THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

August 02, 2007

The Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, DC 20515

Dear Madam Speaker:

Enclosed for introduction and referral to the appropriate committee is a bill entitled the "Railroad Rehabilitation and Improvement Financing Reform Act."

The purpose of this legislation is to focus the current Railroad Rehabilitation and Improvement Financing (RRIF) program by prioritizing assistance to meet the needs of small railroads requiring government assistance and to limit the Federal Government's exposure to an amount that reasonably reflects, on an annual basis, the extent of those railroads' needs. The Administration's Fiscal Year 2008 budget request indicated that an authorization proposal would be submitted to help focus the goals of the RRIF program.

The draft bill would make a variety of changes to the RRIF program intended to ensure the efficient use of taxpayers' funds and to better protect the Federal interest, including placing a greater emphasis on guaranteed loans rather than direct loans, capping the amount of RRIF credit assistance that a single borrower can receive, and limiting the amount of RRIF credit assistance that can be used to refinance existing debt.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this legislative proposal for the consideration of Congress, and that its enactment would be in accord with the program of the President.

An identical letter has been sent to the President of the Senate. If I can provide further information or assistance, please feel free to call me.

Sincerely yours,

Mary E. Peters

Mary E. Peters

Enclosures

THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

August 02, 2007

The Honorable Richard B. Cheney
President of the Senate
Washington, DC 20510

Dear Mr. President:

Enclosed for introduction and referral to the appropriate committee is a bill entitled the "Railroad Rehabilitation and Improvement Financing Reform Act."

The purpose of this legislation is to focus the current Railroad Rehabilitation and Improvement Financing (RRIF) program by prioritizing assistance to meet the needs of small railroads requiring government assistance and to limit the Federal Government's exposure to an amount that reasonably reflects, on an annual basis, the extent of those railroads' needs. The Administration's Fiscal Year 2008 budget request indicated that an authorization proposal would be submitted to help focus the goals of the RRIF program.

The draft bill would make a variety of changes to the RRIF program intended to ensure the efficient use of taxpayers' funds and to better protect the Federal interest, including placing a greater emphasis on guaranteed loans rather than direct loans, capping the amount of RRIF credit assistance that a single borrower can receive, and limiting the amount of RRIF credit assistance that can be used to refinance existing debt.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this legislative proposal for the consideration of Congress, and that its enactment would be in accord with the program of the President.

An identical letter has been sent to the Speaker of the House of Representatives. If I can provide further information or assistance, please feel free to call me.

Sincerely yours,

Mary E. Peters

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Enclosures

A BILL

To provide long term financing assistance to enable Class II and III railroads to handle all types of rail traffic in a safe and reliable manner, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Railroad Rehabilitation and Improvement Financing Reform Act."

SEC. 2. FINDINGS.

Congress finds that:

(1) The Railroad Rehabilitation and Improvement Financing (RRIF) program should focus on (a) providing assistance to small railroads that need government support and (b) becoming a complementary source of assistance to financing provided in the private sector; and

(2) RRIF program reforms are necessary to reduce the risk to the Government and ensure efficient use of taxpayer funds.

SEC. 3. AMENDMENT OF TITLE 45, UNITED STATES CODE.

Section 822 of title 45, United States Code, is amended—

(a) in subsection (c) by renumbering existing paragraphs (2) through (8) as paragraphs (3) through (9), and inserting a new paragraph (2) as follows:

"(2) focus on Class II and Class III railroads which require long term financing to be able to handle all types of rail traffic in a safe and reliable manner;";

(b) by revising subsection (d) to read as follows:

"(d) Extent of Authority.

"(1) The aggregate unpaid principal amounts of obligations under direct loans and loan guarantees made under this section shall not exceed $35,000,000,000 at any one time. Of this amount, not less than $7,000,000,000 shall be available for projects primarily benefiting freight railroads other than Class I carriers.

"(2) Commitments to guarantee loans and gross obligations for the principal amount of direct loans may be made by the Secretary only to the extent provided in advance in appropriations acts. The authorized level of the combined principal amount of Federal guaranteed loan commitments, any part of which is guaranteed, and direct loan obligations shall not exceed $700,000,000 in any one fiscal year.";

(c) by renumbering existing subsections (e) through (j) as subsections (g) through (l), and inserting a new subsection (e), as follows:

"(e) Emphasis on Loan Guarantees. Beginning in fiscal year 2009 and thereafter, of the annual loan making authority provided in appropriations acts, up to $250,000,000 shall be for direct loans and the remainder for guaranteed loans. DOT shall develop criteria for deciding the most appropriate type of instrument for borrowers in the most efficient way to meet specified Federal objectives. No loan guaranteed to any one borrower will exceed 80 percent of the loss on the loan. Borrowers who are deemed to pose less of a risk will receive a lower guarantee as a percentage of the loan amount.";

(d) by inserting a new subsection (f), as follows,

"(f) Additional Limitations. No individual loan or guarantee to any borrower shall exceed $250,000,000 in any one year, the cumulative outstanding balance to a single borrower shall not exceed $500,000,000, and any refinance of outstanding debt to a single borrower shall not exceed $50,000,000.";

(e) in subsection (h), as renumbered pursuant to subsection (c) above, by deleting paragraph (4); and

(f) in subsection (j), as renumbered pursuant to subsection (c) above, by:

(1) adding after paragraph (1)(C) the following:

"(D) will ensure that the loan made or guaranteed will not be subordinated to another debt contracted by the borrower or to any other claims against the borrower in the case of default.";

(2) deleting paragraph (2); and

(3) redesignating paragraph (3) as paragraph (2).

SECTION-BY-SECTION ANALYSIS OF
THE RAILROAD REHABILITATION AND
IMPROVEMENT FINANCING REFORM ACT

Section 1 would provide that this proposal may be cited as the "Railroad Rehabilitation and Improvement Financing Reform Act."

Section 2 would provide findings that the program should focus on (1) providing assistance to small railroads in need of government support and (2) becoming a complementary source of assistance to private sector financing. Additionally, the program needs restructuring to reduce the risk to the Government and ensure more efficient use of taxpayer funds.

Section 3 would amend specific provisions of title 45 of the United States Code.

Section 822(c) of title 45 would be amended by renumbering existing subparagraphs (2) through (8) as subparagraphs (3) through (9), and inserting a new subparagraph (2) to emphasize the need to focus the RRIF program on the long term financing requirements of Class II and Class III railroads to enable them to handle all types of rail traffic in a safe and reliable manner.

Section 822(d) of title 45 would be amended by inserting new language to establish an annual program limit for all borrowers of $700,000,000. The amount of the $700,000,000 limitation was chosen as a reasonable case for the annual credit needs of Class II and Class III railroad borrowers. An annual limit is needed to control the amount of credit risk assumed by the Federal Government each year. The language would also strike the existing provision of law limiting the Secretary's ability to cap the proportion of available RRIF credit assistance that may be used for one loan or loan guarantee. A further limitation would be added to provide that commitments to guarantee loans and gross obligations for the principal amount of direct loans could be made by the Secretary only to the extent provided in advance in appropriations acts.

A new subsection (e) of section 822 is created to emphasize the importance of guaranteed loans and to target the annual loan volume available for direct and guaranteed loans within the $700,000,000 total limitation starting in fiscal year 2009. Direct loans should be focused on borrowers most in need of a Federal subsidy, and favoring guaranteed loans allows for assistance to be provided in a way that minimizes displacement of private sector lenders and encourages the development of private lending to railroads. DOT would work with lenders to create loan products and would share the risk. DOT also would establish program criteria for evaluating applications to determine the most appropriate loan instrument for borrowers in order to meet Federal objectives.

A new subsection (f) would also be created that would cap the size of an individual loan or loan guarantee to any single borrower at $250,000,000; limit the cumulative outstanding amount of RRIF supported debt to any single borrower to $500,000,000; and limit refinancing of outstanding debt to $50,000,000. The limits on individual loans and individual borrowers are needed to better focus the program on railroads clearly in need of Federal assistance and to reduce the exposure on any one loan or borrower. A limit on refinancing is needed to ensure that most of the program funds are used to make new investments which maintain and upgrade rail infrastructure.

Renumbered section 822(h) of title 45 would be amended by deleting the requirement to refund unused credit risk premiums (CRPs), the payments that borrowers make to the Secretary to cover the subsidy cost (risk) to the Government (on a net present value basis) of providing RRIF credit assistance. This is a one-sided bet where the Government assumes the downside risk (when defaults are greater than originally estimated), but cannot offset such risk with the upside potential (when defaults are less than originally estimated). The current refund requirement is inconsistent with budgeting under the Federal Credit Reform Act and standard financial practices, and is a unique requirement among Federal credit programs. Renumbered section 822(h) also repeals (1) the requirement that the Secretary establish cohorts of loans, (2) the authority for a cohort to include both direct loans and loan guarantees, and (3) the prohibition on establishing a limit on the proportion of a cohort that may be used for one loan or loan guarantee.

Finally, renumbered section 822(j) of the proposal would add a provision prohibiting the subordination of a Federal direct or guaranteed loan. This section would also repeal the current prohibition on requiring RRIF applicants to pledge collateral and repeal the prohibition on requiring RRIF applicants to demonstrate that credit is not available elsewhere on reasonable terms and conditions.