEM SHOULD BE WITH RESPECT TO HIGH SPEED RAIL.

I AM PARTICULARLY PLEASED THAT WE WILL HEAR FROM SENATOR CHILES AND SENATOR GRAHAM FROM FLORIDA AND SENATOR REID FROM NEVADA. ALL THREE HAVE TAKEN THE LEAD IN ENSURING THAT THE EXCITING NEW TECHNOLOGIES INVOLVED IN HIGH SPEED RAIL TRANSPORTATION ARE UNDERSTOOD AND RECEIVE THE ATTENTION THEY DESERVE.

STATEMENT OF
SENATOR LAWTON CHILES

FINANCE COMMITTEE HEARING
ON
S.1245, THE HIGH SPEED INTERCITY RAIL
TRANSPORTATION BOND FINANCING ACT OF 1988

MARCH 24, 1988

MR. CHAIRMAN, I WOULD LIKE TO THANK YOU FOR INVITING US HERE THIS MORNING. I AM PLEASED TO HAVE THE OPPORTUNITY TO PRESENT MY VIEWS ON THE NEED FOR TAX EXEMPT FINANCING FOR HIGH SPEED RAIL TRANSPORTATION SYSTEMS.

THE LEGISLATION BEFORE THIS COMMITTEE TODAY IS ESSENTIAL IF WE ARE TO RESPONSIBLY MEET OUR TRANSPORTATION INFRASTRUCTURE NEEDS FOR THE REMAINDER OF THIS CENTURY AND BEYOND. MY LEGISLATION PROVIDES FOR HIGH SPEED RAIL, THE SAME OPPORTUNITIES FOR TAX-EXEMPT BOND FINANCING CURRENTLY ENJOYED BY OTHER FORMS OF TRANSPORTATION INCLUDING AIRPORTS, SEAPORTS, AND MASS TRANSIT FACILITIES. SPECIFICALLY, THE HIGH SPEED RAIL INTERCITY RAIL TRANSPORTATION ACT WOULD AUTHORIZE STATES TO ISSUE TAX EXEMPT BONDS FOR HIGH SPEED RAIL INTERCITY TRANSPORTATION PROJECTS. THE ACT ENVISIONS A PARTNERSHIP OF PUBLIC AGENCIES AND PRIVATE CORPORATIONS TO ACHIEVE INFRASTRUCTURE IMPROVEMENTS OF ENORMOUS BENEFIT TO THE PUBLIC INTEREST, WITHOUT RELIANCE UPON DIRECT FEDERAL FINANCIAL SUPPORT.

TODAY, MANY AREAS OF THE COUNTRY ARE QUICKLY APPROACHING A CRISIS SITUATION. CONGRESS HAS ALREADY ENACTED HIGHWAY FUNDING FOR THE NEXT SEVERAL YEARS. BUT THERE ARE MANY AREAS OF THE COUNTRY WHERE DEMAND WILL CONTINUE TO OUTSTRIP ALL EFFORTS TO SUPPLY CAPACITY. AND THERE ARE MANY AREAS WHERE CONGESTION CANNOT BE SOLVED BY THE CONSTRUCTION OF YET MORE LANE-MILES OF HIGHWAYS.

IN MANY RESPECTS WE ARE LIVING ON TECHNOLOGICAL DEVELOPMENTS OF ALMOST A CENTURY AGO AND ON INVESTMENTS MADE LARGELY IN THE

PREVIOUS DECADE AND EARLIER. ATTEMPTING TO MEET OUR FUTURE TRANSPORTATION NEEDS SOLELY THROUGH THE BUILDING OF MORE HIGHWAY LANES IS SIMPLY NOT FEASIBLE. IN THE STATE OF FLORIDA, FOR EXAMPLE, IT IS ESTIMATED THAT IN ORDER TO MEET PROJECTED TRAFFIC DEMANDS, 44 LANES WILL HAVE TO BE ADDED BETWEEN MIAMI AND WEST PALM BEACH BY THE END OF THE NEXT DECADE. OBVIOUSLY, THIS IS NEITHER POLITICALLY FEASIBLE NOR ENVIRONMENTALLY RATIONAL.

IN ADDITION, WE ARE ALREADY BEGINNING TO SEE THE LIMITS TO FURTHER EXPANSION OF AIRPORTS FOR INTERCITY TRAVEL. AIRPORTS REQUIRE SUBSTANTIAL DIRECT FEDERAL FINANCIAL INVOLVEMENT AND POSE NUMEROUS ENVIRONMENTAL AND SAFETY PROBLEMS.

THE SIMPLE FACT IS THAT CURRENT MODES OF TRANSPORTATION HAVE LARGELY REACHED THEIR LIMITS, AND COSTLY CONGESTION WILL BE UNAVOIDABLE WITHOUT SOME NEW SOLUTIONS.

MR. CHAIRMAN, WE HAVE LEARNED A PAINFUL LESSON THE PAST FEW YEARS; THE WORLD DOES NOT STAND STILL. WE MUST PLAN TODAY IF WE ARE NOT TO GET CAUGHT SHORT TOMORROW.

THE QUESTION NOW FACING US IS NOT WILL WE DEVELOP HIGH SPEED RAIL SYSTEMS, BUT WHEN WILL WE BEGIN; HOW FAR BEHIND THE REST OF THE WORLD WILL WE ALLOW OURSELVES TO FALL BEFORE WE MOVE INTO THE FUTURE. DELAY WILL EXACT A HIGH PREMIUM. FAILURE TO ADDRESS OUR FUTURE TRANSPORTATION INFRASTRUCTURE NEEDS TODAY WILL RENDER US LESS COMPETITIVE IN THE WORLD ECONOMY TOMORROW. AND IT WILL ULTIMATELY CAUSE A DECREASE IN OUR STANDARD OF LIVING.

THE LEGISLATION BEFORE YOU TODAY ENVISIONS A UNIQUE PUBLIC/PRIVATE PARTNERSHIP TO ADDRESS A PRESSING INFRASTRUCTURE NEED. AND ALTHOUGH TO MANY IN THIS COUNTRY, THE CONCEPT OF HIGH SPEED RAIL IS NEW, AND TO SOME EVEN PIE-IN-THE-SKY SCIENCE FICTION, IT IS FAR FROM A PIPEDREAM TO THE REST OF THE WORLD.

BOTH THE WEST GERMANS AND THE JAPANESE HAVE HAD REMARKABLE SUCCESS WITH HIGH SPEED RAIL SYSTEMS . THE FRENCH TGV SYSTEM FOR EXAMPLE, HAS BEEN IN OPERATION SINCE 1981 AND TRAVELS IN EXCESS OF 160 MILES PER HOUR. THAT SYSTEM HAS FAR EXCEEDED RIDERSHIP AND REVENUE ESTIMATES. AND THE EUROPEAN COMMUNITY IS NOW DEVELOPING PLANS TO EXTEND THE SYSTEM INTO BELGIUM AND WEST GERMANY, AND ACROSS THE ENGLISH CHANNEL TO GREAT BRITAIN.

THE JAPANESE, BY COMPARISON, HAVE OPERATED A HIGH SPEED RAIL SYSTEM SINCE 1964, THAT CARRIES PASSENGERS AT SPEEDS BETWEEN 140 AND 180 MILES PER HOUR. MOREOVER, THE JAPANESE HAVE SPENT OVER $1 BILLION DEVELOPING VARIOUS MAGNETIC LEVITATION PROTOTYPE SYSTEMS THAT MIGHT SOMEDAY ROUTINELY OPERATE AT SPEEDS OF MORE THAN 250 MILES PER HOUR. THEY ARE WELL AWARE THAT IT WILL BE DIFFICULT TO MAINTAIN A COMPETITIVE ECONOMY WITH A DEFICIENT TRANSPORTATION NETWORK. MOREOVER, THEY UNDERSTAND THAT THE TECHNOLOGY THAT WILL SPIN OFF OF HIGH SPEED RAIL RESEARCH WILL YIELD BENEFITS TO MANY OTHER SECTORS OF THE ECONOMY.

IN FACT, INTEREST IN HIGH SPEED RAIL TECHNOLOGY HAS ALREADY BEEN STRONGLY EXHIBITED BY AT LEAST ONE MEMBER OF THIS COMMITTEE. SENATOR MOYNIHAN HAS RECENTLY INTRODUCED LEGISLATION TO PROVIDE FUNDING TO STUDY MAGNETIC LEVITATION TECHNOLOGY. I APPLAUD HIM FOR HIS RECOGNITION OF THE SERIOUS DISADVANTAGE WE WILL FACE, IF WE LEAVE THE DEVELOPMENT OF THIS STATE-OF-THE-ART TECHNOLOGY TO OTHER NATIONS. BUT I MUST POINT OUT THAT IT WILL BE POINTLESS TO STUDY MEGLEV TECHNOLOGY IF, AT THE SAME TIME, WE DISCOURAGE THE DEVELOPMENT OF THE SYSTEMS THAT WOULD UTILIZE THAT TECHNOLOGY TO THE GREATEST EXTENT. MOREOVER, IF WE PROVIDE THE PROPER INCENTIVES FOR THE PRIVATE SECTOR TO DEVELOP HIGH SPEED RAIL TECHNOLOGY, THE NEED FOR THE FEDERAL GOVERNMENT TO BECOME DIRECTLY INVOLVED FINANCIALLY IN MEGLEV AND RELATED TECHNOLOGY WOULD BE SIGNIFICANTLY DIMINISHED.

IN RECENT YEARS, THERE HAS BEEN CONSIDERABLE INTEREST IN FINDING WAYS TO ENCOURAGE PRIVATE INVESTORS TO POUR MORE OF THEIR FINANCIAL RESOURCES INTO PUBLIC INFRASTRUCTURE PROJECTS. IN FLORIDA, THE PRIVATE SECTOR HAS RESPONDED TO THE CHALLENGE. RESPONSES TO THE FLORIDA HIGH SPEED RAIL COMMISSION'S REQUESTS FOR PROPOSALS ARE DUE TOMORROW. NINE FIRMS REPRESENTING MORE THAN 50 BUSINESS CONCERNS ARE EXPECTED TO BID FOR THE FLORIDA PROJECT. IT HAS BEEN ESTIMATED THAT THE INITIAL APPLICATION PROCESS WILL COST POTENTIAL FRANCHISEES MORE THAN A HALF A MILLION DOLLARS. MOREOVER, SINCE 1984, THE PRIVATE SECTOR IN FLORIDA HAS SPENT NEARLY $14 MILLION PREPARING HIGH SPEED RAIL PROPOSALS. MUCH GREATER COSTS WILL BE BORN BY THE THREE APPLICANTS SELECTED TO DEVELOP FINAL PROPOSALS. I THINK THIS REFLECTS REAL COMMITMENT ON THE PART OF THESE INVESTORS. AND I FEEL STRONGLY THAT WE WOULD BE REMISS TO DAMPEN THIS ENTHUSIASM BY THE PRIVATE SECTOR, IN THEIR ATTEMPT TO SHARE SUCH A SIGNIFICANT PART OF THE FINANCIAL BURDEN AND RISK TO BUILD A MAJOR PUBLIC USE FACILITY.

I BELIEVE THE NATION IS WATCHING FLORIDA. IF WE SUCCEED, I FIRMLY BELIEVE WE WILL OPEN A NEW ERA IN INTERCITY TRANSPORTATION IN THIS COUNTRY. ALREADY, MANY OTHER STATES ARE WARMING UP TO THE CONCEPT OF HIGH SPEED RAIL TRANSIT. SEVERAL STATES ARE NOW IN THE FEASIBILITY STUDY STAGE. I BELIEVE THEY WILL REACH THE SAME CONCLUSION FLORIDA HAS; THAT HIGH SPEED RAIL IS THE FUTURE. SOMEDAY WE COULD HAVE HIGH SPEED RAIL CONNECTIONS BETWEEN PITTSBURGH AND PHILADELPHIA, BETWEEN HOUSTON, DALLAS AND FORT WORTH AND BETWEEN CHICAGO AND DETROIT. TRAINS TRAVELING MORE THAN 200 MILES PER HOUR COULD, IN THE NEAR FUTURE, SHUTTLE PASSENGERS BETWEEN LAS VEGAS AND LOS ANGELES AND ALONG THE NORTHEAST CORRIDOR BETWEEN BOSTON AND MIAMI.

MY BILL, S.1245, WOULD AMEND THE TAX CODE IN A MANNER CONSISTENT WITH THE 1986 TAX REFORM ACT. DURING DELIBERATIONS ON THE 1986

ACT, I INFORMED THIS COMMITTEE THAT THE STATE OF FLORIDA WAS IN THE PLANNING STAGE OF A LARGE-SCALE HIGH SPEED RAIL SYSTEM THAT WOULD REQUIRE TAX EXEMPT FINANCING TO MAKE IT A FINANCIAL REALITY. I WAS CONCERNED THAT THE NEW TAX LAW MIGHT BE SEEN AS CLOSING THE DOOR ON FUTURE CONSIDERATION OF TAX EXEMPT FINANCING FOR HIGH SPEED RAIL, ALTHOUGH THE COMMITTEE HAD NEVER HELD A HEARING ON THIS SUBJECT. IN THE END, THE CONFERENCE REPORT ACCOMPANYING H.R.3838 SPECIFICALLY STATED THAT THE CONFEREES DID NOT INTEND TO PREJUDGE THE POSSIBLE NEED, IN THE FUTURE, TO ALLOW TAX EXEMPT FINANCING FOR HIGH SPEED RAIL SYSTEMS. I WAS VERY PLEASED THAT THE COMMITTEE APPRECIATED AND ACCOMMODATED MY CONCERNS.

THE HIGH SPEED RAIL BOND ACT WOULD CORRECT AN EXISTING BIAS IN THE TAX CODE THAT ALLOWS FAVORABLE TAX TREATMENT FOR AIR AND SEA PORTS AND FOR MASS COMMUTING FACILITIES, BUT DOES NOT OFFER SIMILAR TREATMENT FOR HIGH SPEED RAIL. MY BILL WOULD INCLUDE HIGH SPEED RAIL AS AN EXEMPT FACILITY FOR PURPOSES OF SECTION 142 OF THE CODE. AIR AND SEA PORTS, AND MASS TRANSIT FACILITIES ARE CURRENTLY PROVIDED THIS EXCEPTION. THE HIGH SPEED RAIL ACT WOULD ALSO EXEMPT HIGH SPEED RAIL FACILITIES FROM STATE VOLUME CAPS AND WAIVE EXISTING RULES RESTRICTING MORE THAN 25 PERCENT OF BOND PROCEEDS TO BE USED TO PURCHASE LAND, IN A MANNER CONSISTENT WITH CURRENT LAW TREATMENT FOR AIR AND SEA PORTS. FINALLY OUR LEGISLATION HAS A DELAYED EFFECTIVE DATE SO THAT ITS PROVISIONS DO NOT TAKE EFFECT UNTIL FISCAL YEAR 1992.

IN FLORIDA, WE ESTABLISHED A HIGH SPEED RAIL COMMISSION IN 1984 TO MAKE THIS IDEA FOR A HIGH SPEED RAIL SYSTEM A REALITY. A COUPLE OF THOSE COMMISSION MEMBERS WILL TESTIFY HERE TODAY. THEY HAVE DONE AN OUTSTANDING JOB HIRING STAFF, PREPARING FEASIBILITY STUDIES, SELECTING POTENTIAL SYSTEM ROUTES AND STATION SITES, PREPARING FINANCIAL FEASIBILITY STUDIES, IDENTIFYING PRIVATE SECTOR INVESTORS, TALKING WITH STATE AND FEDERAL LEGISLATORS AND

BRINGING THIS LARGE AND DIFFICULT ISSUE TOGETHER. I SINCERELY COMMEND THEM FOR THEIR EFFORTS, THEIR FORESIGHT AND THEIR PERSEVERANCE.

I AM PROUD TO SAY THAT IN FLORIDA, MUCH THOUGHT AND PLANNING HAS GONE INTO MEETING THOSE FUTURE NEEDS. THE FLORIDA HIGH SPEED RAIL TRANSPORTATION COMMISSION HAS LOOKED CLOSELY AT THE PROSPECTS FOR HIGH SPEED RAIL SYSTEMS. THE COMMISSION HAS CONCLUDED THAT HIGH SPEED RAIL CAN BE DEVELOPED IN FLORIDA THROUGH THE PRIVATE SECTOR, WITHOUT DIRECT FEDERAL FINANCIAL INVOLVEMENT, PROVIDED THAT HIGH SPEED RAIL IS GIVEN THE SAME TAX TREATMENT GRANTED OTHER FORMS OF TRANSPORTATION.

THE FLORIDA HIGH SPEED RAIL PROJECT REPRESENTS THE KIND OF INITIATIVE PUBLIC OFFICIALS HAVE BEEN TRYING TO ACHIEVE FOR SOME TIME; THAT IS, TO HAVE THE PRIVATE SECTOR TAKE OVER THE CONSTRUCTION AND OPERATION OF MAJOR PUBLIC INFRASTRUCTURE SYSTEMS. HIGH-SPEED RAIL CAN BE THE STEP TOWARD PRIVATIZATION OF MAJOR PUBLIC INFRASTRUCTURE FACILITIES THAT CONGRESS, THE PRESIDENT AND STATE AND LOCAL LEADERS HAVE BEEN STRIVING FOR.

I BELIEVE IT'S TIME WE CAUGHT UP WITH OUR EUROPEAN AND JAPANESE TRADING PARTNERS. THOSE COUNTRIES LONG AGO RECOGNIZED THAT THE FUTURE BELONGS TO THOSE WHO PREPARE FOR IT. FLORIDA IS POISED TO TAKE THAT NEXT GIANT STEP. MANY STATES ARE RIGHT BEHIND US. I HOPE THIS COMMITTEE WILL SEND A SIGNAL THAT THIS COUNTRY IS PREPARED TO MEET HEAD-ON THE CHALLENGES OF THE FUTURE. WE DO A LOT OF TALKING ABOUT RESEARCH AND DEVELOPMENT, COMPETITIVENESS AND THE FUTURE. LET'S SHOW THAT WE ARE ALSO PREPARED TO TAKE SOME ACTION.

THANK YOU.

86-930 0 - 88 - 3

SENATOR GRAHAM'S TESTIMONY

HIGH SPEED RAIL TRANSPORTATION SYSTEM

THURSDAY, MARCH 24, 1988 WASHINGTON, D.C.

GOOD MORNING, MR. CHAIRMAN...DISTINGUISHED MEMBERS OF THE COMMITTEE:

When we think of the role the railroads played in the opening up of vast stretches of this country we generally think of the West. We could just as appropriately think South - because the railroads had a major impact on Florida.

Nearly one hundred years ago much of Florida was undeveloped swamp and scrub and the main connection between Key West and the rest of the United States was by sailing ship. Then Henry Flagler built a railroad and today Florida is the fourth-largest state in the nation.

Florida's phenomenal growth, triggered by a railroad, has come full circle through growth management and development, back to a railroad. We don't have enough transportation. We need to move goods and people. We have tourists and business people who want, or need, to go from one major Florida city to another, from Miami to Tampa or Orlando to Jacksonville.

Even with maximum expansion our system of highways, including the recently-completed Interstate system, and our 107 commercial airports, will not be able to handle Florida's projected volume of traffic in the next ten years. If roads and landing strips could be stretched that far, the impact on the environment and the cost would be prohibitive. But no one is suggesting that the State come to a standstill - so we look once again to the rails to accommodate the future.

In the next ten years highway construction and maintenance in Florida is projected to cost $40.2 billion dollars. In 20 years we will need to build and widen 1420 miles of expressways and 1590 miles of arterial highways. That cost, uncalculated, will be astronomical. It doesn't include new airports, more runways, resolving urban gridlock and a host of other remedies, some of which will be obsolete before they can even be completed.

By the year 2000, the increase -- over a fifteen year period -- of daily trips along Florida's 7 major road links will leap from just under 700,000 to nearly 1,400,000. Daily traffic will double.

So will tourist traffic at our existing airports. In the year 2000 some 58 million tourists will enter Florida by air and those planes have to land near major urban centers, further compounding ground traffic. Much of Florida's air traffic is international so the pressure to reduce airport activity can best be relieved by

providing quick, efficient routes for instate traffic - which can travel by road or rail.

An essential component of our future planning is high speed rail.

High speed rail is two to three times more energy efficient than the automobile.

High speed rail is more than four times more energy efficient than air travel.

The environmental impact of high speed rail is significantly less harmful than heavy traffic on new miles of highway or the jet exhaust and noise from busy airports.

We can easily identify in Florida the more rapidly developing areas.

A few well-defined corridors receive now and will receive the heaviest traffic. Those corridors are perfect candidates for a system of high speed rail - a system which could save the federal government, the state of Florida and the people who use the trains for shipping or for traveling, substantial money.

Tax-exempt bond financing both relieves the federal government of heavily-subsidized public transportation appropriations and attracts investors to work with the state of Florida to develop and operate the project.

We established the Florida High Speed Rail Transportation Commission in 1984 to explore the potential for high speed rail in Florida and the possibilities for design and development. During my tenure as Governor of Florida I personally visited and travelled on the Japanese system and the French system.

The technology is proven. The safety records are impeccable. The ride is pleasant and fast and convenient. I was impressed enough to see the value of such a system for my own state and for other areas of the country which face some of Florida's growth and transportation problems.

In April 1896, Henry Flagler's railroad reached Miami, prompting one of the earliest South Florida pioneers to observe:

"...that was the turning point, from quiescence to progress, from waiting to doing, from enjoying to making, from the old times to the new."

I give my unqualified support to high speed rail. It is technolgy which can take us from the old times to the new. It is a futuristic solution to transportation needs which is available to us today. I think it will save us money as well as time. I think it will be easy on the environment. I think it will be energy-efficient and I think we ought to build it in Florida.

Thank you, Mr. Chairman.

STATEMENT BY JOHN HEINZ

MR. CHAIRMAN, I CONGRATULATE YOU FOR HOLDING THIS HEARING TODAY. THE GREAT POTENTIAL OF TRUE HIGH SPEED RAIL PASSENGER SERVICE IS EXCITING THE PEOPLE OF MY STATE. THERE IS TREMENDOUS ECONOMIC PROMISE IN EACH OF THE APPROXIMATELY NINE HIGH SPEED RAIL PROJECTS BEING PLANNED IN AMERICA IN TERMS OF ECONOMIC DEVELOPMENT, TRANSPORTATION SERVICE, AND JOBS.

BUILDING, EQUIPPING, AND OPERATING THESE HIGH SPEED PASSENGER LINES WILL INVOLVE MANY BILLIONS OF DOLLARS, ENORMOUS ECONOMIC DEVELOPMENT AND GROWTH FOR BASIC HIGH-TECHNOLOGY INDUSTRIES, AND MANY THOUSANDS OF PRODUCTIVE JOBS. THESE TRAINS WILL PROVIDE ATTRACTIVE ADDITIONAL OPTIONS FOR BUSINESS AND GENERAL PASSENGER TRANSPORTATION, AND, AS WITH ANY SIGNIFICANT TRANSPORTATION DEVELOPMENT, THEY WILL OFFER THE LONG-RUN PROMISE OF INCREASED ECONOMIC ACTIVITY AND HEALTH.

RECENTLY OUR ATTENTION HAS BEEN FOCUSED ON TRAIN SAFETY. WELL, HIGH SPEED TRAINS IN JAPAN AND FRANCE HAVE GONE LITERALLY BILLIONS OF PASSENGER-MILES WITHOUT ANY INJURY OR FATALITY. UNFORTUNATELY THAT IS NOT A CLAIM THAT WE CAN MAKE IN THE UNITED STATES. WE NEED THAT KIND OF SERVICE IN AMERICA AND BECAUSE OF THE DOCUMENTED EXPERIENCE IN OTHER COUNTRIES, IT IS NOT IN THE LEAST VISIONARY TO POINT OUT THAT THESE TRAINS WILL FURTHER THE INTEREST OF SAFETY, IN ADDITION, BY HELPING TO RELIEVE CROWDING IN AIR AND HIGHWAY TRANSPORTATION. WHILE PASSENGER RAILROADING IN OUR COUNTRY HAS ESSENTIALLY "MARKED TIME" IN RECENT DECADES, IN EUROPE AND JAPAN IT HAS MADE GIANT STRIDES IN SAFETY, SPEED, COMFORT, AND CONVENIENCE. IT IS HIGH TIME FOR THIS NEW AND EXCITING TRANPORTATION MODE TO MAKE ITS DEBUT TO THE AMERICAN TRAVELING PUBLIC.

FINANCING THE COST OF HIGH SPEED TRANSPORTATION IS CLEARLY A PROBLEM FOR THE STATES. THIS HEARING TODAY GIVES US THE OPPORTUNITY TO DISCUSS ONE OPTION, WHICH IS TAX EXEMPT BONDS. MR. CHAIRMAN I LOOK FORWARD TO HEARING THE WITNESSES TODAY.

TESTIMONY OF THE HONORABLE HARRY REID
BEFORE THE COMMITTEE ON FINANCE
HIGH SPEED RAIL TRANSPORTATION
March 24, 1988

MR. CHAIRMAN, I AM HAPPY TO BE HERE TODAY TO TESTIFY ON S. 1245, A BILL TO PROVIDE FOR TAX EXEMPT BOND FINANCING FOR HIGH SPEED TRANSPORTATION SYSTEMS. I WOULD LIKE TO THANK CHAIRMAN BENTSON FOR HOLDING THIS HEARING AND I WOULD LIKE TO COMPLIMENT SENATORS CHILES AND GRAHAM FOR THEIR FORESIGHT IN OFFERING THIS LEGISLATION. THIS IS AN AREA WHERE THE GOVERNMENT OF THIS COUNTRY CAN PROMOTE MUCH NEEDED TRANSPORTATION TECHNOLOGY. I SUPPORT THIS EFFORT TO FACILITATE THE DEVELOPMENT OF HIGH SPEED GROUND TRANSPORTATION SYSTEMS, AND I WOULD ASK THAT I BE ADDED AS A COSPONSOR OF THIS MUCH NEEDED LEGISLATION.

I HAVE A SPECIAL INTEREST IN THIS TOPIC AS A RESULT OF MY EXTENSIVE WORK ON A SUPER SPEED RAIL TRANSPORTATION PROJECT IN MY HOME STATE OF NEVADA. THIS PROJECT WOULD LINK LAS VEGAS WITH SOUTHERN CALIFORNIA VIA A STATE-OF-THE-ART GROUND TRANSPORTATION SYSTEM THAT WILL ALLOW PASSENGERS TO MAKE THE 230 MILE TRIP IN JUST 70 MINUTES REACHING TOP SPEEDS OF 250 MILES PER HOUR. THE SYSTEM WILL EMPLOY MAGNETIC LEVITATION (OR MAGLEV) TECHNOLOGY. I BELIEVE THAT MAGLEV IS THE TECHNOLOGY OF THE FUTURE, AND WE MUST ENCOURAGE THE DEVELOPMENT OF THESE ADVANCED TRANSPORTATION SYSTEMS. OUR GOVERNMENT SHOULD PROMOTE THESE DEVELOPMENTS WHICH WILL HELP TO PUT US BACK WHERE WE BELONG AS LEADERS IN TRANSPORTATION TECHNOLOGY.

SENATOR MOYNIHAN RECENTLY HELD A HEARING ON USING THE INTERSTATE RIGHT-OF-WAY FOR THE CONSTRUCTION OF MAGNETIC LEVITATION SYSTEMS. SENATOR GRAHAM AND I ATTENDED THIS HEARING, AND I AM SURE HE WILL AGREE THAT THE TECHNOLOGY IS FASCINATING. THESE SUPER-SPEED SYSTEMS COULD REVOLUTIONIZE OUR NATION'S TRANSPORTATION SYSTEM, AND DECREASE OUR DEPENDENCY ON FOREIGN FOSSIL FUELS. I URGE THE COMMITTEE TO ACT FAVORABLY ON S. 1245.

I SPENT CONSIDERABLE TIME INVESTIGATING HIGH SPEED GROUND TRANSPORTATION SYSTEMS DURING MY TIME IN THE U.S. CONGRESS. AS A CONGRESSMAN, I SERVED ON THE SUBCOMMITTEE ON TRANSPORTATION, AVIATION AND MATERIALS OF THE COMMITTEE ON SCIENCE AND TECHNOLOGY DURING WHICH TIME WE HELD SEVERAL HEARINGS ON THE SUBJECT. WE HEARD TESTIMONY ABOUT EACH OF THE CORRIDOR STUDY PROJECTS CURRENTLY BEING CONDUCTED IN THIS COUNTRY. WITHOUT EXCEPTION, THE FINANCING PLANS INITIALLY ENVISIONED FOR THESE MAJOR INFRASTRUCTURE PROJECTS HAS AS THEIR BASIS, TAX-EXEMPT INDUSTRIAL BONDS.

FROM ITS VERY ONSET, THE LAS VEGAS TO SOUTHERN CALIFORNIA SUPER SPEED TRAIN PROJECT WAS CONCEIVED AS A PRIVATE SECTOR ACTIVITY. THE PROJECT ANTICIPATES THAT NOT ONLY WILL THE SYSTEM BE BUILT AND OPERATED BY A PRIVATE COMPANY, BUT THAT THE SYSTEM FINANCING WILL COME FROM A PRIVATE SOURCE. SIMILAR TO THE FLORIDA PROJECT, A FRANCHISE WILL BE AWARDED TO A SELECT PRIVATE SECTOR OWNER/OPERATOR AND ONE OF THE CONDITIONS OF THIS AWARD WILL BE 'PROOF OF FINANCING'. THE SUCCESSFUL IMPLEMENTATION OF THIS EXCITING, NEW PRIVATE TRANSPORTATION SYSTEM WILL PROVIDE MILLIONS AND MILLIONS OF TRAVELERS WITH HIGHLY EFFICIENT, RELATIVELY LOW COST SERVICE FOR THE NEXT FORTY OR MORE YEARS WITHOUT DIRECT CAPITAL INVESTMENT BY THE FEDERAL GOVERNMENT.

THE LAS VEGAS-SOUTHERN CALIFORNIA PROJECT HAS MADE SUBSTANTIAL PROGRESS SINCE THE PROJECT WAS ORIGINALLY CONCEIVED IN THE 1960'S. DURING THE PAST SEVEN YEARS, THE CITY OF LAS VEGAS HAS CONDUCTED A VERY COMPREHENSIVE FEASIBILITY STUDY WHICH HAS CONCLUDED THAT THE PROJECT CAN BE A VERY SUCCESSFUL PRIVATE SECTOR VENTURE. BASED ON THE POSITIVE OUTCOME OF OUR STUDIES, LEGISLATION WAS INTRODUCED IN BOTH CALIFORNIA AND NEVADA FOR THE CREATION OF A BI-STATE COMMISSION THAT IS EMPOWERED TO TAKE THE PROJECT THE NEXT STEP TOWARDS IMPLEMENTATION. THESE BILLS PASSED WITH OVERWHELMING MAJORITIES AND THE COMMISSION WILL BEGIN OPERATIONS IN APRIL OR MAY OF THIS YEAR.

ONE OF THE MOST SIGNIFICANT CHALLENGES STANDING BETWEEN OUR PRESENT POSITION AND ACTUAL IMPLEMENTATION IS THE QUESTION OF FINANCING. WHILE WE HAVE ESTABLISHED THE REQUIREMENT FOR PRIVATE FINANCING, THE VERY NATURE OF SUPER SPEED OR HIGH SPEED GROUND TRANSPORTATION SYSTEMS WILL REQUIRE INNOVATIVE APPROACHES TO A FINANCING PLAN. THESE SYSTEMS, LIKE OTHER LARGE SCALE INFRASTRUCTURE PROJECTS, REQUIRE MASSIVE INITIAL INVESTMENT; THEY HAVE LONG CONSTRUCTION PERIODS (FIVE TO SEVEN YEARS); AND CONSEQUENTLY THERE IS A SEVERAL YEAR LAG BETWEEN THE FIRST INVESTMENT AND ANY RETURN ON THAT INVESTMENT. THEREFORE, ANY INCENTIVES THAT CAN BE PROVIDED WILL INCREASE THE LIKELIHOOD OF ATTRACTING INVESTORS TO THESE PROJECTS.

AS I MENTIONED EARLIER, IN A RELATED HEARING WE HAVE DISCUSSED THE POSSIBILITY OF USING EXISTING INTERSTATE RIGHTS-OF-WAY TO CONSTRUCT THE GUIDEWAYS FOR THESE SYSTEMS. THIS WILL REDUCE THE REQUIREMENT OF PURCHASING AN EXPENSIVE NEW RIGHT-OF-WAY. THE STATE OF FLORIDA HAS PROVIDED A MECHANISM THAT WILL GIVE THEIR HIGH SPEED PROJECT THE POWERS OF EMINENT DOMAIN AND THERE ARE MANY OTHER POSSIBILITIES THAT ARE BEING CONSIDERED. BUT THE MOST SIGNIFICANT INCENTIVE WILL BE TAX EXEMPT STATUS FOR THE INTEREST ON BONDS SOLD TO FINANCE THESE SYSTEMS.

I WHOLEHEARTEDLY ENCOURAGE YOUR SUPPORT OF SENATE BILL 1245 FOR THE VERY REASONS STATED IN THE DECLARATION OF POLICY IN THE BILL:

1. HIGH SPEED SYSTEMS WILL INCREASE THE CAPACITY IN OTHER MODES OF TRANSPORTATION (HIGHWAYS, AIRPORTS, ETC.) AND THEREBY DELAY OR ELIMINATE THE NEED TO EXPEND PUBLIC FUNDS, WHICH WOULD BE TAX-EXEMPT, FOR THESE MORE TRADITIONAL TRANSPORTATION SYSTEMS.

2.HIGH SPEED GROUND TRANSPORTATION SYSTEMS, THAT DO NOT REQUIRE FEDERAL FUNDS, WILL BE OF GREAT BENEFIT TO THE PUBLIC AND SHOULD BE ENCOURAGED.

3.STATE OF THE ART HIGH SPEED GROUND TRANSPORTATION SYSTEMS BUILT AND OPERATED IN THE UNITED STATES WILL HELP MAINTAIN OUR COMPETITIVE EDGE IN THE WORLD ECONOMY.

FINALLY, A COMMENT ON THE BILL LANGUAGE. IN ORDER TO AVOID CONFUSION ABOUT THE WHOLE RANGE OF SYSTEMS THAT SHOULD BE ELIGIBLE FOR TAX EXEMPT FINANCING SHOULD THIS BILL BECOME LAW, I RECOMMEND THAT WHEREVER YOU USE THE TERM "HIGH SPEED INTERCITY RAIL TRANSPORTATION PROJECTS" OR "SYSTEMS" OR "FACILITIES", THAT YOU SUBSTITUTE, "HIGH-SPEED INTERCITY GROUND TRANSPORTATION PROJECTS" OR "SYSTEMS" OR "FACILITIES". THIS CHANGE WILL CLARIFY THE INTENTION THAT MAGLEV SYSTEMS, THAT DO NOT USE "RAILS," WILL ALSO BE ELIGIBLE.

THANK YOU

DESCRIPTION OF S. 1245

(TAX-EXEMPT BONDS FOR HIGH-SPEED RAIL PROJECTS)

Prepared by the Staff

of the

JOINT COMMITTEE ON TAXATION

on March 24, 1988

INTRODUCTION

The Senate Committee on Finance has scheduled a public hearing on March 24, 1988, on S. 1245 (introduced by Senators Chiles and Graham). The bill would permit tax-exempt bonds to be issued for financing certain private intercity high-speed rail transportation projects.

The first part of the document[1] provides a description of present law, and the second part describes the provisions of S. 1245.

I. PRESENT LAW

In general: Exemption from tax of interest on certain governmental bonds

Interest on bonds issued by a State or local government to finance governmental activities generally is tax-exempt (Code sec. 103). Interest on private activity bonds is taxable unless a specific exception is provided in the Internal Revenue Code. Private activity bonds are bonds that satisfy one or both of (1) a private business use and private payment test and (2) a private loan test. Private activity bonds qualifying for tax-exemption include exempt-facility bonds, small-issue bonds, qualified mortgage bonds and qualified veterans' mortgage bonds, qualified 501(c)(3) bonds, qualified student loan bonds, and qualified redevelopment bonds.

Exempt-facility bonds are bonds used to finance airports, docks and wharves, mass commuting facilities, water-furnishing facilities, sewage disposal facilities, solid waste disposal facilities, qualified hazardous waste disposal facilities, facilities for the local furnishing of electricity or gas, local district heating or cooling facilities, or qualified multifamily residential rental projects.

Except in the case of mass commuting facilities, as defined below, tax-exempt bonds may not be issued to finance any rail facilities.

Special rules applicable to exempt-facility bonds issued to finance certain transportation facilities

Special rules apply to exempt-facility bonds issued to finance airports, docks and wharves, and mass commuting facilities. All property financed with exempt-facility bonds for airports, docks and wharves, and mass commuting facilities must be owned by a governmental unit. In addition, while private activity bonds generally do not qualify for tax-exemption if 25 percent or more of the proceeds of the issue are used to acquire land, an exception is provided for land acquired in connection with an airport, mass commuting facility, or dock and wharf. In these cases, if the acquisition is for noise abatement or wetland preservation purposes, or for future use as an airport, mass commuting facility, or dock and wharf, and there is no other significant use of such land, the land is disregarded in applying the 25-percent limitation.

Qualifying property.--Training and storage facilities directly related to an airport, dock and wharf, or mass commuting facility are treated as part of the qualifying facility. However, the following types of facilities do not qualify to be financed as part of these transportation facilities if they are to be used for a private business purpose: (1) lodging facilities; (2) retail facilities located in a terminal, if the facilities are in excess of a size necessary to serve passengers and employees at the transportation facility; (3) retail facilities (other than parking) for passengers or the general public located outside the terminal; (4) office buildings for individuals who are not employees of a governmental unit or of the public airport, port, or mass commuting operating authority; and (5) industrial parks and manufacturing facilities.

Mass commuting facilities eligible for tax-exempt financing include real property (including terminals), machinery, equipment, and furniture serving bus, subway, rail, ferry, or other business commuters on a daily basis, and related storage, training, and repair facilities. Thus, as stated above, mass commuting facilities generally do not include railroad facilities providing intercity and interstate services. In the legislative history accompanying the Tax Reform Act of 1986, the House and Senate conferees noted that there was no intent to prejudge the possible need in the future to allow tax-exempt financing for high-speed rail systems.

Vehicles are not included in the definition of mass commuting facilities, and do not otherwise qualify for exempt-facility bond financing. Accordingly, rolling stock, airplanes, and ships are ineligible for tax-exempt financing.[2]

State private activity bond volume limitations

In general, the amount of tax-exempt private activity bonds that may be issued annually by any State (including local governments within the State) is limited to the greater of (1) $50 for every individual who is a resident of the State or (2) $150 million. Bonds subject to this limitation include most private activity bonds for which tax-exemption is permitted, and the private use portion (in excess of $15 million) of governmental issues.

Although the annual volume limitation applies to exempt-facility bonds issued to finance mass commuting

facilities, it does not apply to bonds used to finance airports and docks and wharves. Congress exempted airports and docks and wharves from the State volume limitations on the basis that, in the case of these large transportation facilities, the use and benefits of the facilities are likely to be enjoyed by a substantial number of persons who are not residents of the State in which the facilities are located; it was therefore considered inappropriate to require that all of the bonds used to finance such facilities be financed from any one State's volume limitation.

II. DESCRIPTION OF S. 1245

Explanation of Provisions

S. 1245 would create a new category of exempt-facility bonds: bonds to finance intercity high-speed rail facilities. The bill would require that the trains be capable of operating at speeds in excess of 120 miles per hour in order to qualify as high-speed.[3] The bill would require that to be qualified exempt facilities the trains must provide passenger and baggage service between metropolitan statistical areas (as defined by the Secretary of Commerce).

If qualified, the proceeds of the bonds could be used to construct or purchase roadbed, rolling stock, passenger terminals, passenger parking lots, siding tracks, storage sheds, and training facilities. The bill also would permit the bonds to be used to purchase additional land for rights of way. Bond proceeds used for the passenger terminal could not include expenditures for any lodging facility. Retail facilities not in excess of a size necessary to serve passengers and employees at the terminal could be financed with these bonds. Bond proceeds used for the terminal could not include expenditures for office space for individuals who are not employees of a governmental unit or of the operating authority for the intercity high-speed rail facility.

In addition, the bill would exempt high-speed rail bonds issued from the State private activity bond volume limitations.[4]

Effective Date

The provisions of the bill would apply to bonds issued after September 30, 1991.

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[1] This document may be cited as follows: Joint Committee on Taxation, Description of S. 1245 (Tax-Exempt Bonds for High-Speed Rail Projects) (JCX-6-88), March 22, 1988.

[2] A prior-law exception permitting tax-exempt financing of vehicles used in mass commuting expired at the end of 1984.

[3] As introduced, the bill does not require that vehicles actually be capable of operating at speeds in excess of 120 miles per hour on the particular roadbed being financed by the proceeds of the bonds. Presumably, it was intended that a system will qualify for tax-exempt financing only if its trains are capable of sustaining speeds in excess of 120 miles per hour on some significant portion of the tracks on which they operate.

Amtrak currently operates its AEM-7 electric passenger locomotive at speeds of 125 miles per hour in the Northeast corridor. Amtrak also operates P40PH diesel-electric engines which under standard gearing configurations operate at speeds in excess of 100 miles per hour, but which can be geared to operate at speeds in excess of 120 miles per hour. See, Association of American Railroads-Mechanical Division, The Car and Locomotive Cyclopedia of American Practices (Omaha: Simmons-Boardman), 1980.

[4] Thus, these facilities would be the only privately owned facilities permitted to be financed outside these volume limitations.

STATEMENT OF ROBERT W. BLANCHETTE

BEFORE THE

UNITED STATES SENATE

COMMITTEE ON FINANCE

MARCH 24, 1988

Mr. Chairman and Members of the Committee, thank you for the opportunity to express my views on the need for and desirability of Federal tax exemption for bonds issued to construct high speed rail facilities in the United States, and more particularly in Florida.

By way of background and introduction, let me say that a good part of my legal and business experience has involved the quest by Americans for adequate and efficient rail passenger service in our densely populated corridors.

From 1962 to 1968, I served as General Counsel for the former New York, New Haven and Hartford Railroad, at the time one of the most important commuter and intercity passenger rail carriers in the Northeast. In 1960, the New Haven was forced to seek refuge under the bankruptcy laws owing in principle part to the actions of public authorities, both state and Federal, in providing infrastructure support for its freight and passenger competitors. As part of the attempt to rescue the New Haven, President Johnson authorized a measure of support for a new experimental high-speed concept, the Turbotrain. The train, manufactured by a predecessor of United Technologies, was essentially a research and development project. The prototype model was brought too soon into revenue service and, because it had not been adequately tested, was not a commercial success.

The New Haven's services were eventually included as part of the merger which created the Penn Central Railroad. That company became the largest rail passenger carrier in America. In addition to its important commuter operations, it operated the highly travelled Metroliner service between New York and Washington. The original Metroliner cars, much like

the Turbotrain, were brought into service before adequate testing could be done and never reached their high-performance potential.

Again, because of public subsidies to its competitors, the Penn Central also failed and I was called in as counsel and later as trustee to reorganize the company between 1970 and 1978.

Because of their importance to the American economy, Penn Central's services could not be liquidated and were ultimately nationalized. The freight services were transferred to Conrail; the intercity passenger operations, principally the Northeast Corridor, were conveyed to Amtrak, and state authorities finally assumed responsibility for the commuter operations.

Between 1981 and 1983, I was honored to be appointed, and confirmed by the Senate, as Federal Railroad Administrator. My principal duties were the privatization of Conrail and the completion of the Northeast Corridor Improvement Project, pursuant to which over $2 billion in Federal funds has been spent to rehabilitate the Washington-Boston rail corridor. Between New York and Washington, speeds up to 125 miles per hour - conventional speeds by European standards - are now attainable.

I am now a practicing attorney and represent the manufacturers of the French very high-speed train, the TGV (train a grande vitesse). This train holds the world's speed record at 236 miles per hour and is an outstanding commercial success in Europe. It has been in service since 1981, operating at a cruising speed of 170 miles per hour between Paris and Lyon. Because of its success, the TGV will soon serve the Atlantic Coast, the Paris to London market and Northern Europe. The new generation train, recommended for Florida, will cruise at 185 miles per hour. In North America, the manufacturers of the train will be Bombardier, North America's largest manufacturer of rail transit vehicles, and Alsthom of France, the world's largest manufacturer of rail equipment.

Among the most promising corridors in the United States is that which would serve the populous corridor linking the Tampa, Orlando and Miami areas. My own clients have been studying this Corridor for some five years.

In my judgment, Florida has the best chance I know of to avoid the mistakes of the past. In various capacities, I have worked for over 25 years to preserve and improve essential rail facilities in the Northeast. None of the essential services carried on by the New Haven and the Penn Central has disappeared; despite decades of public neglect and favoritism to other modes, these services continue. Their preservation has been unnecessarily expensive: by 1983, the Conrail venture had cost the Federal taxpayer over $6.7 billion, the Northeast Corridor $2.19 billion.

Florida has the chance to do things right. It need not comb through the wreckage of failed enterprises for a solution to its infrastructure problems. It need not launch crash programs to find state-of-the art technology. Everything is in place. I attach an op-ed piece I recently did for a local Florida newspaper on this subject.

As has been noted, tomorrow will culminate six years of intensive study by public and private bodies in Florida. Submissions will be filed with the Florida High Speed Rail Transportation Commission to provide high-speed rail service between Tampa, Orlando, and Miami. This is the long-awaited conclusion of the first phase of a process which was begun when Senator Graham, then Governor, appointed a Committee to investigate the feasibility of high speed rail in Florida. In the course of these activities the Governor found time to visit France and ride the TGV, even getting a unique perspective from the engineer's cab at 170 miles per hour.

The TGV will figure prominently in the presentations submitted to the State of Florida tomorrow. Alsthom and Bombardier, Inc. are leading a group of firms with substantial experience in railroad planning, engineering, financing, and construction. These firms include DeLeuw Cather & Company, URS Consultants, Dames & Moore, Lone Star Industries, and Banque Paribas, and are supported by the technical expertise of the French National Railroads, Peat Marwick Main, and Scully Capital Services.

From the possible high speed rail routes, the TGV team has studied a wide range of choices available to the State; three are worthy of further consideration by public bodies. The attached map shows these three routes.

The Coastal Route, an electrified 185 mile-per-hour option, is shown in blue. This route most closely approximates the Paris-Lyon corridor in

France which has spurred the spectacular success of the TGV technology in Europe. It would be completely separated from highway crossings on the high-speed segments and would conservatively carry about 5.8 million passengers by the end of the century. Construction of the route would create some 4,500 new jobs. This route would serve the rapidly growing Coastal areas north of West Palm Beach, in addition to the major urban centers. It would appear to serve the greatest public need in terms of reaching the growing coastal area.

The CSX Route, shown in the map in green, follows the existing rail corridors between Miami, West Palm Beach, Orlando and Tampa. It is a low-speed route, with speed limited for the most part to 90 miles per hour. Two million passengers a year would use the route. It would be best served by turbine-powered technology.

The Intermediate Route, shown in red on the map, lies between the Coastal and CSX Routes, and is the fastest route. It would offer 185 mile-per-hour electrified service with complete grade crossing separation. It would serve 5.9 million passengers after four years of operation. It would appear to be the most financially viable route.

Passenger revenues from each of these routes would cover their operating costs, and in the case of the Coastal or Intermediate Routes, would create a substantial surplus to contribute toward the cost of infrastructure. However, the private sector cannot fully finance the entire project, as originally envisaged in the 1984 Florida High Speed Rail Act.

Florida's 1984 Act sought to maximize the role of the private sector in the funding and operation of the high-speed rail system. To this end, the state offered a number of inducements to lower the cost and make it easier for the private sector to participate. One of the most important inducements included in the Act is authority for the State to issue Federally tax-exempt bonds to finance construction of the rail line. As you know, the ability to issue such bonds on behalf of this kind of public infrastructure project was negated by the Tax Reform Act of 1986.

The removal of this authority immediately made the financing of high-speed rail in Florida much more difficult. Our financial analyses show that the enterprise would have to pay an additional $1 billion in financing

costs over a 30 year bond issue as a result solely of the removal of Federal tax exemption. While this in and of itself is not the only reason why a fully private high speed rail system cannot be built in Florida, it is a major obstacle.

The nature of the problem is pointed up by a story which appeared in yesterday's editions of the Washington Post. It was reported that the newly created Metropolitan Washington Airports Authority had just arranged to sell its first $125 million in bonds to finance the start of its renovation of National and Dulles International airports. These airports, until recently wards of the Federal Government, are now owned by the Authority.

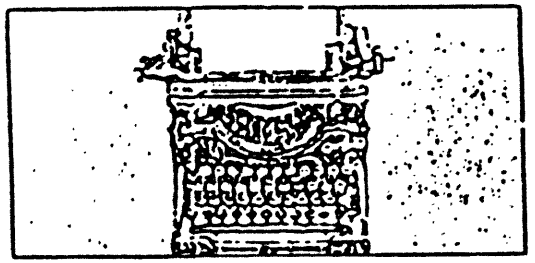
The newsworthiness of the story was not that tax-exempt bonds for an airport program were being issued. That was taken for granted. The story was that the bonds would carry a triple-A rating and earn interest at an average rate of 8 per cent.

The merit of S.1245 is that it would offer, at long last, parity for rail infrastructure. High-speed rail in Florida is essential if airport congestion and the need for additional slabs of concrete are to be meaningfully alleviated.

The State of Florida can be a centerpiece of constructive involvement between the public and private sectors in building this Corridor. The Federal Government is an essential component of the equation and S.1245 can be a major catalyst in bringing this Corridor into being.

I should be pleased to answer your questions.

Private-public mix will put high-speed rail on track



My Word

ROBERT W. BLANCHETTE

In an era when we are desperately trying to enhance U.S. industrial competitiveness, the adequacy of our transportation system to move people and goods efficiently is an economic concern of the first priority.

Deficiencies in our transportation system are very apparent. Our highway system is crumbling. Our air traffic control system is burdened beyond capacity. Our privately owned freight rail system is marginally viable.

If these issues are of concern to the nation, their solution is imperative to Florida. Since 1982 private and public organizations studied the role that high-speed rail could play in meeting Florida's transportation needs. A 1983 federal feasibility study concluded that there was a "match" between high-speed rail and the transportation market in a 300-mile corridor linking Tampa, Miami and Orlando.

Among the many goals that this transportation corridor can serve are growth management, coordinated transportation planning by state, county and local agencies, reduction of costs for acquisition of rights of way, and protection of the environment through such mechanisms as cluster development and transfer of development rights.

The Florida High Speed Rail Act of 1984 created a commission and set up a process by which a high-speed rail system contract could be awarded. The success of the effort is dependent on efforts involving Florida, the federal government and the private sector.

Since the commission was created, the federal part of the early equation has changed. The Tax Reform Act of 1986 eliminated the possibility of financing through tax-exempt revenue bonds. It also has become evident that a high-speed rail system cannot be built solely in the private sector but will emerge as a result of a new private-public partnership.

If high-speed rail is to become a reality in Florida, these problems must be addressed. Scaling down the project from a state-of-the-art technology to something approaching an Amtrak-type of service would totally compromise the viability of the system.

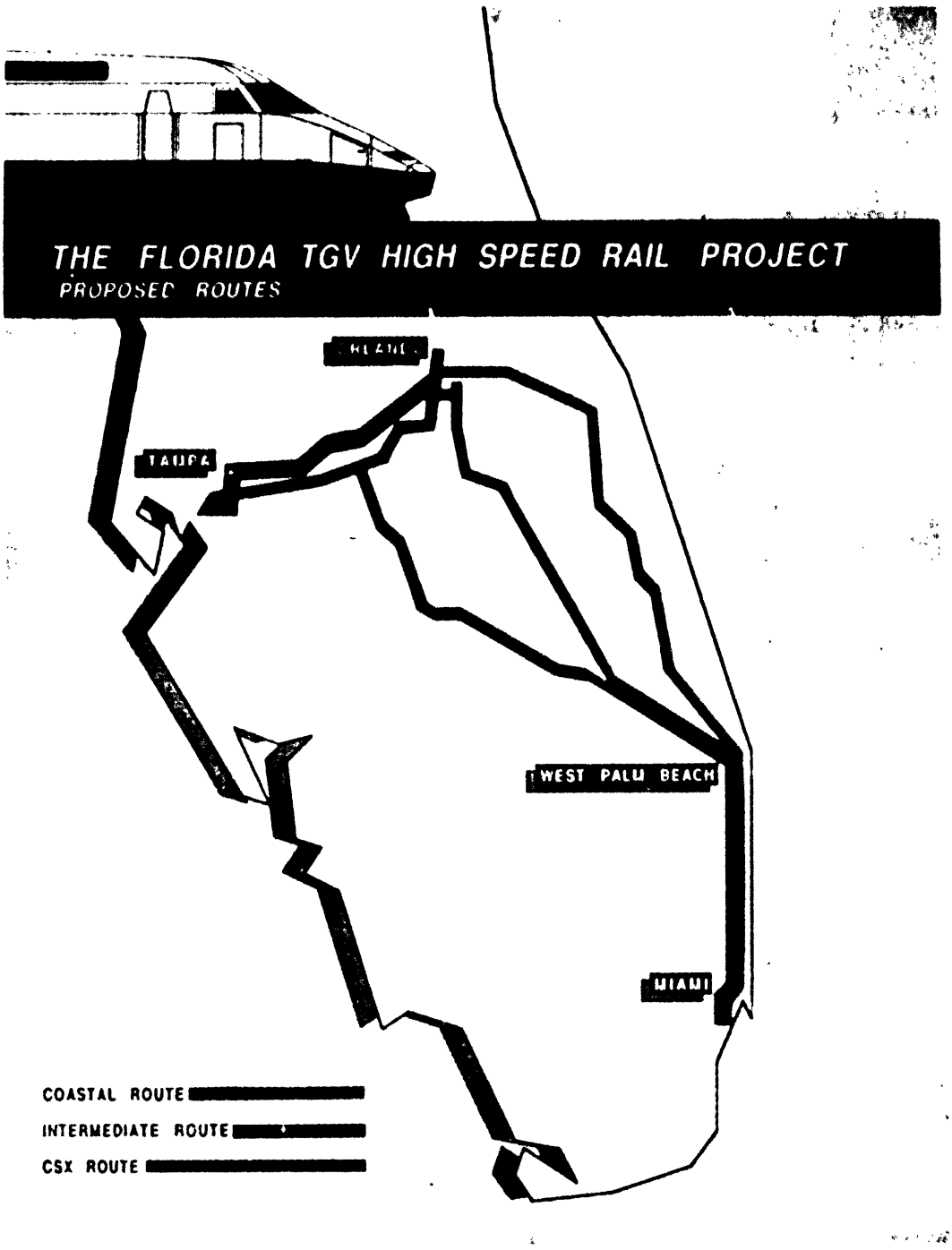
A transportation corridor would promote growth management. The rail system does not dominate the corridor, but serves it. It does so only because cost, environmental and other public policy considerations call for steel rails and not concrete or tarmac. If this is recognized, and the political will and leadership exist, we can ensure that the mix of private-public sector involvement is a success.

At the very least, the public sector must bear the cost of ensuring a safe system. It is also the responsibility of the state to see that the rail system serves the right corridor and that the public interest does not become the expendable pawn of private economic self-interest. This may require a land acquisition program to secure the best corridor routes.

An economy that cannot move its people or its products effectively will choke on its own growth. High-speed rail will ensure that won't happen in Florida. The challenge is the management of the private and public sector mix. Florida's economy is inextricably linked to whether the challenge is met, and how.

Robert W. Blanchette is chairman and chief executive officer of the TGV Co., operator of the French high-speed rail system.

46


THE FLORIDA TGV HIGH SPEED RAIL PROJECT
PROPOSED ROUTES
TAMPA
WEST PALM BEACH
MIAMI
COASTAL ROUTE
INTERMEDIATE ROUTE
CSX ROUTE

Statement

of

David Blumberg

Mr. Chairman and Members of the Committee:

We appreciate the opportunity to testify in support of S. 1245, legislation authorizing states to issue tax-exempt bonds for high-speed rail transportation facilities.

S. 1245 would extend your decisions in the Tax Reform Act of 1986 concerning tax-exempt financing for highways, airports and seaports to an alternative transportation mode -- high-speed intercity passenger rail systems capable of providing service in high-density traffic corridors at speeds above 120 mph and extending possibly to over 300 mph. Our Commission strongly supports this legislation as does the High Speed Rail Association which represents other states interested in developing high-speed rail systems.

Today's hearing truly will be a milestone event in the history of high-speed rail technology within United States. At issue is whether the Federal Government will have an opportunity to assist state governments in constructing one or more high-speed rail systems, through access to tax-exempt financing and not through direct Federal construction grants that have typically been used.

At the state level, the issue of project size -- specifically the large amounts of capital required for a high-speed rail project -- is critically important to the viability of high-speed rail. Current state volume caps on tax-exempt issues would preclude all private sector involvement in high-speed rail projects because the projects' large capital requirements alone would exhaust the state caps. Similarly, the magnitude of the capital requirements for a high-speed rail system by itself might move some interest rates higher and thereby make these worthy projects still more difficult to finance.

Because of the investment risks -- the absence of a track record for high-speed rail technology within the United States and the likelihood of up to a dozen years of high-speed rail operations without any return on investment -- states and private enterprise may be unable to attract adequate capital without the support of Federal tax-exemption.

Thus today's hearing will have an impact on the ultimate success of the Florida High-Speed Transportation project in the mid-1990's and, as a practical matter, may determine whether feasibility studies are undertaken for other state-of-the-art high-speed rail projects in other states.

1. FLORIDA'S CONCLUSION: STUDIES DOCUMENT THE FEASIBILITY OF HIGH-SPEED RAIL AS A VIABLE TRANSPORTATION ALTERNATIVE, BUT WITH STATE RIGHT-OF-WAY AND FEDERAL TAX EXEMPT BOND FINANCING ASSISTANCE NEEDED

The State of Florida has been involved for many years in studying high-speed rail and has concluded that this technology can provide an energy-efficient cost-effective public transportation alternative in the 21st Century to more highways and continuing airport congestion in the nation's fourth largest and the fastest growing state.

The State, pursuant to the Florida High-Speed Rail Transportation Commission Act of 1984, intends to develop jointly with the private sector a state-of-the-art high-speed rail passenger transportation system by 1995, connecting major population centers within the state and proportionately reducing the requirements for other modes of tax-supported public transportation infrastructure. That State legislation also made explicit that any rail system must be the result of a unique public/private joint partnership since Federal and State grants could not be expected.

Our seven-member Commission was also created by that 1984 legislation and is authorized to award a franchise for the financing, construction and operation of a high-speed rail system in the state, including at least the 325-mile Tampa-Orlando-Miami corridor.

A 1984 feasibility study financed by the Federal Railroad Administration documented that a considerable market for high-speed rail existed in the Tampa-Orlando-Miami corridor for trips longer than 85 miles. The report concluded that revenues from system operations could cover 100% of operations and up to 40% of capital costs, depending upon the rail technology and routes utilized.

The results of that 1984 consultant's feasibility study subsequently convinced the State that high-speed rail offered: (1) an ability to influence growth patterns within Florida; (2) lessened environmental impacts than for highway alternatives; and (3) safety and reliability statistics better than for travel by car or plane. We have also estimated that high-speed rail will obviate the need for over 300 lane miles of highways by the year 2020 at a savings of some $925 million.

Some State and Federal Assistance Will Be Needed

Since the fare box cannot initially cover all capital costs, the Florida law anticipates that the balance of the needed risk capital will be backed up by real estate development rights along the high-speed rail corridor, Federal tax-exempt bonds and by the assets of the private sector franchisee.

The State of Florida can help the project by allowing the franchisee to secure its needed state and local permits through a one-stop permitting process; by making available existing publicly-owned lands and rights-of-way, along highway and rail lines, and by authority to use eminent domain for acquisition of other rights-of-way to the extent necessary.

Wide Range of Technology May Be Available in Florida

The Commission has encouraged high-speed rail proposals from applicants with all types of high-speed rail technologies that are capable of running at speeds of 120 miles per hour or greater. Note that the higher the speed of the technologies proposed, the higher the capital costs of the proposed systems:

-- State-of-the art electrified system. These are represented by the TGV type of technology in commercial operation in Paris-Lyon service since 1982 (Train a Grande Vitesse) and in Japan since 1964, both with perfect safety records; 140-180 mph capability with estimated construction costs of $2.7 billion. These systems can operate on exclusive electrified routes or in conjunction with other trains on existing tracks.

-- Magnetic levitation (Maglev), technology still in the developmental stage by American, Japanese and German groups that is expected to be perfected by the end of this decade: 250 mph capability with estimated construction costs of $5.0 billion. These systems operate on guideways equipped with electro-magnetic propulsion.

-- Conventional diesel-electric or turbo trains. These trains use high tech, energy efficient engines designed to operate over existing rail lines. The French built ANF turbo train and the Canadian LRC are examples of these systems that currently provide service in the U.S. and Canada. Estimated costs would be $2.2 billion.

Our Commission must be satisfied that the successful applicant for the franchise has all the financial resources necessary to build and operate the system and that the applicant's plan is sound and desirable. Otherwise the Commission can decide not to award any franchise.

Applications for Florida Franchise Are Due March 25, 1988

March 25, 1988 is the deadline for prospective applicants for the Florida High-Speed Rail franchise to submit to us in Tallahassee their initial applications indicating their capital financing plans, rail technology, proposed route alignments and environmental and real estate proposals.

Five private sector companies involving all technology options have applied to develop proposals in response to the Commission's Request for Proposals. In actuality, these submissions represent several years' work by these private sector

teams that are interested in assuming the risks and opportunities of providing a public transportation system in Florida without Federal grants or other public funding.

Over the next three years the Commission will carefully analyze the applications under a very stringent and comprehensive review process established by state law. The current schedule anticipates the award of the franchise in 1991 with initial high-speed rail operations beginning in 1995.

Tax-Exempt Bonds Needed to Help Reduce Financing Costs

The Commission will need to know soon whether the Federal Government will provide support in the development of high-speed rail systems because this information is critical to the Commission's analysis of each applicant's financial plan.

As noted earlier, S. 1245 proposes that Federal assistance to high-speed rail transportation systems be made available not through any new or existing grant-in-aid program but by the Congress making tax-exempt bonding authority available to States outside the state cap under certain conditions for the public infrastructure portions of high-speed rail systems.

Mr. Chairman, prospective applicants have already advised us that tax-exempt financing will likely prove essential to achieving a state-of-the-art high-speed rail system in Florida involving private sector investment and operation. In fact, the absence of any assurance of Federal tax-exemption was cited by one prospective applicant as a major factor in its decision to no longer compete independently for the franchise but to join another applicant's team.

Later witnesses will provide more detail on the need for this type of Federal assistance to help reduce the financing costs for any state-of-the-art high-speed rail system.

2. PUBLIC POLICY ISSUES: S. 1245 PROVIDES SUBSTANTIAL PUBLIC BENEFITS TO THE NATION AND SHOULD BE ENACTED AS SOON AS POSSIBLE

The Commission believes that S. 1245 should be enacted soon because it advances public policy in four important ways:

a. High-Speed Rail Projects Would Foster High Technology Development Within United States

High-speed rail technology has been developed or applied to date only outside the United States (Canada, France, Great Britain, Japan, South Korea, Spain, and W. Germany). S. 1245 would facilitate the application of state-of-the-art high-speed rail technology within the United States by U.S. corporations. Future applications could increasingly rely on domestic innovation.

Too often our international trading partners seem to apply technology developed within the United States and reap the economic benefits of mass production and sales. In this instance, high-speed rail technology developed in other countries is available for domestic application, and will help over time our balance of trade problems while advancing our technological skills.

b. Eligibility of High-Speed Rail Projects for Tax-Exempt Bonds Will Allow a State to Choose the Most Appropriate Transportation Mode for Its Needs Without Regard to Tax Code Provisions

To allow certain forms of public purpose transportation infrastructure to have access to lower cost tax-exempt financing (highways, roads, airports and seaports) while denying similar benefits to more efficient alternatives (such as high-speed rail) could cause distortion in state and national decision making on transportation services and facilities.

S. 1245 would allow high-speed rail systems also to have access to the tax-exempt financing markets. This would enable governments to chose the most appropriate mode of transportation technology for their needs in each instance without considering whether tax code provisions would cause sharp variations in financing costs.

c. S. 1245 Would Provide Incentives for Public Transportation Infrastructure Without Regard to Federal Grants

Because of the financial pressures on the unified Federal budget, the Federal Government has been reducing its percentage

share of total transportation and public works project expenditures for some years.

S. 1245 proposes no Federal grant program for the development, construction or operation of high-speed rail systems, in contrast to other transportation options: highways, roads, airports and mass transit. This legislation recognizes the new fiscal realities and would limit Federal assistance to tax-exempt bond eligibility for certain high-speed rail project elements.

d. Private Sector Involvement in Providing Public Transportation Infrastructure is Beneficial and Can Help Assure the Cost Effectiveness of Such Projects

S. 1245 would allow states to enter into partnerships with the private sector to undertake public transportation projects. Under the State of Florida's High-Speed Rail enabling Act, for example, the private enterprise companies that apply for the state's franchise will determine by their decisions, and with their own funds, whether the high-speed rail project ultimately would be a good use of their risk capital. Since their own private capital is at risk, applicants will also determine route alignments, station locations, levels of service and other operational factors.

Greater involvement of private enterprise in providing facilities needed by government will be an increasing trend over time as fewer Federal funds for public infrastructure are available. This may also serve to protect against uneconomic projects being seriously advanced by governments or at least serve to make subsidy levels explicit.

3. TAX POLICY ISSUES: S. 1245 ALLOWS TAX-EXEMPT BONDS ONLY FOR PUBLIC TRANSPORTATION ELEMENTS OF HIGH-SPEED RAIL PROJECTS; STATE VOLUME CAPS WOULD NOT APPLY

The introduced legislation would establish a new category of exempt facility bonds for the public transportation elements of high-speed rail projects; would allow those bonds to be issued outside state volume caps; and would permit these public

infrastructure projects to be undertaken through public-private partnerships of state agencies and private corporations.

All three of these elements are necessary to effective legislation:

a. Exemption from Volume Cap on Private Activity Bonds

The 99th Congress restricted the future volumes of most categories of private activity bonds to a statewide ceiling equal to $50 per resident for bonds issued after 1987 but wisely excluded highway, airport and seaport bonds from this volume cap.

This 100th Congress should similarly exempt state-authorized high-speed rail system bonds from any state volume caps. The sheer magnitude of high-speed rail system bonding requirements would preclude virtually all other projects from being undertaken during those same years within that state.

For example, the $50 per resident formula provides a volume cap for the State of Florida and all its political subdivisions of but $600 million in 1988, with future increases only in direct proportion to population increases.

Assuming Florida selected a mid-range (160 mph) technology with 75% of total capital development eligible for tax-exempt financing over a four-year issuance period, Florida's high-speed rail system would need virtually all of the entire state's volume cap during that period. Such an option is neither feasible nor practicable and would preclude the development of all high-speed rail systems that seek to involve the private sector.

In addition, while the Florida high-speed rail project would benefit the state as a whole, some localities that would be impacted by the proposed route alignment for the project might have leverage to oppose the entire project obliquely through the state volume cap allocation process rather than directly on its merits.

Congress should continue to specifically exempt from state volume caps any transportation projects that by their magnitude

would distort overall state priorities if volume caps were to be applied -- provided there is adequate public scrutiny of the underlying merits of those projects through other processes.

In this regard, large-scale transportation projects are always sufficiently controversial that the governmental approval process provides adequate public scrutiny. Subjecting these projects to state volume cap allocation processes as well could prevent projects of considerable importance to an entire region's transportation system from ever being undertaken.

b. Public/Private Sector Partnerships in Lieu of Public Ownership

Most categories of exempt facilities that are currently eligible to be financed with tax-exempt securities under the Internal Revenue Code of 1986 may be privately owned. However, under current law all transportation facilities are required to be publicly "owned" to be financed with tax-exempt securities.

S. 1245 proposes a minor change to current law to allow high-speed rail systems to be privately owned so long as the transportation facility to be financed by tax-exempt securities is open for public use and serves a public transportation purpose. This will provide more than adequate assurance that the public interest is being served, particularly when commercial development projects connected to high-speed rail projects explicitly may not be financed through tax-exempt offerings (see below).

c. No Tax-Exemption for Commercial Development Projects Connected to High-Speed Rail Systems

S. 1245 would apply to high-speed rail projects the same eligibility requirements that the 99th Congress applied to other transportation facilities. The Congress acted to assure that the proceeds of tax-exempt bonds would not be utilized inappropriately to support commercial development projects.

Similarly, S. 1245 would preclude the tax-exempt financing of hotels, retail facilities in excess of the size needed for passengers and employees at the high-speed rail facility, certain

office buildings, industrial parks and manufacturing facilities. These facilities and other "ancillary projects" made possible by land purchases and state and local governmental donation of land along the high-speed rail corridor could be financed only with taxable securities.

d. High-Speed Rail Systems Would Substitute for Other Transportation Projects Already Eligible for Tax-Exempt Financing

If S. 1245 is enacted, Florida's tax-exempt high-speed rail system bonds would largely substitute for other forms of tax-exempt transportation securities that would have provided a similar amount of passenger-carrying capacity in the same corridor. As noted earlier, a preliminary analysis conducted by Florida DOT estimates that ridership on a high-speed rail system serving the Tampa-Orlando-Miami corridor could substitute for more than 300 lanes miles of freeway construction in that same corridor.

4. CONCLUSION: THE BENEFITS THAT WILL ACCRUE TO THE NATION FROM THE APPLICATION OF STATE-OF-THE-ART HIGH-SPEED RAIL TECHNOLOGY AMPLY JUSTIFY THE MINOR CHANGES IN TAX LAWS THAT WILL BE REQUIRED; CONGRESS SHOULD ACT AS SOON AS POSSIBLE TO PROVIDE GUIDANCE TO THE STATE OF FLORIDA AND THE APPLICANTS FOR ITS HIGH-SPEED RAIL FRANCHISE

In our view, Congress should act this Session to make Florida and other states' high-speed rail systems eligible for tax-exemption along the lines proposed in S. 1245. Legislative action would place this promising but challenging alternative mode of passenger transport on an even footing with more traditional modes of transportation. Finally, Congress' early decision would provide needed guidance to our Commission and Florida's applicants for the nation's first high-speed rail system.

Thank you. My colleagues and I would be pleased to respond to your questions.

STATEMENT OF

RICHARD A. GEIST

Mr. Chairman and Members of the Committee, my name is Richard A. Geist, and I am submitting this Statement in my capacity as chairman of the High Speed Rail Association and chairman of the Pennsylvania High Speed Intercity Rail Passenger Commission. By training and occupation I am a professional engineer. I am also a member of the Pennsylvania State Legislature.

The High Speed Rail Association, a nationwide group, is devoted to advancing the design, development, and construction of high speed rail passenger systems across the United States. The financial community, manufacturers, the engineering, design and other professions, academia, labor unions, the construction industry, materials suppliers, service providers, and national, state and local government officials have all joined forces as members of the Association to promote the growth of high speed rail corridors in this country. The Pennsylvania Commission, which I have chaired since 1982, is working to bring rapid rail passenger service to Pennsylvania and has conducted extensive feasibility and ridership studies of a proposed high speed rail route linking Philadelphia, Harrisburg, and Pittsburgh.

On behalf of the High Speed Rail Association and the Pennsylvania Commission, I appreciate the opportunity to submit this Statement to your distinguished Committee. I urge you and the other Members to report favorably on S. 1245, the High-Speed Intercity Rail Transportation Bond Financing Act of 1988.

S. 1245 offers this Committee an opportunity to end an inequity in the Internal Revenue Code and to equalize the tax incentives available for investment in public projects. By authorizing intercity high speed rail systems as exempt public facilities for which states may issue tax-free industrial development bonds, S. 1245 will more fully conform the language

of Section 142 of the Internal Revenue Code to its statutory purpose. Passage of S. 1245 will also help fulfill the mandate of the Tax Reform Act of 1986 by distancing the Federal government from the public investment decisions of state and local governments. Most importantly, enactment of this legislation will help this country to meet the growing demand for mobility in the 21st century.

This country faces a transportation crisis. By the year 2000, according to the National Transportation Policy Study Commission, passenger transportation demand in the United States will almost double that of 1980. More airport runways, more air traffic control facilities, and more lanes of interstate highway will inevitably need to be planned, financed, and constructed.

High speed rail corridors linking major metropolitan centers 200 to 500 miles apart offer an alternative to our increasingly congested transportation modes. Passenger trains move people more rapidly and efficiently than automobiles. They are safer than airplanes; the Japanese Bullet Train, for example, has carried more than two billion passengers without a single fatality since beginning revenue service in 1964.

Transporting riders from city center to city center, high speed trains traveling 180 miles per hour will help relieve highway and air traffic congestion for intermediate trips such as Houston to Dallas and Chicago to Detroit. And, with recent advances in superconductivity, magnetic levitation technology which suspends trains "flying" just millimeters above the tracks promises to revolutionize transportation as we know it today.

Plans for a few of these corridors are already well advanced. In Florida, responses to the Florida High Speed Rail Commission's Request For Proposals are due tomorrow, March 25, 1988. Nine applicants are seeking an opportunity to apply for a franchise (one with a reported 8,000-page submission) to build a high speed rail network linking Tampa, Orlando, and Miami for projected operation by the mid-1990s. For the privilege of

submitting an application each applicant must pay $635,000. The nine applicant teams vying for the franchise rights include nearly 50 corporations and professional firms of diverse and substantial expertise. The March issue of SPEEDLINES, a copy of which has previously been presented to you, details the composition of these applicant teams.

In Pennsylvania, the Pennsylvania High Speed Intercity Rail Passenger Commission has completed a market demand study which shows that more than 8 million passengers per year will ride a proposed magnetic levitation service between Pittsburgh and Philadelphia. Last year, a major high speed consortium presented a comprehensive technical report to the Texas Turnpike Authority on the feasibility of developing a high speed rail network in that state commencing with Houston, Dallas, and Fort Worth. Other potential corridors, including Las Vegas-Los Angeles, Cleveland-Columbus-Cincinnati, Chicago-Detroit, and the Northeast Corridor are also developing high speed plans. Total investment in this new industry (which utilizes the same road construction infrastructure as the interstate highway network) is estimated at potentially over $100 billion dollars.

While the private sector has taken the high speed rail movement far in just a few short years, without public backing its effort may not bear fruit. No mode of transportation in this country -- from canal boats to airplanes -- has succeeded based entirely on private investment efforts. In order to realize the vision of swift rail corridors linking the cities of this Nation, individual States of the United States must have the power to issue revenue bonds for high speed rail projects on which interest is exempt from Federal income tax.

It is for this reason that I am asking for your support. Section 142 of the Internal Revenue Code[1/] is intended to permit States to issue revenue bonds on which interest is exempt from Federal income tax for the purpose of financing facilities intended to benefit the public. Examples of such construction projects now eligible under current law for such industrial

development bond financing include airports, docks and wharves, mass commuting facilities, facilities for the furnishing of water, electric energy or gas, qualified hazardous waste facilities, sewage, solid waste disposal, and local district heating or cooling facilities, and qualified residential rental projects.

High speed rail systems are "public facilities." These trains will be available, by published schedule, to any fare-paying passenger who wishes to ride them. High speed rail systems are exactly the kind of facilities for which the Internal Revenue Code intends States should be permitted to issue Federal income tax-exempt bonds in order to raise funds for construction.

Analysis of the Treasury Regulations of the Internal Revenue Service supports this assertion. According to the regulations setting forth standards applicable to "certain transportation facilities" currently qualifying as exempt facilities under Section 142 of the Code, such facilities "must satisfy the public use requirement . . . of this section by being available for use by members of the general public or for use by common carriers or charter carriers which serve members of the general public."[2/] High speed rail systems meet these standards and clearly resemble the kinds of public facilities intended to receive exempt treatment under Section 142.

A reading of the Tax Reform Act of 1986 confirms this conclusion. In the 1986 Act, Congress eliminated exemptions under the Internal Revenue Code for construction of sports stadiums, convention or trade show facilities, parking garages, and air or water pollution control facilities. Congress concluded that these facilities resembled non-exempt facilities which are "constructed for the exclusive use of a limited number of nonexempt persons in their trades or businesses."[3/] In contrast, high speed rail systems are similar to exempt facilities which "must serve or be available on a regular basis for general public use, or be a part of a facility so used."[4/]

During debate over the Tax Reform Act of 1986, Congress specifically contemplated adding high speed rail systems to the

exempt facilities listed in Section 142 of the Internal Revenue Code. The Conference Report to accompany H.R. 3838, the Tax Reform Act of 1986, states:

> In retaining the present-law definition of mass commuting facilities, as modified above, the conferees do not intend to prejudge the possible need in the future to allow tax-exempt financing for high-speed rail systems in a manner similar to that allowed under the agreement for mass commuting facilities.5/

Thus including high speed rail systems in the list of facilities exempted is harmonious with the statutory framework of Section 142 of the Internal Revenue Code.

Prior action of the Internal Revenue Service is also consistent with this interpretation. In Revenue Ruling 76-11, the Service approved as being within the definition of mass transit facilities to the extent defined in Section 1.103-8(e)(2)(iii) of the Treasury Regulations a monorail rapid transit system "that will provide passenger service for commuting between an airport, hotel, tourist attractions, and a convention center along a prescribed route in the city approximately nine miles in length. . . . The system will operate daily and will have the capacity to serve the general public on a mass scale."6/ This Ruling indicates that the Service has taken a broad view of the kinds of public projects suitable for tax-exempt bond status under the Code.

In the past, Congress has not hesitated to expand or contract the list of public facilities eligible for inclusion as exempt facilities under Section 142.7/ In response to shifting public policy requirements, Congress has sought to ensure that the Internal Revenue Code reflects current national priorities and the emergence of new technology and public demand.

S. 1245 will also advance the legislative goals Congress sought to implement through the Tax Reform Act of 1986. Debate during that bill stressed the importance of eliminating Code inequities which forced investment decisions to be made on the

basis of tax consequences rather than merit. By eliminating tax disincentives for States or other local governing bodies to invest in high speed rail systems, S. 1245 will reduce Federal involvement in state and local decisionmaking, a primary objective of the Tax Reform Act of 1986.

On behalf of the High Speed Rail Association and the Pennsylvania High Speed Intercity Rail Passenger Commission, I urge this Committee to report favorably on the High-Speed Intercity Rail Transportation Bond Financing Act of 1988. S. 1245 is consistent with the statutory purpose of Section 142 of the Internal Revenue Code, it reformulates the language of that section to treat equitably an emerging technology, and it advances the legislative goals of the Tax Reform Act of 1986. Most importantly, this legislation promises to transform high speed dreams into concrete and steel. If enacted into law, S. 1245 will help ensure that this Nation will meet, through the remainder of this century and beyond, the rapidly escalating demand by the American people for transportation and mobility.

In conclusion, Mr. Chairman, I appreciate the opportunity to submit this Statement, and in turn, I would like to invite you and the other Members of this Committee and their staffs to attend the High Speed Rail Association Annual Convention to be held in Washington, D.C. from May 31, 1988 to June 3, 1988. Attendance at the Convention will provide you with a convenient opportunity to learn more about our industry by meeting its leaders and seeing the exhibits showcasing the available and coming technologies of the future.

Thank you very much.

1/ 26 U.S.C. § 142. The Tax Reform Act of 1986, Pub. L. No. 99-514, 100 Stat. 2085 § 1301 (1986) added a new § 142 to the Code to replace former § 103.

2/ Treasury Regulation § 1.103-8(e). Although 26 U.S.C. § 142 replaced former Code Section 103, these Treasury Regulations remain the most recent Service interpretation of the industrial development bond provisions and are valid for that purpose.

3/ Treasury Regulation § 1.103-8(a)(2).

4/ Id.

5/ H.R. CONF. REP. NO. 841, 99th Cong., 2d Sess., 702 at n. 27 (1986).

6/ Revenue Ruling 76-11, 1976-1 CB 30.

7/ The following list of modifications to the industrial development bond provisions of the Internal Revenue Code is not inclusive and is cited for illustrative purposes only:

The Revenue Act of 1971, Pub. L. No. 92-178, 85 Stat. 497 (1971), amended one of the special facility exemptions of former Code § 103 with respect to bond issues used to provide water on reasonable demand to members of the general public. The Revenue Adjustment Act of 1975, Pub. L. No. 94-164, 89 Stat. 970 (1975), added an exception for bonds issued to provide a dam for the furnishing of water for irrigation purposes under certain circumstances. The Revenue Act of 1978, Pub. L. No. 95-600, 92 Stat. 2763 (1978), further expanded the exemption for industrial development bonds issued to furnish local electric power and expanded the definition of exempt water facilities. The Mortgage Subsidy Bond Tax Act of 1980, Pub. L. No. 96-499, 94 Stat. 2599 (1980), restricted the housing special facility exemption to residential property and provided that facilities constructed under this exemption must provide rental housing for families of low or moderate income. The Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. No. 97-248, 97 Stat. 324 (1982), expanded the scope of special facilities eligible for exemption by adding local district heating and cooling facilities and facilities for local furnishing of gas. The Deficit Reduction Act of 1984, Pub. L. No. 98-369, 98 Stat. 494 (1984), restricted acquisition of land to be used in connection with exempt facilities. The Tax Reform Act of 1986, as noted supra, eliminated the facility exemptions for stadiums, convention or trade show facilities, parking garages, and air or water pollution control facilities.

STATEMENT OF PIKE POWERS

ON S. 1245

HIGH-SPEED INTERCITY RAIL TRANSPORTATION BOND FINANCING ACT OF 1988

BEFORE THE SENATE COMMITTEE ON FINANCE

MARCH 24, 1988

Mr. Chairman and Members of the Committee, my name is Pike Powers, and I am appearing here today in my capacity as attorney for the German High Speed Rail Consortium which has actively proposed a High Speed Rail Project for Texas since 1985. We are working with many other interested groups to bring rapid rail passenger service to Texas and have conducted extensive feasibility and ridership studies of a proposed high speed rail route initially linking Houston, Dallas & Fort Worth.

On behalf of the Texas High Speed Rail Project and the High Speed Rail Association, we appreciate this opportunity to appear before your Committee. We urge you and the other Members to report out S. 1245, the High-Speed Intercity Rail Transportation Bond Financing Act of 1988, with a favorable recommendation for passage.

S. 1245 offers this Committee an opportunity to end an inequity in the Internal Revenue Code and to equalize the tax incentives available for investment in public projects. By authorizing intercity high speed rail systems as exempt public facilities for which states may issue tax-free bonds, S. 1245 will more fully conform the language of Section 142 of the Internal Revenue Code to its statutory purpose. Most importantly, enactment of this legislation will enable this country to meet the coming demand for mobility in the 21st century.

The quality of a state's transportation system is an important factor in maintaining a healthy economic and social

environment. The historic growth of Texas' economy and the enrichment of the lives of its citizens has resulted in significant measure from the commitment of its people to a quality integrated transportation network. Texans have consistently expanded and upgraded our public highway system and invested in development of airline and other common carriers to enhance our ability to move people and facilitate commerce between points in our large, diverse state. The result has been vigorous economic and social development. As we contemplate how best to create the state's future from the perspective of our current period of economic and social transition, Texans must examine alternative concepts for improving our condition in all respects. At a time when our country faces a transportation crisis, we must evaluate new technologies in a variety of areas, including our systems of public transportation. A major Texas feasibility study was commissioned by private sources in 1985 and was updated late in 1986 and early in 1987 by my clients. These studies present evidence that the use of existing high speed rail technology to interconnect the Texas metropolitan centers of Houston, Dallas and Fort Worth is technically and financially feasible and that it will have significant positive economic benefits for the state. The proposed Texas High Speed Rail Project will employ existing technology to move people safely on the ground by rail at speeds approaching 200 miles per hour. The concept of high speed rail service between major cities of Texas is strongly supported by the large volume of intercity travel and the present competitive nature of travel, especially in the Houston-Dallas-Fort Worth corridor which was evaluated in this study. Electrically-powered trains with up to ten passenger cars will travel between stations located in Houston, Dallas and Fort Worth, completing the 273-mile trip in less than 130 minutes (100 minutes for the Houston-Dallas segment) from downtown to downtown.

High speed rail corridors linking major metropolitan centers 200 to 500 miles apart offer an alternative to our increasingly congested transportation modes. Passenger trains move people rapidly and efficiently. They are safer than airplanes; the Japanese Bullet Train, for example, has carried more than two billion passengers without a single fatality since beginning revenue service in 1964.

Capital and operating costs for the Texas High Speed Rail Project were established in detail. Capital cost estimates include the initial cost of all work, construction, land purchases, and related activities engendered directly by the Texas High Speed Rail Project. A project as large and diverse as Texas High Speed Rail Project will have a profound impact on the economies of the state and its regions and localities. This impact includes the effects of direct investment during the development stages, the expenditures of ongoing operations, and the effects of associated urban development along the system route.

Financial analysis indicates that the Texas High Speed Rail Project is financially feasible, generating sufficient revenues each year to cover its annual operating costs. Japanese and French High Speed Train operations are profitable. However, the plan of finance upon which Texas High Speed Rail Project feasibility will probably require contributions from governmental and other sources to cover a portion of capital costs in order to reduce debt service expenses in the early years of operation and provide acceptable margins of coverage required by credit markets. The study also describes the use of tax-exempt debt through public ownership of Texas High Speed Rail Project to provide remaining capital requirements of the system.

The Texas Turnpike Authority, under Legislative direction, has recently commissioned an expanded study of the feasibility of high speed rail to serve the "Texas Triangle".

This analysis will be performed by a team of nationally recognized consultants. These engineering, legal and financial firms will be independently reviewing the findings of the previously referenced study of the Fort Worth-Dallas-Houston corridor. In addition, the team retained by the Texas Turnpike Authority will analyze the feasibility of corridors linking Austin and San Antonio with Fort Worth, Dallas and Houston. The findings of this current study will be presented to the 71st Texas Legislature, along with recommended actions by that body, prior to its convening in January 1989. These activities by the private and public sector are visible evidence of Texas' progress in considering the reality of high speed rail service prior to the twenty-first century.

While the private sector has taken the high speed rail movement far in just a few short years,[4] without public backing its effort may be in view. In order to realize the vision of swift rail corridors linking the cities of this Nation, individual States of the United States must have the power to issue revenue bonds for high speed rail projects on which interest is exempt from Federal income tax.

It is for this reason I am here today to ask for your support. Section 142 of the Internal Revenue Code[1] is intended to permit the States to issue revenue bonds on which interest is exempt from Federal income tax for the purpose of financing facilities intended to benefit the public. Examples of such construction projects now eligible under current law for such industrial development bond financing include airports, docks and wharves, mass commuting facilities, facilities for the furnishing of water, electric energy or gas, qualified hazardous waste facilities, sewage, solid waste disposal, and local district heating or cooling facilities, and qualified residential rental projects.

High speed rail systems are exactly the kinds of facilities for which the Internal Revenue Code intends States

should be permitted to issue Federal income tax-exempt bonds in order to raise funds for construction.

Analysis of the Treasury Regulations of the Internal Revenue Service supports this assertion. According to the regulations setting forth standards applicable to "certain transportation facilities" currently qualifying as exempt facilities under Section 142 of the Code, such facilities "must satisfy the public use requirements . . . of this section by being available for use by members of the general public or for use by common carriers or charter carriers which serve members of the general public."[2] High speed rail systems meet these standards and clearly resemble the kinds of public facilities intended to receive exempt treatment under Section 142.

A reading of the Tax Reform Act of 1986 confirms this conclusion. In the 1986 Act, Congress eliminated exemptions under the Internal Revenue Code for construction of sports stadiums, convention or trade show facilities, parking garages, and air or water pollution control facilities. Congress concluded that these facilities resembled non-exempt facilities which are "constructed for the exclusive use of a limited number of non-exempt persons in their trades or businesses."[3] In contrast, high speed rail systems are similar to exempt facilities which "must serve or be available on a regular basis for general public use, or be a part of a facility so used."[4]

During debate over the Tax Reform Act of 1986, Congress specifically contemplated adding high speed rail systems to the exempt facilities listed in Section 142 of the Internal Revenue Code. The Conference Report to accompany H.R. 3838, the Tax Reform Act of 1986, states:

> In retaining the present-law definition of mass commuting facilities, as modified above, the conferees do not intend to prejudge the possible need in the future to allow tax-exempt financing for high-speed rail systems in a manner similar to that allowed under the agreement for mass commuting facilities.[5]

Thus including high speed rail systems in the list of facilities exempted is harmonious with the statutory framework of Section 142 of the Internal Revenue Code.

Prior action of the Internal Revenue Service is also consistent with this interpretation. In Revenue Ruling 76-11, the Service approved as being within the definition of mass transit facilities to the extent defined in Section 1.103-8(e)(2)(iii) of the Treasury Regulations a monorail rapid transit system "that will provide passenger service for commuting between an airport, hotel, tourist attractions, and a convention center along a prescribed route in the city approximately nine miles in length . . . . The system will operate daily and will have the capacity to serve the general public on a mass scale."[6] This Ruling indicates that the Service has taken a broad view of the kinds of public projects suitable for tax-exempt bond status under the Code.

In the past, Congress has not hesitated to expand or contract the list of public facilities eligible for inclusion as exempt facilities under Section 142.[7] In response to shifting public policy requirements, Congress has sought to ensure that the Internal Revenue Code reflects current national priorities and the emergence of new technology and public demand.

S. 1245 will also advance the legislative goals Congress sought to implement through the Tax Reform Act of 1986. Debate during that bill stressed the importance of eliminating Code inequities which forced investment decisions to be made on the basis of tax consequences rather than merit. By eliminating tax disincentives for States or other local governing bodies to invest in high speed rail systems, S. 1245 will reduce Federal involvement in state and local decision making, a primary objective of the Tax Reform Act of 1986.

We would suggest other areas of consideration, in drafting this legislation, that would enhance the opportunity

for High Speed Rail Projects in this country:

- add "transportation of parcels or light freight" to "transportation of passengers and their baggage"

- add availability of accelerated depreciation for facilities "related to" high-speed intercity rail facilities (e.g. lodging facilities, retail facilities beyond direct needs of passengers and employees)

- include obligations to finance high-speed intercity rail facilities within definition of "qualified tax exempt obligations," regardless of principal amount, to encourage purchase by banks

- encourage involvement of experienced transportation industries by eliminating applicable antitrust restraints on such involvement.

- confirm that land (right-of-way) can be financed.

The Texas High Speed Rail Project is a far-reaching transportation opportunity with the potential to dramatically impact economic and social development within Texas. Connecting Houston, Dallas and Fort Worth with reliable, comfortable train service at speeds approaching 200 miles per hour, Texas High Speed Rail Project will establish new commercial and social linkages between three of our state's major metropolitan centers. Ultimately, the system can be expanded to directly enhance the lives and commerce of our

state's citizens. The project offers an opportunity for Texans to create a bold future founded in a fresh technology that establishes new jobs and productive activity.

A critical assumption in the proposed financial plan is ownership and operation of Texas High Speed Rail Project by a governmental entity in order to quality for use of tax-exempt debt to finance the project.

We urge this Committee to report favorably on the High-Speed Intercity Rail Transportation Bond Financing Act of 1988. S. 1245 is consistent with these statutory purpose of Section 142 of the Internal Revenue Code, it reformulates the language of that section to treat equitably an emerging technology, and it advances the legislative goals of the Tax Reform Act of 1986.

If enacted into law, S. 1245 will help ensure that this Nation will meet, through the remainder of this century and beyond, the rapidly escalating demand by the American people for transportation and mobility.

Thank you.

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[1] 26 U.S.C. § 142. The Tax Reform Act of 1986, Pub. L. No. 99-514, 100 Stat. 2085 § 1301 (1986) added new § 142 to the Code to replace former § 103.

[2] Treasury Regulation § 1.103-8(e). Although 26 U.S.C. § 142 replaced former Code Section 103, these Treasury Regulations remain the most recent Service interpretation of the industrial development bond provisions and are valid for that purpose.

[3] Treasury Regulation § 1.103-8(a)(2).

[4] Id.

[5] H.R. CONF. REP. NO. 841, 99th Cong., 2d Sess., 702 at n. 27 (1986).

Revenue Ruling 76-11, 1976-1 CB 30.

The following list of modifications to the industrial development bond provisions of the Internal Revenue Code is not inclusive and is cited for illustrative purposes only:

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Statement of

HARRIETT L. STANLEY

Mr. Chairman and Members of the Committee:

My name is Harriett L. Stanley. I am a Vice President in the Public Finance Department of Prudential-Bache Capital Funding, where my specialization is transportation finance. I'm appearing here as a result of my experience studying the financial feasibility of high speed rail transportation systems and developing investment grade financing plans for these systems.

I appreciate the opportunity to show my support for Senate Bill 1245, which would authorize the limited use of tax-exempt bonds by State governments to help finance high speed inter-city rail transportation projects. The crux of the legislation is whether or not the Federal Government will choose to assist the overall development of the high speed rail alternative by providing the same access to the tax-exempt markets that is currently enjoyed by other public purpose transportation infrastructure projects. These include airports, highways, seaports, and roads.

I urge you to make the Federal Government a visible partner in high speed rail development. There is substantial historic precedent for that decision which began with the early canal system, extended through the construction of the interstate highway system in the 1950's and has also supported airport and mass transit development.

There is also a pressing current need for new transportation infrastructure--a need that was increased by certain aspects of the Tax Reform Act of 1986.

As a resident of the increasingly crowded Northeast corridor, I would urge passage of this legislation on the basis of good public policy.... As a frequent business traveler, I support this bill because it will foster the development of another sorely needed travel mode between major metropolitan areas... And as a banker who has personally analyzed every aspect of project feasibility, I can advise you that passage of this legislation is essential to the future of high speed rail in this nation.

S.1245 allows states to have access to the tax-exempt markets for certain high speed rail purposes. My work in the field indicates that access to the tax-exempt markets will be the single most critical factor in determining whether or not a state-of-the-art high speed passenger system will be built anywhere in this nation before the end of the century.

Mr. Chairman, I have spent a substantial portion of the last five years examining the feasibility of proposed high speed rail systems. That assignment has given me the opportunity to work with every aspect of a complex transportation system. This includes the review of feasibility studies to analysis of patronage estimates; from examination of preliminary engineering work to actual creation of a financial structure which met rating agency and investor requirements. I submit these remarks from my perspective of either having worked on or been exposed to the financial structure of virtually every high speed rail system proposed in the United States.

With the Committee's permission, I would like to review the fundamental economic and financial questions that will need to be resolved before the first high speed rail system can be built in this Country.

- The first question is one of cost. The major expense component of a high speed rail system is not land acquisition, construction costs, or train sets. It is the financing costs--primarily capitalized interest and debt service.

- The second questions is one of size. The sheer magnitude of a capital financing program for high speed rail might range from $3-10 billion. This may be too large a single project for any entity, whether public or private sector, to take on alone. Therefore, development of the high speed rail mode represents an unparalleled opportunity for a true public/private partnership.

In that vein, S.1245 offers a seemingly small but important change to current law. The change is one that allows high speed rail systems to be publicly financed and privately owned so long as the transportation facility is open for public use and serves a public transportation purpose.

From a financial standpoint, it is the combination of the questions of cost and size that creates the need for tax-exemption. The financing costs that I mentioned earlier increase geometrically when taxable debt is used. Even with tax-exempt debt, the capital requirements for a high speed rail system will likely cause the markets to push interest rates higher as a means of

maintaining market equilibrium. With total reliance on taxable debt, the market dislocations might reach the point of being unmanageable.

- The third question is one of investment risk. Because of the absence of a track record for high speed rail technology within the United States and the likelihood of some 9-20 years of operations without repayment of capital costs or return on investment, investment capital will be difficult--if not impossible--to attract.

This brings us to the often discussed concept of equity investment in high speed rail systems. Unfortunately, equity investments are easier to contemplate than to find or actually structure into a financing plan. In my five years of high speed rail work--work that has included negotiations with many of the free world's most heavily capitalized banking institutions--I have not yet found an equity investor who will forego a return on investment for 9 or more years.

Nor have I found a potential equity investor who will even consider risking capital on a project that neither State or Federal Governments are visibly supporting. Therefore, the involvement of the Federal Government in the development of high speed rail through provision of tax-exemption and volume cap exemptions will serve as a form

of political equity. Such clear signals from Washington will serve to partially mitigate the perception of risk in the financial community.

Mr. Chairman, I'd like to conclude by using investment banking jargon that is frequently associated with large transportation projects. Much of the effort of building an investment grade financing plan for high speed rail comes down to one basically operational question: How does one "cover the hole?"

"The hole" that I'm referring to is the period of time before the revenue and expense lines cross; the time after capitalized interest has been depleted and before fare box and ancillary enterprise revenues are sufficient to operate the system.

In the literally hundreds of different scenarios I've either developed or analyzed, "the hole" begins in the early operational years and lasts for a period of some 9-20 years. It can be covered in a number of ways--ranging perhaps from state project loans (which are repaid with interest) to debt service guarantees. Simply put, success in covering the hole means success in building and operating a system.

Taken together, all of the tools provided by S.1245--including tax-exemption--won't cover the hole. They will make the major contribution toward minimizing its size and duration, however.

For that reason, enactment of S.1245 represents a major step toward translating the high speed concept into a reality of concrete and steel.

Thank you very much.

Mr. Chairman and Members of the Committee:

My name is Richard Davenport. I am here today representing Florida High Speed Rail Corporation, a consortium of 28 national and international firms that have joined together to submit an proposal to the State of Florida to design, finance, build and operate a privately funded high speed passenger rail system in cooperation with state government. We intend to file our application tomorrow, March 25, 1988. If all goes well, the franchise will be awarded by the State of Florida in late 1990; construction will begin in 1991; and initial revenue service between Miami, Orlando and Tampa will commence in 1995, the 150th anniversary of our statehood.

The principal sponsors of Florida High Speed Rail Corporation are AmeriFirst Development, a Florida-based community developer with extensive experience in large-scale residential and mixed-use developments throughout Florida; ASEA Brown Boveri, the largest electrical equipment manufacturing company in the world and the world's largest supplier of electric locomotives; CRS Sirrine of Houston, Texas, a large international engineering and architectural firm which is also the largest construction manager in the United States; a rail construction consortium now in the process of being formed between a major United States contractor and an off-shore contractor; and Tishman Speyer Properties, one of the ten largest commercial development firms in the United States. These sponsor firms, joined by 23 other equally prominent firms as consultants and participants, make up Florida

High Speed Rail Corporation. Our financial advisor is Shearson Lehman Hutton Inc., an internationally recognized leader in the financing of all types of mass transit projects.

Florida is the fastest growing major state in the Union. Its existing infrastructure deficiencies are estimated to be in excess of 60 billion dollars. Between 900 and 1,000 people per day move into Florida, exacerbating an already serious situation. Florida's needs are particularly acute in the area of transportation. Florida is a long, narrow, predominantly flat peninsula with its major cities along the coastal areas. In many areas, population growth and transportation corridors are constrained to a narrow strip of land along the coast due to fragile environmental conditions further inland. In such areas, no further major rail or highway corridors are feasible without undue cost and the dislocation of both family homes and businesses.

Florida High Speed Rail Corporation has spent over five years and almost $10,000,000 analyzing the feasibility of the high speed rail project and in preparation of our application. We believe the project will form a major part of the answer to Florida's critical infrastructure needs. Our application proposes to use a combination of existing and new rights-of-way which will be cost efficient, produce virtually no dislocation and which will have very little adverse environmental impact. In fact, our proposed high speed rail system will have a definite positive effect on the environment due to the reduction of vehicular exhaust fumes. Our system will feature an all electric train capable of speeds in excess of 150 mph that is being designed specifically for the Florida High Speed Rail project by ASEA Brown Boveri. ABB has extensive high speed rail experience in Sweden, Germany and Italy. In the United States, ABB has supplied rail equipment for many different railroads and mass transit projects.

Shearson Lehman Hutton, our financial advisor, has worked with the consortium to structure the complex financing required for this public/private partnership. We believe the project is feasible, however, we feel it is financially at a competitive disadvantage when compared to the tax-exempt financing available for highways, airports and seaports. Financing for these transport systems is tax-exempt. High Speed rail system financing is not currently tax exempt. We therefore, appreciate the opportunity to testify in support of S.1245 which would authorize the various states to issue tax-exempt bonds for high speed rail transportation facilities.

Florida High Speed Rail Corporation is not intending to request any Federal grants-in-aid, nor are we currently seeking any direct state subsidies. However, the financing for the project is difficult to structure and place due to:

...the size of the project, estimated to be 2 to 5 billion dollars;

...the perceived investment risks due to a lack of domestic familiarity with high speed rail technology;

...the anticipated long period of operation prior to substantial return to investors;

...the complexities inherent in any public/private partnership;

...the cap on state-sponsored tax exempt financing which is not specifically exempted from such limit; and

...lastly, the premium the market demands for taxable bonds as contrasted with non-taxable issues.

We believe S.1245 provides substantial public benefit to all states and should be enacted as soon as possible. We believe the proposed legislation advances public policy by:

...allowing states to choose from various transportation alternatives without regard to tax code considerations;

...providing incentives for another form of public transportation infrastructure without creating new Federal grant programs;

...allowing private sector involvement, which we believe promotes overall cost effectiveness; and

...spurring the development of high speed rail technology within the United States.

Florida High Speed Rail Corporation supports the minor changes in existing tax laws which we feel will cure existing inequities and promote world-class, state-of-the-art high speed rail systems in Florida and other states. We would request that Congress act this session to make privately owned high speed rail systems which are accessible to the public eligible for tax exemption as proposed in S.1245. Legislative action now will put this proven, efficient alternate mode of transport on a level playing field in its competition with more traditional modes of transportation. Legislative action now will remove a major potential obstacle to the reality of High Speed Rail in the United States.

Thank you. I would be pleased to respond to your questions.

COMMUNICATIONS

STATEMENT OF
O. DONALDSON CHAPOTON
ASSISTANT SECRETARY (TAX POLICY)
DEPARTMENT OF THE TREASURY
SUBMITTED TO THE
COMMITTEE ON FINANCE
MARCH 24, 1988

Mr. Chairman and Members of the Committee:

I am pleased to have this opportunity to present the views of the Treasury Department on S. 1245, which would amend the Internal Revenue Code to permit State and local governments to issue tax-exempt bonds to finance privately-owned, high-speed intercity rail projects. S. 1245 would also exempt these bonds from State volume limitations generally applicable to other private activity bonds.

Background

Under present law, interest on State and local bonds generally is not tax exempt if the bonds are private activity bonds. A private activity bond is defined generally as a bond that is part of an issue more than 10 percent of the proceeds of which are to be used in the trade or business of a private person, and more than 10 percent of the debt service on which is to be secured by, or to be derived from, property or payments in respect of property used or to be used in the trade or business of a private

person. Under this definition, State and local bonds issued to finance public transportation facilities are not private activity bonds if the facilities are owned and operated by a State or local government. Such bonds, however, are private activity bonds if the facilities are owned by or leased to a private person.

In certain specifically defined instances, Congress has provided exceptions to the general rule that interest on private activity bonds is not tax exempt. One exception applies to bonds issued to finance public transportation facilities--airports, docks and wharves, and mass commuting facilities. These facilities must be owned by a State or local government to qualify, and the transportation vehicles themselves--the airplanes, ships, trains, or buses--are not eligible for financing under the exception.

The volume of tax-exempt private activity bonds that may be issued within a State during a calendar year is subject to a volume cap. The annual volume cap for each State is the greater of $50 multiplied by the State population, or $150 million. All private activity bonds issued to finance mass commuting facilities are subject to this volume cap. (These bonds were subject to a similar volume cap before the 1986 Tax Reform Act.) A special exception to the volume cap applies to private activity bonds for airports and docks and wharves. Unlike mass commuting facilities, airports and docks and wharves are used on an interstate basis and provide benefits to States other than the State in which located. The issuing State, therefore, is not required to count the bonds against its own volume cap.

S. 1245

S. 1245 would provide a new exception for private activity bonds issued to finance high-speed intercity rail facilities. This

exception would be much broader than the present-law exception for public transportation facilities. Under S. 1245, bonds for high-speed intercity rail facilities (unlike bonds for other public transportation facilities) could be issued to finance: (1) facilities owned by private persons; and (2) the transportation vehicles themselves. Moreover, under S. 1245, bonds for high-speed intercity rail facilities (unlike bonds for other mass commuting facilities) would be exempt from State private activity bond volume caps.

Discussion

The Treasury Department opposes S. 1245. The tax exemption of interest on State and local bonds exists as a matter of comity between the Federal government and State and local governments. The Federal subsidy provided through this tax exemption is significantly free of the scrutiny that attaches to direct Federal expenditures, and is inefficient because it is filtered through high-income investors. In recent years, therefore, Congress has attempted to curtail rather than to expand the authority to issue tax-exempt private activity bonds.

Under present law, tax-exempt bonds may be issued to finance high-speed intercity rail facilities if the facilities are owned and operated by a State or local government. If the facilities are leased to or otherwise used by a private person, tax-exempt private activity bonds may be issued to finance these facilities to the same extent, and subject to the same limitations, that apply to all other mass commuting facilities.

In the 1984 and 1986 Tax Reform Acts, Congress restricted the purposes for which tax-exempt private activity bonds could be issued. Congress also imposed State volume caps on these bonds to ensure that mounting Federal revenue losses from their issuance would be curtailed. S. 1245 would involve a major expansion of authority to issue tax-exempt private activity bonds and seriously undermine recent Congressional efforts to restrict them.

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