Statement Of
The Honorable James L. Oberstar, Chairman
Subcommittee on Railroads, Pipelines, and Hazardous Materials
Hearing on
"The Railroad Rehabilitation & Improvement Financing Program"
April 22, 2009

The Subcommittee is meeting today to receive testimony on the Railroad Rehabilitation and Improvement Financing ("RRIF") loan program. Over the past year, we have witnessed extraordinary upheaval in our nation's economy. Businesses have been hard-hit; workers have been laid off, and many of them have been unable to find new employment. The railroad industry, its customer base, and its employees are no exception.

However, these short term problems do not eliminate the long term need for investment by the railroads to expand their infrastructure to meet growing demand. Prior to the current economic crisis, the U.S. Department of Transportation ("DOT") estimated freight rail demand would increase 88 percent by 2035. The current economic situation has slowed this estimate, but not by much. Many economists now believe we will reach this increased demand by 2040. The investment necessary to accommodate this growth was estimated by the National Surface Transportation Policy and Revenue Study Commission at $148 billion. Additionally, the Commission's Passenger Rail Working Group estimates that the total capital cost to re-establish the national intercity passenger rail network will be $8.1 billion per year until 2050, or a total of $357.2 billion.

How will that be funded? Due to the economic crisis, the railroads have been forced to ratchet down capital spending; States are facing increasing budget deficits; and banks are restricting lending. For example, California faces a budget deficit of more than $41 billion. As a result, many infrastructure projects have been put on hold. In 2008, California voters approved a $9.95 billion bond measure to build a high-speed rail line running from Sacramento to San Diego. However, the California High Speed Rail Authority has halted work on the project due to the State's frozen infrastructure fund. In addition, the bond market is so poor that the State is not selling bonds, which would generate money to build the system.

That is the very reason Congress created the RRIF program: to help States, government-sponsored authorities (such as joint powers authorities), the railroads, and shippers increase investment in rail infrastructure. The program provides low-interest government loans and loan guarantees for rail infrastructure projects, which can be used to acquire, improve, or rehabilitate intermodal or rail equipment or facilities. Loans can also be used for installation of positive train control ("PTC") technologies, which were mandated in Public Law 110-432, the Rail Safety Improvement Act of 2008, and to refinance existing debt.

Direct loans can fund up to 100% of the project, and repayment does not commence until the sixth anniversary date of the original loan disbursement. Congress made the program even more attractive last year when it extended the RRIF loan repayment period from 25 years to 35 years, consistent with the Transportation Infrastructure Finance and Innovation Act ("TIFIA"), in the Amtrak reauthorization bill.

This means that you can get a better deal through RRIF – interest rates are about 3.84 percent – than you can get through the private market right now, and I'm hopeful that more railroads, shippers, and States will use the program to finance their infrastructure investments.

Unfortunately, the biggest roadblock to fully implementing the RRIF loan program as Congress had directed in TEA-21 and SAFETEA-LU has been the Office of Management and Budget ("OMB") in the past administrations. Time and again the OMB has attempted to impose burdensome restrictions on the RRIF program, making the application process too long and creating too many obstacles in an effort to derail the program and make it increasingly less attractive to potential borrowers.

The most recent attack was in 2008 when the Bush Administration attempted to circumvent Congress by imposing new restrictions on RRIF loan applicants. These restrictions would have required an equity contribution from applicants of between 20 to 30 percent of the loan; capped the loan or loan guarantee at $500 million; and required applicants to receive a credit rating for financial assistance in excess of $250 million in a supposed effort to "ensure the long-term sustainability of the program and reduce the risk of default for applicants and the Federal Government."

I believe these new changes would have seriously undercut the RRIF program, further weakening rail infrastructure investment and the construction sector of the U.S. economy. In response, Chairwoman Brown and I sent a letter to former DOT Secretary Peters to request that she suspend action on the rulemaking. We stated that the proposal made little sense given the fact that none of the recipients of the 23 RRIF loans that have been issued to date have defaulted on any loans or are delinquent in making payments. In fact, three loans had been repaid in full.

In addition, under current regulations, the government requires the payment of a credit risk premium, which is held by the government for the life of the loan and is designed to equal the government's risk of default. Further, the RRIF application process requires a thorough examination of the applicant's business and financial performance. In fact, the statute prohibits the Secretary from making a direct loan or loan guarantee unless the Secretary has made a finding in writing that, among other things, ensures that the obligation can reasonably be repaid, using an appropriate combination of credit risk premiums and collateral offered by the applicant to protect the Federal Government.

In the decision not to approve the DM&E application for a $2.33 billion RRIF loan, former FRA Administrator Joseph Boardman stated that the loan to DM&E would pose "too high a risk concerning whether the obligation can reasonably be repaid, using an appropriate combination of credit risk premiums and collateral offered by the applicant to protect the Federal Government." Denial of the DM&E's application shows that the administration has the ability to protect the Federal Government from risky loans. Fortunately, the proposed rule was not implemented prior to the end of the Bush Administration.

I am hopeful that this OMB will not follow in the footsteps of previous OMBs and attempt to derail the RRIF program. Rather, Secretary LaHood should be encouraging increased utilization of the RRIF program to help freight railroads, States, and local governments meet their infrastructure needs despite the current economic crisis.

I am grateful for the participation of our witnesses today and I look forward to hearing their testimony.

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