

116TH CONGRESS  
2D SESSION

# H. R. 5947

To amend the Railroad Revitalization and Regulatory Reform Act of 1976 to provide for the Secretary to pay certain credit risk premiums for loan or loan guarantees, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 21, 2020

Ms. KUSTER of New Hampshire (for herself, Mr. SMUCKER, and Mr. PAPPAS) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

To amend the Railroad Revitalization and Regulatory Reform Act of 1976 to provide for the Secretary to pay certain credit risk premiums for loan or loan guarantees, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Invest in American  
5 Railroads Act”.

1 **SEC. 2. PAYMENT OF CREDIT RISK PREMIUMS FOR LOANS**  
2 **AND LOAN GUARANTEES.**

3 Section 502(f)(4) of the Railroad Revitalization and  
4 Regulatory Reform Act of 1976 (45 U.S.C. 822(f)(4)) is  
5 amended—

6 (1) by striking “Credit risk premiums” and in-  
7 serting the following:

8 “(A) TIMING OF PAYMENT.—Credit risk  
9 premiums”; and

10 (2) by adding at the end the following:

11 “(B) PAYMENT OF CREDIT RISK PRE-  
12 MIUMS.—

13 “(i) IN GENERAL.—In granting assist-  
14 ance under this section, the Secretary may  
15 pay credit risk premiums required under  
16 paragraph (3), in whole or in part, with re-  
17 spect to a loan or loan guarantee.

18 “(ii) SET-ASIDE.—Of the amounts  
19 made available to carry out this paragraph,  
20 at least \$100,000,000 shall be used for  
21 passenger rail projects for a fiscal year.  
22 Any amounts not obligated in a fiscal year  
23 shall be made available for any project re-  
24 ceiving assistance under this section.

25 “(iii) AUTHORIZATION OF APPROPRIA-  
26 TION.—There are authorized to be appro-

1            priedated \$300,000,000 for each of fiscal  
2            years 2021 through 2026 to carry out this  
3            subparagraph, to remain available until ex-  
4            pended.”.

5 **SEC. 3. INCREASING FEDERAL SUPPORT FOR FREIGHT**  
6            **RAIL.**

7            Section 502(a) of the Railroad Revitalization and  
8            Regulatory Reform Act of 1976 (45 U.S.C. 822(a)) is  
9            amended—

10           (1) in paragraph (5), by striking “and” at the  
11           end;

12           (2) in paragraph (6), by striking the period and  
13           inserting “; and”; and

14           (3) by adding at the end the following:

15           “(7) a private entity with controlling ownership  
16           in one or more freight railroads other than Class I  
17           carriers.”.

18 **SEC. 4. EXPANDING USES FOR RIFF.**

19           Section 502(b)(1) of the Railroad Revitalization and  
20           Regulatory Reform Act of 1976 (45 U.S.C. 822(b)(1)) is  
21           amended—

22           (1) by striking subparagraph (A) and inserting  
23           the following:

24           “(A) acquire, improve, or rehabilitate  
25           intermodal or rail equipment or facilities, in-

1 including track, components of track, civil works  
2 such as cuts and fills, stations, tunnels, bridges,  
3 yards, buildings, and shops, and costs related to  
4 these activities, including pre-construction  
5 costs;” and

6 (2) by striking subparagraph (D) and inserting  
7 the following:

8 “(D) reimburse planning, permitting, and  
9 design expenses relating to activities described  
10 in subparagraph (A) or (C); or”.

11 **SEC. 5. ELIGIBILITY.**

12 Section 502(f)(3) of the Railroad Revitalization and  
13 Regulatory Reform Act of 1976 (45 U.S.C. 822(f)(3)) is  
14 amended—

15 (1) by amending clause (ii) of subparagraph  
16 (B) to read as follows:

17 “(ii) user fees, including operating or  
18 tenant charges, facility rents or other fees  
19 paid by transportation service providers or  
20 operators for access to or use of infrastruc-  
21 ture including but not limited to rail lines,  
22 bridges tunnels, yards or stations; or”; and

23 (2) by adding at the end the following:

24 “(D) A projection of freight or passenger  
25 demand for the project based on regionally de-

1           veloped economic forecasts, including projec-  
2           tions of any modal diversion resulting from the  
3           project.”.

4 **SEC. 6. COLLATERAL AND APPRAISAL STANDARDS.**

5           Section 502(f) of the Railroad Revitalization and  
6 Regulatory Reform Act of 1976 (45 U.S.C. 822(f)) is  
7 amended—

8           (1) in paragraph (3), by striking “tangible  
9           asset” and inserting “collateral described in para-  
10          graph (5)”; and

11          (2) by adding at the end the following:

12          “(5) COLLATERAL.—

13                 “(A) TYPES OF COLLATERAL.—An appli-  
14                 cant or infrastructure partner may propose tan-  
15                 gible and intangible assets as collateral, exclu-  
16                 sive of goodwill. The Secretary shall evaluate  
17                 each such asset and—

18                         “(i) shall accept a net liquidation  
19                         value of collateral; and

20                         “(ii) shall consider and may accept—

21                                 “(I) the market value of collat-  
22                                 eral; or

23                                 “(II) in the case of a blanket  
24                                 pledge or assignment of an entire op-  
25                                 erating asset or basket of assets as

1 collateral, the net liquidation value,  
2 the market value of assets, or, the  
3 market value of the going concern,  
4 considering—

5 “(aa) inclusion in the pledge  
6 of all the assets necessary for  
7 independent operational utility of  
8 the collateral, including tangible  
9 assets such as real property,  
10 track and structure, equipment  
11 and rolling stock, stations, sys-  
12 tems and maintenance facilities  
13 and intangible assets such as  
14 long-term shipping agreements,  
15 easements, leases and access  
16 rights such as for trackage and  
17 haulage;

18 “(bb) interchange commit-  
19 ments; and

20 “(cc) the value of the asset  
21 as determined through the cost  
22 or market approaches, or the  
23 market value of the going con-  
24 cern, with the latter considering  
25 discounted cash flows for a pe-

1                                   riod not to exceed the term of the  
2                                   direct loan or loan guarantee.

3                                   “(B) APPRAISAL STANDARDS.—In evalua-  
4                                   tion of appraisals of collateral under subpara-  
5                                   graph (A), the Secretary shall consider—

6                                   “(i) adherence to the substance and  
7                                   principles of the Uniform Standards of  
8                                   Professional Appraisal Practice, as devel-  
9                                   oped by the Appraisal Standards Board of  
10                                  the Appraisal Foundation;

11                                  “(ii) performance of the appraisal by  
12                                  licensed or certified appraisers as may be  
13                                  required by the State of jurisdiction for the  
14                                  type of asset being appraised; and

15                                  “(iii) the qualifications of the apprais-  
16                                  ers to value the type of collateral offered.”.

17 **SEC. 7. REPAYMENT OF RRIF LOANS.**

18                                  Section 502(g)(1) of the Railroad Revitalization and  
19                                  Regulatory Reform Act of 1976 (45 U.S.C. 822(g)(1)) is  
20                                  amended—

21                                  (1) in subparagraph (A) by striking “35” and  
22                                  inserting “50”; and

23                                  (2) by amending subparagraph (B) to read as  
24                                  follows:

1           “(B) the estimated useful life of the rail  
2           equipment or facilities to be acquired, rehabili-  
3           tated, improved, developed, or established, in-  
4           cluding civil works such as cuts and fills,  
5           bridges, tunnels, yards, buildings and other  
6           long-lived assets.”.

7 **SEC. 8. LEVERAGING EXISTING FEDERAL INFRASTRUC-**  
8 **TURE PROGRAMS.**

9           Section 502 of the Railroad Revitalization and Regu-  
10          latory Reform Act of 1976 (45 U.S.C. 822) is amended  
11          by adding at the end the following:

12          “(n) NON-FEDERAL SHARE.—The proceeds of a se-  
13          cured loan under this title, if such loan is repayable from  
14          non-Federal funds, shall not be considered Federal funds.  
15          Such loan funds shall be accepted for payment of the non-  
16          Federal share of project costs under law, including for any  
17          projects receiving funding under title 23 or 49 of the  
18          United States Code.”.

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