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IMPLEMENTATION OF THE RECENTLY EXPANDED RAILROAD INFRASTRUCTURE LOAN PROGRAM

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HEARING

BEFORE THE

SUBCOMMITTEE ON

RAILROADS

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

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IMPLEMENTATION OF THE RECENTLY EXPANDED RAIL INFRASTRUCTURE LOAN PROGRAM

Wednesday, March 15, 2006,

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, SUBCOMMITTEE ON RAILROADS, HOUSE OF REPRESENTATIVES, WASHINGTON, D.C.

The committee met, pursuant to call, at 2:30 p.m. in room 2167, Rayburn House Office Building, Hon. Steven LaTourette [chairman of the committee] presiding.

Mr. LATOURETTE. The Subcommittee on Rail will come to order this afternoon.

Good afternoon. This afternoon we are doing a checkup on the Railroad Rehabilitation and Improvement Finance program, usually known more succinctly as RRIF. This program has had an unnecessarily checkered history since it was created in 1998 in the TEA-21 legislation, mostly due to administrative obstruction.

When the expanded $35 billion version of RRIF was enacted last summer as part of SAFETEA-LU, the Congress legislatively overruled point by point each of the four handicaps that had been imposed in the program by the Department of Transportation and the Office of Management and Budget. The foregone opportunities to improve our rail transport network in eight years of a stifled RRIF program are huge. But in 1998 through 2005, only a tiny fraction of the $3.5 billion revolving authorization for rail and rail intermodal infrastructure loans was tapped.

Last year's authorization expanded the program ten-fold. These loans have no budgetary score associated with them unless and until the security deposit is provided by Federal appropriation. Even then, only the deposit is scored, not the loan amount itself. Think of what $3.5 billion in off budget funds could have done since 1998 to address some of the choke points in our rail network and to upgrade the marginal track network of the Nation's short line railroads.

Today's hearing should help the Subcommittee ascertain whether the Department of Transportation has in fact complied with SAFETEA-LU and remove the impediments that the DOT has placed in the way of normal processing of RRIF applications for direct and guaranteed loans for rail infrastructure. The hearing should also tell us whether the DOT has in fact complied with other affirmative duties and obligations imposed upon DOT regarding the RRIF program in the SAFETEA-LU bill.

Today's hearing is the third held by an arm of the Transportation and Infrastructure Committee on RRIF sine its creation of

the program. In 1999, 2000 and 2001, members of this Committee, on a thoroughly bipartisan basis, made clear that both the present and the previous Administration, their frustration with the way that this program was being hobbled. Let's hope that today's hearing is something different.

Because this is a hearing to determine DOT's compliance with the law, we will be hearing testimony only from the Department itself. However, as is our standard practice, the Subcommittee will accept written submissions from other interested parties about the function of the RRIF program for inclusion in the written record of this hearing.

Before yielding to our special guest today, the distinguished Ranking Member from Illinois, Mr. Costello, I do have one housekeeping matter. I would ask unanimous consent to allow 30 days for members to revise and extend their remarks and to permit the submission of additional statements and materials by witnesses. Without objection, so ordered.

And specifically, the unanimous consent to insert the Chairman of the full Committee, Mr. Young's opening remarks, questions that have been submitted to the Committed by Mr. Moran of Kansas, and a letter from the short line railroads to Chairman Young. Also without objection, so ordered.

It is now my pleasure to recognize, as I indicated, our special guest as Ranking Member today, someone who I served with when we were on the Public Buildings Subcommittee, the gentleman from Illinois, Mr. Costello.

Mr. COSTELLO. Mr. Chairman, thank you. You have accurately described the purpose of this hearing and the problem that we have faced with the Administration. So I will submit my statement for the record and yield back the balance of my time, so we can go directly to our witness.

Mr. LATOURETTE. I thank you very much, Mr. Costello.

We have only one witness today. We are honored to have with us the Administrator from the Federal Railroad Administration, Joseph H. Boardman. Mr. Boardman, we appreciate your being here and we very much look forward to your testimony. We will catch up with Mr. Oberstar after we have heard from you.

Welcome, and we would love to hear from you.

TESTIMONY OF THE HONORABLE JOSEPH H. BOARDMAN, ADMINISTRATOR, FEDERAL RAILROAD ADMINISTRATION; ACCOMPANIED BY: JOSEPH POMPONIO, CHIEF, FREIGHT PROGRAM DIVISION, OFFICE OF RAILROAD DEVELOPMENT, FEDERAL RAILROAD ADMINISTRATION

Mr. BOARDMAN. Thank you, Mr. Chairman. Congratulations on the new member of your family.

Chairman LaTourette, Ranking Member Costello and other members of the Subcommittee, it is my pleasure today to represent Secretary of Transportation Norman Y. Mineta to discuss the status of the Federal Railroad Administration's implementation of the Railroad Rehabilitation and Improvement Financing program, better known as RRIF.

I am accompanied today by Mr. Joseph Pomponio, to my left, Chief of the Freight Program Division in FRA's Office of Railroad

Development and the FRA Manager directly responsible for the RRIF program implementation, as you requested.

The current RRIF program was created in 1998 in the Transportation Equity Act for the 21st Century, or TEA-21. TEA-21 significantly amended the RRIF program created by Title V of the Railroad Revitalization and Regulatory Reform, or 4R Act of 1976. That program had lain largely fallow due to changes in the requirements for Federal loan and loan guaranty programs created in the Federal Credit Reform Act of 1990.

To date, the RRIF is the primary discretionary program available to FRA to provide financial assistance for capital improvements for the rail industry in general and to the small regional freight railroads in particular. Thus far, FRA has entered into financing agreements with 12 railroads for 13 grants in the total amount of $517.7 million.

All of this financial assistance has been made through direct loans. Recipients have included one Class I railroad, Amtrak; two Class II railroads; and nine Class III railroads. A list of these loan recipients is attached to my written testimony.

Section 9003 of SAFETEA-LU amended the RRIF program in a number of ways. It has now been seven months since enactment of SAFETEA-LU and I wish to report briefly on the FRA's implementation of the most important of these amendments. First is the expansion of eligible applicants. The SAFETEA-LU amendments effectively expanded the types of entities eligible to include limited option shippers and commuter railroads. While FRA has been contacted by several limited option shippers to date, none has filed an application. FRA has recently received and is currently processing a loan application from a commuter railroad to fund acquisition of 50 new passenger cards.

The second is expanding the extent of RRIF authority. SAFETEA-LU expanded the total authority outstanding for RRIF financial assistance from $3.5 billion to $35 billion, and the amount reserved for small and regional railroads from $1 billion to $7 billion. The amendments also provided that the Secretary was not to establish any limit on the amount that could be used for one loan or loan guaranty. These changes may have significant impact on the types and sizes of projects for which applicants may seek financial assistance and the consequence to the Federal Government in the event of a default.

Third is the requirement for collateral. SAFETEA-LU provides that the Secretary not require an applicant to provide collateral and that any collateral provided be evaluated at going concern value after giving effect to the present value of the improvement. Before the SAFETEA-LU amendments, FRA sought collateral to cover at least 100 percent of the value of the loan, but never required any specific amount.

Where the value of collateral is important is in the calculation of the credit risk premium, which must look at the extent to which the Federal Government would be at risk in the event of a default. By offering collateral, applicants reduce the risk to the Government and thus the credit risk premium they would have to pay.

As provided for in SAFETEA-LU, in assessing the value of collateral, FRA uses going concern value where it is appropriate. Some

applicants may choose to offer collateral that does not encompass a going concern, such as a locomotive. These are valued as they would be by any other financial institution, usually at market or net liquidation value. Documenting the financing is not available on equivalent terms from other sources.

SAFETEA-LU also provides that the Secretary shall not require that an applicant shall have previously sought financial assistance from another source. Prior to this change, FRA, consistent with Federal credit policy, sought to encourage private sector financing by requiring that applicants demonstrate they had sought financing in terms equivalent to those under the program from a commercial lending institution and had been rejected. No applicant is known to have had a problem demonstrating this, in part because the RRIF program offers applicants long-term financing at Treasury rates, making it unlikely that applicants would find such low cost financing in the private market.

Time limit on approving a complete application. SAFETEA-LU provides that FRA has 90 days after receipt of a complete application to approve or disapprove an application. To date, FRA has not found this limit to be an operational issue, given the volume of applications FRA receives.

Evaluation charge. While TEA-21 provided authority to collect an investigation fee, it was found inadequate to authorize the expenditure of funds collected. SAFETEA-LU amendments clarified that FRA can expend any funds collected under that authority to evaluate an application, including costs for contractors to undertake independent financial engineering and market analysis of applicants and applications. This provision has streamlined the application review process significantly.

In the future, FRA is currently evaluating eight applications seeking a total of $2.75 billion in financial assistance. These applications range in amount from $6.2 million to $2.5 billion. Any discussion of the future or RRIF should address the Administration's budget request. The Administration's budget request for 2007, as it did the Administration's budget request for 2006, proposes the termination of the RRIF program. I urge your thoughtful consideration of the Administration's proposal.

Mr. Chairman, that concludes my testimony and I look forward to answering any questions the Committee members might have on the implementation of the RRIF program.

Mr. LATOURETTE. Mr. Boardman, I thank you very much. I would just begin by saying, I have given thoughtful consideration to the Administration's request. I happen to think most of us think the RRIF program is a pretty good deal and a pretty good idea. As a Republican, I can only say that the Administration is putting folks like me in a tough position by one, making speeches calling for the ten-fold growth in the RRIF program, and then sending up a budget asking for its elimination. But we'll deal with the President, I suppose, on that.

Can you tell us, since the inception of the RRIF program, how many RRIF loans have been granted by the Administration?

Mr. BOARDMAN. Thirteen RRIF loans.

Mr. LATOURETTE. How many of those have gone into default or have not been paid back?

Mr. BOARDMAN. There have been none.

Mr. LATOURETTE. That's what I thought.

I want to talk about, I talked about in my opening statement I talked about the checkered history and what I consider to be a dismal record. You were not here for all of this, so you are not going to wear the jacket. But this Administration and the last Administration in my mind at least has flaunted the will of the Congress. This is a program that was designed to provide funds, beginning with the TEA-21 moving forward, $3.5 billion. I think, in my opening statement, I mean, we have congestion problems, we have capacity problems, we have a variety of problems that at least in my mind, and I think on this that we have bipartisan agreement, that if these funds had been made available as the Congress intended, rather than having some of these impediments placed in the way, that were never enacted, and we have to now straighten out in SAFETEA-LU, I think we would have a better national rail system.

But let me just ask this question. You talked about the encouragement in the past that borrowers go into the market. That I think was the lender of last resort regulation. There was a June 23rd, 2000 Department of Transportation-OMB Memorandum of Understanding on RRIF. It at least in my mind had four obnoxious provisions. One was this lender of last resort. And I think that I, my question to you, and we will go to the other ones next, it is my understanding that SAFETEA-LU has now straightened that out,and that is not to be the way this is administered any more.

Can you give us an assurance that that is your understanding and that is how the Department is going to proceed in the future, or if that is not your understanding, can you tell us what your understanding is?

Mr. BOARDMAN. Yes, Mr. Chairman. I believe that the MOU that you are referring to is irrelevant. It really is an encumbrance for us. I think SAFETEA-LU corrected that. And I would like to point out for the record that the first grant under our RRIF really came under Secretary Mineta. I believe that he is one who is carrying out both the interest and the spirit of what occurred here in terms of the RRIF law.

Mr. LATOURETTE. And then specifically to go through them, so that our record is clear, the legal situation regarding the RRIF program after SAFETEA-LU. First, is it correct that the abolition of the lender of last resort regulation happened by operation of law when that bill was signed and did not require some administrative implementation at the Department of Transportation to put it into effect?

Mr. BOARDMAN. That is correct. We today are carrying out and implementing both the spirit and the law of SAFETEA-LU.

Mr. LATOURETTE. Second, in order to avoid confusing potential applicants about the demise of this lender of last resort, has the FRA removed that subsection from its published regulations?

Mr. POMPONIO. No.

Mr. LATOURETTE. Do you intend to do that?

Mr. POMPONIO. Yes, sir, we intend to revise our regulations at some point to make changes. But at this point, the statute takes precedence over the regulations. So the regulations no longer affect it.

Mr. LATOURETTE. Third, didn't the enactment of SAFETEA-LU immediately nullify the June 23rd, 2000 MOU on the RRIF program?

Mr. BOARDMAN. Yes, it did. We believe it's irrelevant.

Mr. LATOURETTE. All right. And fourth, has the DOT made any sort of public announcement or communicated by other means to potential loan applicants that the requirements stated in the DOT-OMB MOU are no longer operative, and if not, when does the Department intend to do so?

Mr. BOARDMAN. Yes, we have, by reaching out to the short line railroads, by talking to the AASHTO folks. We have had a regular reach-out to make sure they understand the provisions of SAFETEA-LU.

Mr. LATOURETTE. Have any of those communications been in writing?

Mr. BOARDMAN. I would have to verify that. I don't know.

Mr. LATOURETTE. If any of them have, I would just ask that you submit those for the purposes of the record, if you have anything that was sent out in writing to the parties, which you have just talked about.

Mr. BOARDMAN. Yes, sir.

Mr. LATOURETTE. As the would-be homebuyer said to the mortgage company, let's talk interest rates. Your statement on page three correctly reflects the fact that the RRIF statute sets out two different interest rate standards, one for direct loans made by the Government and one for guaranteed loans made by private lenders and federally guaranteed. What I find curious is that your statement of the interest rate standard for guaranteed loans tracks almost verbatim the language of the statute, but for direct loans by the Government, your statement of the standard I think is, "an interest rate equal to the cost of borrowing for a comparable term based on the current Treasury rate at the time of closing."

Now, I think what the law says is that a rate not less than that necessary to recover the cost of making the loan. To me, that seems like quite a difference. And the statute doesn't mention comparable term, it doesn't peg the interest to a Treasury rate, much less than that on the closing date. It seems rather clear that it is just a cost recovery standard.

If you know, where did these extra details come from and what is their legal basis? And by the way, hasn't every RRIF loan since 1998 been a direct, not a guaranteed one?

Mr. BOARDMAN. I can answer the last part of that, yes, they have been a direct loan. But I am going to ask Mr. Pomponio to answer the first part.

Mr. LATOURETTE. Okay.

Mr. POMPONIO. The statute requires that the interest rate reflect the cost to the Government. But the cost also includes a component of risk. So early on in the formulation of the program, we had to make a choice of either having the interest rate float or to have the risk premium float. And through consultation with OMB, we determined that the interest rate would remain fixed and the credit risk premium would go up and down according to the risk.

Mr. LATOURETTE. I'm going to have to think about that answer while I yield to my colleagues. I may have some additional questions.

I just wanted to, Mr. Boardman, I happen to have been impressed with the job that you have done with the FRA in your short tim there. Just from my perspective, it seems this Administration and the last Administration has done everything in its power to make sure that this program has so many obstacles that these loans don't get out and do the work that the Congress intended them to do. I would hope that that would not be your bent, despite the fact that your boss has set up a budget that asks us to discontinue something that the Congress thinks is a worthwhile program.

It is now my pleasure to yield to Mr. Costello.

Mr. COSTELLO. Mr. Chairman, thank you, and let me just express my frustration as well with this Administration and the obstruction that they have attempted to place in front of the Congress implementing this program. I think when we passed SAFETEA-LU, we were very clear in our intention in the law. It was President Bush who came to Illinois, and many of us attended the signing ceremony, when he signed SAFETEA-LU and talked about what a great bill it was and how it was going to help not only in our roads, bridges, highways, aviation, but also railroads. And he talked specifically about infrastructure.

I am going to ask you, Mr. Boardman, just a couple of quick questions, ask if you agree or disagree. One, in just the brief conversation we had before the hearing, you acknowledged that freight transportation is continuing to grow. Would you agree that it is growing past its current capacity to handle the growth?

Mr. BOARDMAN. I think all trend indications are that that is the case.

Mr. COSTELLO. Okay, and would you agree that we need additional investment in infrastructure projects to enhance service, promote efficiency and reduce cost?

Mr. BOARDMAN. Yes. I see railroads making those investments.

Mr. COSTELLO. And you may or may not know that the White House Office of Management and Budget was invited to testify here today, but refused to testify at this hearing. But they claim on their web site, and I am going to quote: "There is no clear justification why the Federal Government should extend such favorable loans to private rail companies." Are you familiar with that statement on OMB's web site?

Mr. BOARDMAN. Yes, sir.

Mr. COSTELLO. Would you agree with that or disagree?

Mr. BOARDMAN. Yes, sir. I believe that what we have today is an ability for the railroads to go into the private sector to find the financing they need for their investments.

Mr. COSTELLO. So you think that there is no responsibility on the part of the Federal Government regarding investing in infrastructure, either from a safety standpoint or any standpoint?

Mr. BOARDMAN. I think that what we are finding today is the railroads are actually becoming profitable in a way that allows them to use more of the commercial market than they have been

able to in the past. Our position is that this kind of a program can be financed in the private sector.

Mr. COSTELLO. So the responsibility for safety, for improving the rail infrastructure, rests solely on the private sector, on the railroads?

Mr. BOARDMAN. The responsibility for safety on the railroads is with the operator. It is our responsibility to ensure that they are making the right investments to continue that safety.

Mr. COSTELLO. And in your judgment, are you carrying out that responsibility today?

Mr. BOARDMAN. Yes, sir.

Mr. COSTELLO. Let me ask why Class I freight railroads have not used the RRIF program? Can you tell me in your opinion why that is?

Mr. BOARDMAN. We do have one Class I, notwithstanding the fact that some don't see that way, Amtrak is a Class I railroad, so they are using the program. The other Class I railroads in many ways, while the program is open to them, as I said earlier, I believe have become much more profitable and have found ways to make improvements in their infrastructure without using this particular program.

Mr. COSTELLO. My office, we have been contacted and I am sure my colleagues as well on this Subcommittee and in the Congress, from some potential applicants who are saying they find the application process very confusing. On your web site, you direct them to review provisions of TEA-21, review the implementing regulations and review the amendments of SAFETEA-LU. That is not very helpful or user friendly. Is there a reason why you do not explain the process in terms that they can understand and follow?

Mr. BOARDMAN. I think everybody that is interested in this program should take the first step in the process, and that is to come in for a pre-application meeting, which is our first step. In that particular meeting, Mr. Pomponio meets with that potential applicant to explain all those conditions to ensure that we are protecting the taxpayers and the United States and what this Congress wanted us to carry out appropriately.

I think we have done a good job reaching out to the railroad community to make sure they understand that. I know myself, as a small operator and business owner in the past, that a lot of times these particular regulations become very confusing when you read them on a web site or when you see them for the first time. But what you begin to understand is, we truly are here to try to help move that forward, and I think we have done a good job with that.

Mr. COSTELLO. Well, I know some potential applicants that would disagree with your statement. SAFETEA-LU specifically directs you to post on your web site the criteria and standards used to determine whether to approve or disapprove. Do you think you are complying with that directive in SAFETEA-LU?

Mr. BOARDMAN. We certainly think that we are. If there are recommendations that would improve that, I would be happy to look at those. If there is a specific applicant that you have in mind, or applicants, I would also be happy to meet with them.

Mr. COSTELLO. Have you heard from some people in the freight rail business that freight railroads cannot cover their cost of capital with their revenues?

Mr. BOARDMAN. I think that it has been a problem that has been, with any highly intense capital business, for the last several years, it has been very difficult to cover that. But I think some of that is changing, and because there is more and more demand, I think as you pointed out earlier, in terms of the congestion that is out there today. So some of those conditions are changing, but that certainly exists as well.

Mr. COSTELLO. Mr. Chairman, I see that I am out of time. I will have a few other questions in a minute, I hope.

Mr. LATOURETTE. Okay, thank you very much, Mr. Costello. It is now my pleasure to yield to the distinguished Ranking Member of the full Committee, Mr. Oberstar.

Mr. OBERSTAR. Thank you for calling this hearing, Mr. Chairman. I appreciate your interest, vigorous as it has always been, in rail service. You have been a staunch advocate and a thoughtful and constructive force for advancing the cause of rail service in the United States, passenger rail, inter-city transit and freight rail.

So it comes as a great surprise, when we passed a bipartisan bill, bicameral bill, to increase the funding for the RRIF program from $3.5 million to $35 billion, and the President six months or so ago signed that bill into law to have their first budget come out and eliminate, propose at least to eliminate the program, saying credit assistance is unwarranted because "there is no compelling public interest in the program." Where did you get that idea? You didn't write that statement, did you? That was written probably before you came on board.

Mr. BOARDMAN. I did not write it, sir.

Mr. OBERSTAR. I am glad to hear that. I wish we had before us the person who wrote it. I wonder where in heaven's name that person has been spending his or her time. You surely have traveled beyond 495 to the rest of America.

Mr. BOARDMAN. Is that a question, sir?

Mr. OBERSTAR. Yes.

Mr. BOARDMAN. I live in Rome, New York, so I have to travel beyond that to get home.

Mr. OBERSTAR. Terrific. SO you know there is another world out there beyond the beltway.

Mr. BOARDMAN. I do, sir.

Mr. OBERSTAR. Apparently this person doesn't, who wrote that statement, that is, is not aware that the Nation's railroads are at peak capacity after many years of troubled economic times, they are now making money, profits, and trying to invest in their rolling stock and in the rail bed itself and in switches and in all that goes into running a railroad efficiently and effectively. They can't keep up. They need to replace 50,000 rail cars a year. There isn't enough production capacity to keep up with demand. They need to replace locomotives, build new ones. There isn't enough production capacity to keep up with demand, because for so many years they weren't getting adequate return on capital, or at least they claimed so. In many cases, they certainly weren't.

But it is different now, and they need to catch up. We have 6.5 million trucks on the Nation's highways carrying goods between cities. And they are congested and they are behind time. They are trying to get the railroads to carry more of the trucks, the rails can't carry the trucks. The railroads are trying to get the trucks to carry the containers. They can't, they don't have enough capacity.

So someone in this Administration said, there is no compelling public interest in the program? That's outrageous. It's like telling Brown that he did a good job in Katrina. I was just there over this past weekend. There is a whole St. Bernard Parish, I know it has nothing to do with this hearing, Mr. Chairman, but it is an example of the incompetence of people who write this drivel and expect us to swallow it. A whole 38,000 homes are submerged, homes that were lifted up by that flood and moved three blocks, home, concrete pad, smashed into other homes, and they say, oh, you're doing a fine job. It's destroyed.

So we need to rebuild America. Are you aware of what China is doing?

Mr. BOARDMAN. Yes, sir.

Mr. OBERSTAR. Tell me what you know about what China is doing in rail.

Mr. BOARDMAN. I think what China is doing is not just in rail. I think they have taken over perhaps as many as 30, over 30 ports, they have built the largest container terminal outside the United States within 50 miles. They bill it as East Meets West, North Meets South. China is making strategic investments all over the world.

They now today are building a railroad that is going to go into western Europe to continue to expand their economy. I think they are a competitor, I think it is something that we need to be aware of, and I absolutely agree with you.

Mr. OBERSTAR. I am delighted to hear that. I spent a good deal of time, made seven trips to China. They are investing $200 billion and doubling the capacity of their ports. They have a $100 billion program to modernize 35 existing airports, build 6 new ones and build airports in the interior of the country, in a regional airport development program that I encouraged them to do 3 years ago.

And they build the world's first maglev operational system in Shanghai, from downtown Shanghai to the Pudong airport, two 12,500 foot runways, terminal to handle 90 million passengers a year. It is working very successfully. And now they are building an 820 mile link from Beijing to Shanghai, steel on steel, traveling 220 miles an hour, 820 mile railroad, at a price tag of $17.5 billion. You mean to tell me that there is no compelling public interest in a rail program in the United States? The Chinese sure have figured it out.

They also are committed to building a 110 mile maglev from Shanghai to Hangzhou. Shanghai-Hangzhou is a 110 mile high technology corridor. Last night I had dinner with Liwu Steel Group, from the City of Liwu, who have invested, Mr. Chairman, in an iron ore mine in my district. Because China this year will pour 345 million tons of raw steel. No country in the history of the industrial revolution has poured that much steel.

They have such a demand for iron ore that a mine in my district that was shut down because of competition from Brazilian ore is now open because of the world competition need of China for iron ore to feed their steel industry.

We tried to get rail service to bring that ore from Minnesota to the West Coast, to Prince Rupert Island, so they would have an 8,000 mile journey to Liwu, but the railroads couldn't give us a quote that was near what the Chinese wanted. So we ship it by rail to Lake Superior, laker through the Great Lakes system to Hamilton, Ontario, where it goes to Steel Company of Canada. StelCo, which had been taking ore from Labrador, stops taking that ore and Labrador ore goes to China.

But because of that exchange, we have an iron ore mine that is back employing 430 people. If we had a really efficient, effective rail system, we would have saved millions of dollars, put more people to work, created an opportunity for more capital investment in the iron ore mine of Minnesota. And there are many of those examples all around this Country.

Now, I have for years supported the maglev technology and authored the provisions in ISTEA that provided stimulus for the research, development, testing and engineering of maglev. And in TEA-21 and again in SAFETEA-LU. The General Atomics Company won the contract to do this R&D and I was out in San Diego, pushed the lever to see this maglev lift off and operate on a 400 foot track, Mr. Chairman. It is fantastic. Quiet, smooth, efficient. I have always thought it was a great thing for passenger service.

But the Port of Los Angeles came to meet with me and General Atomics and said, we would like to use the maglev technology to move freight containers from the Port of Los Angeles through the Alameda Corridor into and past Riverside, on a continuous loop line. Because you can move them faster with less impact on the community. Won't have to do the grade separations that are now costing probably a billion and a half dollars just to do the grade separation for the existing traffic.

The RRIF loan would be terrific for this initiative. I wish I would have thought of it myself. But they can do that. And I have had discussion with some of your staff, a couple of months ago, about this matter.

Now, do you think that qualifies in the sentence that there is no compelling public interest in the program? I would call that a compelling interest, wouldn't you?

Mr. BOARDMAN. I think it certainly qualifies for the program of RRIF.

Mr. OBERSTAR. You wouldn't call it compelling, though? Well, you probably will in sotto voce.

Thank you, Mr. Chairman. I will desist for the moment.

Mr. LATOURETTE. I thank you very much, Mr. Oberstar.

Mr. Boardman, just a couple, I think I have three questions, and then we will turn to my colleagues to see if they have some follow-up as well. But just so you don't think we are here to beat you up today, I have been advised by counsel that your testimony was submitted, it is the earliest we have ever received FRA testimony since 1987. So you are to be congratulated for that, and we thank you

for doing that. Whoever got that to us, we very much appreciate it.

Maybe this one is for Mr. Pomponio, because he talked about the credit risk premium. Just so I understand, on the floating credit risk premium, if the applicant puts up 5 percent, does this floating risk premium a the beginning of the loan, is it your belief that the DOT can come back during the life of the loan and demand that that deposit be increased to 10 percent or another percentage of the face amount?

Mr. POMPONIO. No, sir, it is fixed at the beginning and it is fixed for life. It is a one time charge.

Mr. LATOURETTE. Okay. Then I want to talk a little bit about whether or not there has been compliance with the requirements of SAFETEA-LU. I have the Federal Register from September 26th, 2005. I know that it was late, and that isn't so much what concerns me.

What I hear from the short lines in particular is the criteria is in a black box where the applicants know next to nothing. I think what we were attempting to in SAFETEA-LU was to correct that. But the correction that I think you think, and I appreciate your willingness to receive additional suggestions from us, but the words I think you have published say as follows: "The words used below differ from the statute and the regulations only for the purpose of brevity. This notice does not contain any new criteria or impose any new requirements or have any legal effect other than to satisfy the mandate from the Congress to issue this notice."

First of all, can you tell me what that is supposed to mean, because I don't think I know? And second of all, I think it says that you are simply announcing a condensed restatement of the existing statute. And how does that then satisfy the Congressional intention to give specific criteria and specific notice so that people who want to apply for these RRIF loans, even if you don't like them, how they can do it?

Mr. POMPONIO. Well, our intent was to comply with the statute, and by necessity, this process is one where we have many different types of applications that come in. So it is difficult to set criteria that would apply to all of them. We do go out of our way to provide as much guidance as we can as to what items are reviewed on an individual basis. I talk to potential applicants every day.

But it is just simply too difficult to anticipate what types of applicants we might receive and therefore be able to lay out specific criteria. The primary one is repayability.

Mr. LATOURETTE. Okay. I appreciate that. That actually brings me to, because as I read it, and I want to be fair, but as I read it, it is like the absolute minimum to satisfy what we had suggested in SAFETEA-LU.

Secondly, in Appendix 2 to your statement today, Mr. Boardman, it discusses an OMB-approved CRP model that is used to calculate the credit risk premium for RIFF loans. Yet I don't see the CRP model mentioned in the September 26th Federal Register notice that supposedly satisfied the SAFETEA-LU mandate to publish substantive criteria and standards used to approve or disapprove applications. So why at a minimum don't we have your OMB-approved CRP model?

Mr. BOARDMAN. The credit risk premium is on our web site. If we need to adjust how we say that information, we will do that. I don't think that is a problem, is it?

Mr. POMPONIO. No. If I might add, the primary purpose of that credit risk premium model is to estimate the risk to the Government. We decided early on that if that model were made public and available to anyone, first of all, it is a complicated model that requires input by the agency. And secondly, if it were made public, it might provide opportunity to gain the system and to provide input that might skew the results.

Mr. LATOURETTE. Okay. Let me ask you this. Am I the only one that gets complaints from short lines and people in the railroad business that they don't quite have the program down based upon your publication of the requirements? They're not complaining to you? You have not heard that complaint before?

Mr. POMPONIO. As I said, I speak to potential applicants every day and explain every question they have. I spend a lot of time explaining. Our application is on our web site. All that need to do is be filled out. The reference to the statute is only for reference and it is not required reading, because an applicant could just fill out the application. So I have not had anyone come and say they don't understand the system. I have gone so far as to help them complete an application.

Mr. LATOURETTE. Okay.

And Mr. Boardman, my last question before going to my colleagues again, and I heard what you said and I think you heard what I said, but there was a quote by Secretary Mineta in a magazine called the American Short Line and Regional Railroad Association, it was actually a press release, and it came about in January of 2004, and the Secretary made the following statement, when they were proud to announce the $233 million RRIF loan for the Dakota Minnesota and Eastern Railroad: "President Bush is committed to growing the economy and the RRIF program provides targeted, innovative finance opportunities that yield significant and economic benefits." What has happened since the Secretary made that pronouncement?

Mr. BOARDMAN. I think the Secretary believes that. I think that the RRIF program has done that. I think we have carried out the law appropriately. I think the belief here is that the private sector can provide that.

Mr. LATOURETTE. Well, thank you very much.

Mr. Costello.

Mr. COSTELLO. Mr. Chairman, thank you.

I have to tell you, Mr. Boardman, I have to strongly disagree with you. I do not think that you are complying with the statute. Frankly, I heard what the Chairman said, and I heard what the reply was. But I don't think that you or the Administration is going out of their way to really help anyone. I have heard from the short lines too, the same as the Chairman has, and I am sure other colleagues. There are a number of people who are confused, they have questions. And I have really not had anyone say to me that they have contacted your office where they felt that they got complete information and that you were helpful concerning the RRIF program.

But let me ask a question. If it is the Administration's position and your position that there is no compelling public interest in financing these facilities, that the private railroads have to finance these projects on their own, then when the Administration submitted their bill for SAFETEA, U.S. Department of Transportation in 2003, the Administration proposed private freight eligibility under the highway program. Now, if we are going to say to the private railroads that you have to finance these projects, then why did the Administration say, it is okay to take money from under the highway program to finance these projects and programs, but it is not appropriate to take it out of the RRIF program?

Mr. BOARDMAN. I am not sure of the specifics of what you are bringing up. I don't know that even if I was right at this minute what the thinking would have been behind it in 2003. But I do believe that there is a difference between the highways and the railroads in terms of its ownership. The highways are publicly owned and have been publicly owned and publicly financed. There is an interest at the highway side at this point in time to find new private ways to pay for highways. I don't know if that particular section you are talking about regulates that or addresses that.

But the railroad has been a private entity from the beginning and is owned privately.

Mr. COSTELLO. Well, I would just ask you and suggest to you that you may want to take a look at page 38 in the bill that the Administration and the Department of Transportation propose, because it clearly indicates that if this bill was implemented and passed by the Congress that these projects would be financed, that it was okay with the Administration to finance them under the highway program. It just seems inconsistent, the Administration's position today to let these private companies finance the infrastructure on their own.

With that, Mr. Chairman, I would yield back the balance of my time.

Mr. LATOURETTE. Thank you, Mr. Costello.

Mr. Oberstar.

Mr. OBERSTAR. I find a very interesting comment in your testimony about the procedures that have to be followed for application. On page 3, you said, pre-application meetings, many RRIF applicants have had little past experience with Federal funding programs, time and cost associated with the need to comply with NEPA and Section 106 of the Historic Preservation Act, the rigor of FRA analysis.

So railroads, some railroads, you say, have chosen not to proceed with RRIF applications after the pre-application meetings. That is a very candid statement on your part and I appreciate it. But it sounds a lot to me like you are trying to chase them away rather than help them out. Your job as the Federal Government is to help people.

We put a program in place, we put the funding behind it, we say there is a need out there, we have identified that need, and then we expect you to help people carry it out, not to scare them away.

Mr. BOARDMAN. Yes, sir, I understand that.

Mr. OBERSTAR. And if there are complications about NEPA and historic preservation, I direct you to the streamlining provisions of

SAFETEA-LU. At full Committee Chairman Young's request, I largely wrote that language. Came back to him with it, we made numbers of changes. It is a totally bipartisan approach, a lot of pages of legislative language.

But it was going to streamline, it was going to cut months, maybe years out of the way we finance and build our Federal highway program. Just lift that language out, take it over to the RRIF loan program and you can cut a lot of time and wasted effort out and speed these loans along. I will even come and help you do that if you need help with it.

Mr. BOARDMAN. Mr. Oberstar, I accept the help and I will look at that language. I will see if we can improve this.

Mr. OBERSTAR. We dealt very specifically with the National Trust for Historic Preservation. Very complicated stuff. But we got it worked out. All the highway construction interests and the environmental interests all had a crack at that language, and we satisfied everybody. It is an amazing piece of work. And it will help speed these projects.

I don't want to read again that someone was turned away because they are going to take to much time. I want to read that you are out there helping people get along.

You said in response to Mr. Costello, the private sector can provide that, meaning financing. I don't think the private sector is rushing out to help finance railroads, certainly not the short lines, certainly not with the problems that we have seen over the last several years. That is why we established this loan program.

So we want you to nurture it, encourage it along. I know if the members of this Committee have anything to say about it, and we will, that we are not going to see that RRIF loan zeroed out. We are going to see it implemented. I would like to see a project like the maglev take a whack at speeding freight.

You know, $370 billion in freight enters the United States at the six West Coast ports. More than 75 percent of that freight is destined beyond California. Today it takes 30 hours from the Port of Long Beach-Los Angeles, 1,200 miles and $300 per container to get to Chicago. Then it takes 30 hours and $300 to go 7 miles through Chicago. And then $200 per container and another 24 hours to go to the East Coast, 1,200 miles.

That is very costly by the time it gets to the consumer. We are spending an awful lot of time and money on moving freight through highly congested corridors. If we can speed up that freight movement by putting additional rail capacity in place, then we have an obligation to the public, to our economic productivity, to do that.

I have talked to the Mayor of Los Angeles, Mayor Villaraigosa, I talked with the Port Authority, as I indicated earlier, of Long Beach-Los Angeles. And we are very soon going to be coming into your office to look for a RRIF loan to do this maglev project. And I look forward to your embrace of the idea.

Mr. BOARDMAN. I'd better have that streamlining language in there before you get to the office.

Mr. OBERSTAR. I am looking forward to doing that.

Mr. BOARDMAN. Yes, sir

Mr. OBERSTAR. The Administration has said that they are going to eliminate the RRIF provisions through the appropriations process. Don't waste—carry the message back. You probably don't really want to do that, but carry the message back that we want to see this Administration spend more time figuring how to do these loans than trying how to kill the loans. We ought to be doing at least as much as China.

That is all I have. Thank you very much.

Mr. LATOURETTE. I thank you very much, Mr. Oberstar.

Ms. Brown, we are about to finish. Do you have anything you want to say before we leave? We have to go down and save the people that are losing their identities in Financial Services at 3:30. If you have a couple of observations, we would be happy to hear from you.

Ms. BROWN. Thank you, Mr. Chairman, for hosting this Committee meeting. I will just enter my comments for the record.

But I would like to just publicly say that I am very concerned about the Administration's proposal for railroads in this area. It is a great concern that we spend billions on aviation but very little on highways, waterways and railways. Of course, just last week CEOs from many companies were in my office saying that they wanted a 25 percent tax credit to expand their network. As we come under just, I think it is next week, we just passed a year ago, what happened in Madrid, and we look at the fact that we really have not done anything in this Congress to address rail safety in this Country. It is appalling. It really is appalling.

When I heard one former Secretary say to the extent that do we need an independent investigation, no we don't, we need Congress to do their job. So I would encourage members on both sides of the aisle to do their job as far as making sure that we talk about rail infrastructure safety, but we follow up the rhetoric with the funds needed to ensure that we put those safety measures in place.

With that, I yield back the balance of my time. Thank you, Mr. Chairman, for holding this hearing.

Mr. LATOURETTE. Thank you very much. I am glad you could make it.

For the record, Ms. Brown I know wanted to be here for the entire hearing. But she was listening to the Liberian president. My understanding is she was one of the guests at the inauguration of the president. So I am glad that you were able to be with us.

Ms. BROWN. Mr. Chairman, I was the only member of Congress to attend that ceremony. She was just as elegant at that ceremony as she was today. We need to do all we can to ensure that she is very successful. She said they are a star in Africa, having the first female president in an African country. Also, we have such strong ties throughout our history. So that was wonderful.

Mr. LATOURETTE. That is wonderful. She probably likes RRIF loans, too.

[Laughter.]

Mr. LATOURETTE. Mr. Boardman, I want to thank you very much. I know not all the questions were pleasant but I think you got sort of a bipartisan flavor that, at least on the Subcommittee we think this is an important program and we hope that you will take not only the letter but the spirit of the SAFETEA-LU observa-

tions as you move forward. Hopefully you will be granting a lot more RRIF loans in the future.

So thank you very much.

[Whereupon, at 3:31 p.m., the Subcommittee was adjourned.]

Statement Of

The Honorable Joseph H. Boardman

Federal Railroad Administrator

Before The

Subcommittee on Railroads

Committee on Transportation and Infrastructure

U.S. House of Representatives

March 15, 2006

Chairman LaTourette, Ranking Member Brown and other members of the Subcommittee, it is my pleasure today to represent Secretary of Transportation Norman Y. Mineta to discuss the status of the Federal Railroad Administration's (FRA) implementation of the Railroad Rehabilitation and Improvement Financing (RRIF) Program.

The RRIF Program in Brief

The current RRIF program was created in 1998 in section 7203 of the Transportation Equity Act for the 21st Century (TEA-21). Section 7203 significantly amended the RRIF program created by Title V of the Railroad Revitalization and Regulatory Reform Act of 1976[1] but which had lain largely fallow due to changes in the requirements for Federal direct loan and loan guarantee programs created in the Credit Reform Act of 1990 and the lack of appropriations. To date, RRIF has been the primary discretionary program available to FRA to provide financial assistance for capital improvements to the rail industry.

One of the significant features of the Federal Credit Reform Act of 1990 was to require Federal agencies to set aside the estimated long-term cost of providing new credit assistance in the form of direct loans or loan guarantees. That cost reflects the net present value of the expected cash flows to and from the Federal Government over the

[1] Between 1976 and 1994, FRA provided a total of $892.9 million in financial assistance to 25 railroads.

life of the loan. Funds are obligated for subsidy cost at the time the direct loan or loan guarantee agreement is signed, with the cost estimate calculated using the assumptions used to formulate the President's Budget for that fiscal year, updated to reflect the terms of the loan contract. When viewed on a program basis, setting aside the estimated long-term cost helps avoid a potentially significant un-budgeted expense at the time of a default.

After enactment of the Federal Credit Reform Act and until the TEA-21 amendments, the only way that FRA could provide financial assistance through direct loans or loan guarantees was if the Congress appropriated funds to cover the subsidy cost. The Congress did once, in FY 1994, and earmarked funds for a specific loan guarantee. The major change resulting from the TEA-21 amendments was that the subsidy cost could be paid by the applicant or other non-Federal infrastructure partner, in the form of a "credit risk premium," and thus the ability of FRA to provide direct loans or loan guarantees was no longer dependent upon the receipt of an appropriation. In consideration of the credit risk premium requirement and the ability for it to be paid from non-Federal sources, the program is considered "zero-subsidy" in that the Federal Government does not have to provide appropriations for the initial subsidy cost. However, the Federal Government bears the risk of cost increases if RRIF loans perform worse than expected.

Under the RRIF program, the Secretary of Transportation (Secretary) (who has delegated responsibility for implementing the program to the Federal Railroad Administrator) provides financial assistance in the form of direct loans or loan guarantees to eligible recipients for the purpose of acquiring, improving, or rehabilitating intermodal or rail freight or passenger equipment or facilities, including track, components of track, bridges, yards, buildings or shops; to refinance outstanding debt incurred for these purposes; or to develop or establish new intermodal or rail facilities. Operating expenses are not eligible for financial assistance under the RRIF program. Eligible applicants are State and local governments; interstate compacts consented to by Congress under section 410(a) of the Amtrak Reform and Accountability Act of 1997; government sponsored authorities and corporations, railroads, joint ventures including at least one railroad and,

solely for the purpose of constructing a rail connection between a plant or facility and a second carrier, and limited option freight shippers that own a plant or other facility that is served by no more than a single railroad. Direct loans can be made for up to 100% of the total project cost, for terms up to 25 years and at an interest rate equal to the cost of borrowing for a comparable term based on the current Treasury rate at the time of closing. Loan guarantees can be made for up to 80% of the cost of a loan, for terms up to 25 years, at a rate the Secretary determines reasonable taking into account prevailing interest rates and customary fees incurred under similar obligations in the private capital market.

Since the current RRIF program was created in 1998, FRA has entered into 13 financing agreements with 12 railroads in the total amount of $517.7 million. All of this financial assistance has been made through direct loans. Recipients have included one Class I railroad (Amtrak), two Class II railroads and nine Class III railroads. A list of these loan recipients is attached as Appendix 1 to this statement.

Of the amount of financial assistance provided to date, approximately 52 percent has been for infrastructure improvement, approximately 37 percent for railroad acquisition, approximately 4 percent for equipment acquisition and 7 percent for refinancing outstanding debt incurred for eligible purposes.

Steps in the RRIF loan process

There are nine major steps in the evolution of a RRIF loan:

- **Preapplication Meetings:** Potential RRIF applicants typically meet with FRA in advance to review the requirements for an application and the likely costs and terms of financial assistance. Many of the RRIF applicants have had little past experience with Federal funding programs, thus issues such as the time and cost associated with FRA's need to comply with the National Environmental Policy Act (NEPA), Section 4(f) of the Department of Transportation Act, and Section

106 of the National Historic Preservation Act may come as a surprise. So too, at times, is the rigor with which FRA will analyze the business case for the proposed financial assistance and the documentation that will be required for that analysis. Some railroads have chosen not to proceed with RRIF applications after the preapplication meetings.

- **Applications:** Parties interested in seeking financial assistance from FRA submit an application addressing the requirements of an application, as laid out in the regulations implementing the RRIF program (49 CFR 260) and augmented by preapplication meetings. FRA reviews the material submitted and identifies where additional material will be required to complete the application. At times this might be updating details of the applicant's recent financial performance or the basis for the applicant's projections of future growth in its traffic base, refinement of the cost estimates for improvements to be funded, or more information on the environment of the area where improvements are proposed.

- **FRA's Analysis:** FRA initiates its analysis of applications once sufficient information has been submitted, even though an application might not yet be complete in all respects.[2] FRA undertakes an independent detailed review of the financial aspects of the proposed project including reviewing the railroad's past financial performance and the basis for estimating costs (both project and future operating and capital needs) and future revenues. Where appropriate, FRA reviews the project designs to assure that the project as proposed can reliably accommodate the volume of traffic needed for the railroad to achieve its revenue projections. As with all other Federal agencies, FRA's analysis also includes the reviews necessary to comply with NEPA and related environmental laws, regulations and orders, including where necessary, the preparation of an environmental impact statement.

[2] In addition to providing the information necessary to analyze the business case of the proposed financial assistance, applications are not considered complete until FRA has fulfilled its obligations under NEPA and other environmental laws, regulations and orders. The reason for this is that NEPA reviews, which must be completed before a final decision to approve or disapprove an application is made, may result in changes to the proposed application.

While FRA's staff possesses broad technical expertise, conducting the level of analysis required for thorough review of multiple concurrent applications requires access to greater resources, some of which are very specialized. FRA has used two approaches to acquire the expertise necessary to supplement existing FRA staff in reviewing applications. Until the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (Public Law 109-59, August 10, 2005) was enacted, FRA required applicants to fund a "third party" contractor; that is, applicants paid for financial advisors who received technical direction from FRA to undertake independent reviews of portions of the application. More recently, FRA has used the opportunity provided in RRIF's modified statute to assess investigation charges of up to one half of one percent of the proposed financial assistance to fund contractors working directly for FRA to supplement FRA staff in the review of applications.

Upon completion of the analysis of the application by FRA staff and independent contractors where needed, FRA staff develops a draft recommendation as to how to proceed with the application, i.e., whether to recommend approval, rejection or rejection with suggestions of how a proposal might be amended and improved so that it could move forward at a later date. FRA staff also prepares a draft calculation of the required credit risk premium using methods approved by the Office of Management and Budget. A description of the FRA process for calculating the amount of the credit risk premium is attached as Appendix 2 to the statement.

- **DOT Credit Council Review:** The proposed direct loan or loan guarantee is presented to the DOT Credit Council. This Council is composed of nine members including: the Assistant Secretary for Budget and Programs who serves as the chair; the Under Secretary for Policy; the General Counsel; the Assistant Secretary for Transportation Policy; the Federal Highway Administrator; the Federal Transit Administrator; the Federal Railroad Administrator; the Maritime

Administrator; and the Director of the Office of Small and Disadvantaged Business Utilization. The DOT Credit Council reviews the proposed transaction and makes a recommendation to the FRA Administrator about the project's financial viability and consistency with Departmental policies, including credit policies.

- **Administrator's decision:** The FRA staff recommendations and the Credit Council recommendations are presented to the FRA Administrator. As provided for by SAFETEA-LU, the amount of time that elapses between the completion of an application and a decision by the Administrator is 90 days or less.

- **OMB Review:** At the time the DOT Credit Council recommendations are submitted to the FRA Administrator, FRA's estimate of the required credit risk premium is submitted to the Office of Management and Budget (OMB) for review and concurrence, as is required under the Federal Credit Reform Act. Per its Federal Credit Reform Act responsibility for determining subsidy costs, OMB reviews and approves subsidy cost estimates for Federal credit programs.

- **Financing Agreement:** Assuming that the Administrator decides to provide the requested financial assistance, FRA notifies the applicant of FRA's offer of financial assistance, and the terms under which it will be provided (the interest rate and amount of the credit risk premium.) FRA and the applicant then finalize the terms of the financing agreement and all other necessary legal documents, such as mortgages to secure pledged collateral. Most of terms of the agreement are standard and are available to the applicant well in advance of this point. In addition to the standard terms, there may be project specific terms, such as a commitment of improved cash flow from refinancing of an existing debt to a capital improvement program or requirements imposed on the applicant to assure the protection of environmentally sensitive sites.

- **Project Implementation:** Once the agreement is signed, funding is made available to implement the project and is provided only as needed. This helps FRA assure that the project is undertaken in the most timely and cost effective manner possible. FRA staff with specific expertise, such as track engineers, may monitor the progress of specific major project elements to assure they are being implemented as planned and are progressing on schedule.

- **Loan servicing:** FRA staff monitors the repayment of the financial assistance and the continuing financial condition of applicants.

SAFETEA-LU Amendments

Section 9003 of SAFETEA-LU amended the RRIF program in a number of ways. It has now been seven months since enactment of SAFETEA-LU and I wish to report briefly on FRA's implementation of the most important of these amendments:

- **Expansion of eligible applicants:** SAFETEA-LU effectively expanded the types of entities eligible for the RRIF program to include limited option shippers and commuter railroads. While FRA has been contacted by several limited option shippers, to date none has filed an application. FRA has recently received, and is currently processing, a loan application from a commuter railroad to fund the acquisition of 50 new passenger cars.

- **Expansion of the list of projects to be given priority consideration:** SAFETEA-LU added to this list projects that "enhance service and capacity in the national rail system" and "would materially alleviate rail capacity problems which degrade the provision of service to shippers and would fulfill a need in the national transportation system." Without commenting on any application either pending or that might be filed in the future, I would note that these two types of projects can be viewed as addressing congestion on nationally important rail lines.

- **Expanding RRIF assistance levels:** SAFETEA-LU expanded the total authority for outstanding RRIF financial assistance from $3.5 billion to $35 billion and the amount reserved for small and regional railroads was increased from $1 billion to $7 billion. The RRIF amendments also provided that the Secretary may not establish any limit on the amount that could be used for one direct loan or loan guarantee. These changes may have a significant impact on the types and sizes of projects for which applicants may seek financial assistance, and could increase the Federal Government's risk of loss through greater exposure to the industry and concentration of the portfolio in a smaller number of borrowers.

- **Requirement for Collateral:** SAFETEA-LU provides that the Secretary not require an applicant to provide collateral and that any collateral provided be valued at going concern value after giving effect to the present value of the improvement. Before the SAFETA-LU amendments, FRA sought collateral to cover at least 100% of the value of the loan but never required any specific amount. Where the value of collateral is important is in the calculation of the credit risk premium, which must look at the extent to which the Federal Government would be at risk in the event of a default. By offering collateral, applicants reduce the risk to the Government and thus the credit risk premium they would have to pay. An applicant now, as before, could propose a project for financial assistance without offering collateral, recognizing that the credit risk premium will be higher than would be the case if the applicant offered collateral to cover a significant percentage of the loan or loan guarantee amount. In assessing the value of collateral, FRA will use going concern value where it is appropriate. Some applicants may choose to offer collateral that does not encompass a going concern, such as a locomotive. These are valued as they would be by any other financial institution, usually at market or net liquidation value.

- **Documenting that financing is not available on equivalent terms from other sources:** SAFETEA-LU provides that the Secretary shall not require that an

applicant have previously sought financial assistance from another source. Prior to this change, FRA, consistent with Federal credit policy, sought to encourage private sector financing by requiring that applicants demonstrate that they had sought financing at terms equivalent to those available under the program from a commercial lending institution and been rejected. No applicant is known to have had a problem demonstrating this, in part because the RRIF program offers applicants long-term financing at Treasury rates, making it unlikely that applicants would find such low-cost financing in the private market.

- **Time limit on approving a complete application:** SAFETEA-LU provides that FRA has 90 days after receipt of a complete application to approve or disapprove an application. To date FRA has not found this limit to be an operational burden, given the number of applications FRA receives.

- **Evaluation charge:** While TEA-21 provided authority to collect an investigation fee, it was found inadequate to authorize the expenditure of funds collected. SAFETEA-LU clarifies that FRA can expend any funds collected under that authority to evaluate an application, including costs for contractors to undertake independent financial, engineering and market analyses of applicants and applications. This provision has streamlined the application review process significantly.

The Future

Since enactment of SAFETEA-LU, there has been a steady increase in inquiries about the program and railroads expressing their intent to apply in the near future. Currently, FRA is evaluating eight RRIF applications seeking a total of $2.75 billion in financial assistance.

Any discussion of the future of RRIF should address the President's FY 2007 Budget, which proposes termination of the program. In particular, the Administration is

concerned about aspects of the RRIF authorization that limit FRA's discretion in managing the RRIF program and thereby potentially impeding program and risk management. For example, all railroads, regardless of size, are eligible for RRIF credit assistance, even if they are able to raise funds in the private market. In addition, the increase in the RRIF program size from $3.5 billion to $35 billion and restrictions on the Department's ability to limit the size of individual loans in the RRIF portfolio also potentially increase the program's risk of loss. Railroads already benefit from 2004 changes to the tax code, including relieving them from paying diesel taxes, further contributing to the Administration's reservations about the need to extend favorable loan terms to private rail companies.

I urge the Committee's thoughtful consideration of the merits of the Administration's FY 2007 proposal.

#

Appendix 1

Outstanding RRIF Loans

Mount Hood Railroad	$2.07 million	2002
Amtrak	$100 million	2002
Arkansas & Missouri Railroad	$11 million	2003
Nashville and Western Railroad	$2.3 million	2003
Dakota, Minnesota & Eastern Railroad	$233 million	2003
Wheeling & Lake Erie Railway	$25 million	2004
Stillwater Central Railroad	$4.6 million	2004
Iowa Interstate Railroad	$32.7 million	2005
Tex-Mex Railroad	$50 million	2005
The Montreal, Maine & Atlantic Railway	$34 million	2005
Riverport Railroad	$5.5 million	2005
Great Smoky Mountains Railroad	$7.5 million	2005
Iowa Interstate Railroad	$9.35 million	2006

Appendix 2

Calculation of the Credit Risk Premium

The amount of the credit risk premium to be paid by each applicant prior to drawdown of funds is calculated by the FRA using a model developed specifically for this purpose (CRP Model). This model, which has been approved by OMB, calculates the credit risk premium based primarily on two factors, the financial viability of the applicant and the value of the collateral provided to secure the debt.

Financial viability is gauged by reviewing the applicant's historical financial performance over the past five years and the financial projections for the next five years. The projections are generated by FRA based on a careful analysis of the applicant's traffic patterns, the economic environment in which the applicant operates and interviews with its largest shippers. The CRP Model uses the applicant's historical and projected financial performance and compares it to thousands of private sector companies and their default experience to generate a rating. If the applicant already has a financial rating from a rating agency, e.g., Moody's or Fitch, that rating is used in place of the rating generated by the CRP Model.

The CRP Model then uses that rating and the value of collateral offered by the applicant, if any (valued by a qualified appraiser as a going concern, as required by section 9003(f)(2) of SAFETEA-LU), to adjust projected cash flows from and to the government over the life of the loan. The net present value of these cash flows, generated using discount rates contained in the Administration's current year budget, are then used to generate the credit risk premium.

The calculation of the credit risk premium is reviewed by OMB in the last step of the approval process before the execution of legal documents to finalize the financial assistance to the applicant.

U.S. Department
of Transportation

**Federal Railroad
Administration**

Administrator

**1120 Vermont Ave., NW.
Washington, DC 20590**

MAY 2 5 2006

The Honorable Steven C. LaTourette
Chairman
Subcommittee on Railroads
Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

In response to your request, I am enclosing the Federal Railroad Administration's (FRA) responses to the questions posed by Congressman Jerry Moran related to the Railroads Subcommittee's March 15th hearing on "Implementation of the Recently Expanded Railroad Infrastructure Loan Program." It was a privilege to appear before the Subcommittee to discuss the RRIF Program and a pleasure to respond to the additional questions posed by Congressman Moran. Please do not hesitate to contact me if I or the FRA can be of any additional assistance to the Subcommittee.

Sincerely,

Joseph H. Boardman
Administrator

Enclosure

Questions for DOT Witness: From Congressman Jerry Moran

1. Since the administration claims that the RRIF program is a questionable one, could you please explain how many existing RRIF loans have resulted in default?

Answer: No defaults have occurred in any of the outstanding RRIF loans.

2. Correct me if I'm wrong but doesn't the RRIF program still require applicants to provide the necessary collateral (or credit risk premium) *for* the loan amount being sought?

Answer: FRA does not require any collateral. Since no appropriations have been received for the program, consistent with the Credit Reform Act of 1990, the RRIF authorizing statute and implementing regulations, a Credit Risk Premium (CRP) must be collected to cover the cost to the government of making the loan. Since the level of collateral offered impacts the amount of the CRP, applicants often strive to provide collateral equal to the amount of the loan request in order to minimize the CRP.

3. Could you please explain to this subcommittee how many RRIF applications are currently pending at FRA?

Answer: Currently, there are 11 RRIF applications being processed by FRA.

4. Could you please explain how long each of the pending applications have been under review at the FRA?

Answer: Section 9003 (g) of the SAFETEA-LU requires FRA to approve or disapprove a loan request not later than 90 days after receiving a "complete application." An application is deemed to be complete after – 1) any additional information not contained in the original application is requested and received by FRA; and 2) the environmental review required to be undertaken by FRA under the National Environmental Policy Act and the Department of Transportation Act is complete.

Two of these applications were filed before the enactment of the SAFETEA-LU and have not been completed. In one case the applicant has not provided the additional information requested nor has it otherwise pursued the loan. In the other case, the applicant is awaiting a decision on another funding source and has asked FRA to hold its application.

Three applications are still awaiting completion of the environmental review and the 90-day review period has, therefore, not yet begun.

Four applications are being reviewed and the 90-day period has begun but not yet expired. The final two applications were just received within the last 30 days.

5. The Administration's budget claimed that railroads have benefited from the recent changes to the tax code, which eliminated the tax on diesel fuel and therefore there isn't a need to have a RRIF loan/loan guarantee program. Could you explain how Congress' repeal of the diesel tax dramatically improved a small railroad's financial ability to improve its existing rail infrastructure that's in desperate need of repair/replacement?

Answer: The repeal of the diesel tax will result in lower operating expenses for all railroads, including small railroads. Those savings can be used to support new debt to fund improvements to the rail infrastructure.

6. Outside of the recent repeal of the diesel tax on railroads, could you explain what if anything of the federal government could be doing to assist Class I, II and II railroads seeing that the U.S. Department of Transportation projects that freight traffic will increase 69 percent by 2020?

Answer: The railroad industry, including both small and large railroads, has seen improving income levels and increased profitability over recent years. With higher income levels the industry has become more profitable overall. Increased profitability will allow railroads to borrow needed funds to undertake rail infrastructure improvements from private sector lenders. As with other industries in our economy that do not receive assistance from the federal government, additional governmental action is not required.

7. Should the witness from DOT express opposition to the amended RRIF program, point out the following quote that Secretary Mineta gave following a RRIF loan that was issued in January 2004. This quote appeared in the American Short Line and Regional Railroad Association's press release concerning the DOT approval of a $233 million RRIF Loan:

> U.S. Secretary of Transportation Norman Y. Mineta stressed the vital role of regional railroads in the American economy, "President Bush is committed to growing the economy and the RRJF program provides targeted innovative finance opportunities that yield significant economic benefits.

Answer: Not a question; no response required.

8. Seeing that Congress has been working to improve the RRIF program for a number of years, it would be worth pointing out that the RRIF reforms that were included in SAFETEA-LU weren't something that was inserted in the dark of night. Congress has been considering the much needed RREF improvements for years.

Answer: Not a question; no response required.

9. The President's FY 2007 Budget claims that: "SAFETEA-LU made substantial changes to the RRIF program, including blocking DOT's discretion over whether or not to issue a loan to a questionable applicant." Ask the DOT witness how this is the case?

Answer:

The Administration is concerned that SAFETEA-LU amendments to the RRIF program could impede program and risk management. For example, SAFETEA-LU includes changes that limit some aspects of FRA's discretion in managing the RRIF program, such as the prohibition on requiring RRIF applicants to first seek private sector financing. In addition, SAFETEA-LU includes provisions that raise the RRIF program level from $3.5 billion to $35 billion and restrict the Departments ability to limit the size of individual loans in the RRIF portfolio, thereby also potentially increasing the program's risk of loss. These changes could lead to the provision of loans that could increase the Government's exposure to loan defaults.

STATEMENT OF
THE HONORABLE CORRINE BROWN
SUBCOMMITTEE ON RAILROADS
HEARING ON
"IMPLEMENTATION OF THE RECENTLY EXPANDED RAILROAD INFRASTRUCTURE LOAN PROGRAM"
MARCH 15, 2006

Good afternoon. Mr. Chairman, I am convinced that the Bush Administration does not like railroads. It continually refuses to recognize the fact that railroads are an integral part of our transportation network, and that the Federal Government has a responsibility to ensure that all facets of that network – our aviation system, our highways, waterways, and railways – are in working order.

I believe we are on the verge of a crisis on our Nation's railways. Given the sharp increase in imports due to our trading relationship with China and other countries, the railroads have more business today than they have the capacity to handle. Just last week, railroad CEO's met with me to request a 25 percent tax credit to expand their network. Rail shippers have contacted me about their concerns with rail rates and rail service. And Amtrak has been repeatedly

blamed for poor on-time performance because of freight clogging up the system.

SAFETEA-LU sought to provide relief to States, local communities, railroads, and shippers by expanding the Railroad Rehabilitation and Improvement Financing program from $3.5 billion to $35 billion in direct, low-cost loans and loan guarantees to improve railroad capital infrastructure. Funding for Class II and Class III railroads increased from $1 billion to $7 billion.

Yet less than six months after the President signed SAFETEA-LU into law, the Bush Administration proposed to eliminate the loan program in its Fiscal Year 2007 budget. The White House's Office of Management and Budget – which refused to testify at this hearing – claims on its website: "There is no clear justification why the Federal Government should extend such favorable loans to private rail companies."

That is absurd. This Administration provides direct federal funds (not just low-cost loans) to

private companies all the time – just talk to the U.S. Trade and Development Agency who in 2004 began exploring ways to rehabilitate the Iraqi railway sector. That effort led to the allocation of $210 million in emergency appropriations for reconstruction of the railway. I never heard objections from the Administration on that funding, nor do I hear objections from the Bush Administration about Federal spending for aviation, for roads and bridges, for public transit, or for maritime. Yet, our railroads are held to a different standard.

There is no dedicated stream of funding for rehabilitating, reconstructing, or expanding the U.S. rail network. And until the Federal Government steps up to the plate and makes the proper investments in our Nation's railroads – both passenger and freight – then the RRIF loan program remains a valuable tool for States, local communities, railroads, and shippers.

Mr. Chairman, following this hearing, I intend to send letters to all the railroads that received

RRIF loans and the Governors of each of the States in which they operate to tell them that the Administration wants to zero-out the RRIF program and that President Bush believes their project is "not in the compelling public interest". I urge you to join me in that effort.

STATEMENT OF
THE HONORABLE JERRY COSTELLO
SUBCOMMITTEE ON RAILROADS
HEARING ON
"IMPLEMENTATION OF THE RECENTLY EXPANDED RAILROAD INFRASTRUCTURE LOAN PROGRAM"
MARCH 15, 2006

- Thank you, Chairman LaTourette, for calling today's hearing on implementation of the recently expanded Railroad Rehabilitation and Improvement Financing (RRIF) program.

- The RRIF program was first enacted in 1998 in TEA 21. TEA 21 provided States, local governments, government-sponsored authorities and corporations, railroads, and joint ventures access to a total of $3.5 billion in direct, low-cost loans and loan guarantees. The funds could be used for acquiring, improving, or rehabilitating railroad infrastructure or for refinancing outstanding debt. Of those funds, smaller railroads were authorized to receive up to $1 billion in loans and loan guarantees.

- SAFETEA-LU – which the President signed into law in August 2005 – expanded the RRIF loan program. It now provides a total of $35 billion for Class I railroads, including at least $7 billion for Class II and Class III railroads. SAFETEA- LU also eliminated the Federal Railroad Administration's unauthorized requirements for a prior denial of credit as a condition for a RRIF loan application and for collateral. In addition, SAFETEA-LU expanded the list of eligible recipients for the loans.

- Yet less than six months after the President signed SAFETEA-LU into law, the Bush Administration proposed to eliminate the loan program in its Fiscal Year 2007 budget. The White House's Office of Management and Budget – which refused to testify at this hearing – claims on its website: "There is no clear justification why the Federal Government should extend such favorable loans to private rail companies."

- Mr. Chairman, I find that statement disconcerting. We are at a point where we cannot continue to neglect upgrading and modernizing our infrastructure system. The Federal Government has a responsibility to ensure that all facets of that system – whether it is our aviation system, our highways, waterways, or railways – are in working order.

- We are on the verge of a crisis on our Nation's railways because demand for freight transportation continues to grow faster than current capacity can handle. Just last week, railroad representatives met with me to request a 25 percent tax credit to expand their network. Rail shippers have contacted me about their concerns with rail rates and rail service. And Amtrak has been repeatedly criticized for poor on-time performance because of freight clogging up the system.

- With this increased demand comes a continued need for additional investments in infrastructure projects to enhance service, promote efficiency, and reduce prices. SAFETEA-LU sought to provide relief for – not just railroads – but entire States, local communities, railroad customers, and others. Yet unlike the other modes of transportation, there is no dedicated stream of funding for rehabilitating, reconstructing, or expanding the U.S. rail network. I believe we should be encouraging and promoting innovative financing options, like the RRIF, that are specifically aimed at freight capacity improvements and enhancements.

- Thank you, Mr. Chairman. I look forward to hearing from the witness.

COMMITTEE ON TRANSPORTATION & INFRASTRUCTURE
Subcommittee on Railroads

"Implementation of the Recently Expanded Rail Infrastructure Loan Program"

March 15, 2006
2:30 p.m.
Room 2167, Rayburn House Office Building

Opening Statement of Congressman Elijah E. Cummings

Mr. Chairman:

I thank you for calling today's hearing to enable us to examine the implementation of the Railroad Rehabilitation and Improvement Financing (RRIF) loan program – and to examine this Administration's priorities for the development of our national rail network.

Congress proved its strong commitment to including railroads in the creation of a truly intermodal, national transportation system by creating the RRIF program in the TEA-21 bill to provide loans and loan guarantees to enable

railroads to acquire or rehabilitate equipment and infrastructure.

However, after taking office, the Bush Administration embraced policies that had no basis in statute and that were essentially intended to make it very difficult for a railroad to obtain assistance under the RRIF program.

Last August, Congress passed the SAFETEA-LU legislation, which removed these restrictions, thereby ensuring that the RRIF program could be implemented as intended and could finally begin to help meet the capital needs of our nation's railroads.

Congress further strengthened its commitment to the RRIF program by significantly expanding the loan program to

total $35 billion in outstanding principal and by allowing rail shippers to apply for funding if they had access to only one rail carrier. Through the SAFETEA-LU bill, Congress reserved $7 billion of this funding for non-Class I railroads to help ensure that the smaller communities they serve are linked to the national rail line.

The Bush Administration has responded to this renewed commitment by proposing to eliminate the RRIF loan guarantee program in its fiscal year 2007 budget. Similarly, the Bush budget also proposes no funding for the Federal Railroad Administration's high-speed rail development program.

The U.S. Department of Transportation estimates that by the year 2020 – which is less than 15 years from now – the

demand for freight transportation will increase by nearly 70%. A Harris poll taken last December shows that the American public strongly supports the development of rail networks in our nation. More than 60% of respondents preferred that freight transportation be expanded on railroads rather than on trucks.

The Bush Administration, however, has argued that despite the increasing demand for freight transportation services, as private companies, the nation's railroads should not look to the federal government for investment capital. The Administration holds this position for railroads even though the federal government funds the air traffic control system on which airlines depend. Moreover, governments fund the road network on which the trucking industry operates. The

RRIF Program is intended simply to provide a measure of federal support for the railroad industry.

The SAFETEA-LU bill – which guides federal investments in highways and transit – was set at the level of $286 billion at the insistence of the Administration even though we know that a much higher level of investment is needed to maintain our existing highway and transit infrastructure and to begin to expand it.

The Administration's actions on the RRIF program and other innovative rail programs seem similarly intended to continue to shortchange investment in our nation's vital transportation infrastructure.

The Administration should be mindful that long after it is gone, the choices it has made on the development of transportation infrastructure will be carrying us ahead or holding us back. In a nation where freight movement is so critical to our economy, our federal budget should be maintaining funding for RRIF, not eliminating it.

Mr. Chairman, our nation must prioritize investment in our own national infrastructure and our commitment to moving our economy forward must include the provision of the financing that the development of a balanced, multi-modal transportation system will require.

I look forward to hearing from today's witnesses.

Thank you and I yield back.

STATEMENT OF
THE HONORABLE JAMES L. OBERSTAR
SUBCOMMITTEE ON RAILROADS
HEARING ON
"IMPLEMENTATION OF THE RECENTLY EXPANDED RAILROAD INFRASTRUCTURE LOAN PROGRAM"
MARCH 15, 2006

- Mr. Chairman, I commend you and Ranking Member Brown for holding a hearing on the Bush Administration's Fiscal Year 2007 budget proposal to eliminate the Railroad Rehabilitation and Improvement Financing (RRIF) program.

- The RRIF program was authorized in 1998 in the Transportation Equity Act for the 21st Century (TEA 21). TEA 21 provided States, local governments, government-sponsored authorities and corporations, railroads, and joint ventures access to a total of $3.5 billion in direct, low-cost loans and loan guarantees for acquiring, improving, or rehabilitating railroad infrastructure or for refinancing outstanding debt. Smaller railroads were provided $1 billion.

- When TEA 21 passed, I stated that the RRIF program was crucial to expanding capacity and improving the reliability of freight and passenger services. I believed – and I continue to believe – that if the United States was serious about maintaining our status as the world's leader in transportation, then we must tap into the potential of our rail system. The RRIF program represented a good first step in that endeavor.

- Since enactment of TEA 21, the Federal Railroad Administration (FRA) has approved 13 loans and disbursed $517 million; for example, loan agreements have been executed with the Iowa Interstate Railroad ($32.7 million in 2005 and $9.35 million in 2006), the Wheeling and Lake Erie Railway ($25 million), the Montreal, Maine, and Atlantic Railway ($34 million), and the Great Smokey Mountain Railroad ($7.5 million).

- These projects have helped relieve congestion on our Nation's railways, so Chairman Young and I worked together to expand the program in SAFETEA-LU. The law now provides a total of $35 billion for Class I railroads, including at least $7 billion for Class II and Class III railroads. SAFETEA- LU also eliminated the FRA's (unauthorized) requirements for a prior denial of credit as a condition for a RRIF loan application and for collateral. And SAFETEA-LU – at my insistence – authorized shippers that are captive to only one rail carrier to apply for a RRIF loan to construct rail access to a second carrier.

- Yet less than six months after the President signed SAFETEA-LU into law, the Administration proposed to eliminate the RRIF program in its FY2007 budget. The Administration contends that such credit assistance "is unwarranted" because "there is no compelling public interest in the program".

- This statement leads me to wonder whether anyone in this Administration ever travels beyond the beltway or reads a newspaper because, if they had, they would realize that our Nation's railways are at peak capacity, and unless the Federal Government steps up to the plate and helps States, local communities, railroads and shippers find a solution, a market failure is sure to come.

- Railroads carry 47 percent of intercity freight traffic (excluding pipelines and air freight) in the United States. In 2004, the railroads carried 1.8 billion tons of freight for a total of about 1.6 trillion ton-miles. That traffic is expected to rise more than 50 percent, from 1.8 billion tons to 2.9 billion tons in 2020, according to the Federal Highway Administration's Freight Analysis Framework.

- Add that to the fact that current growth predictions indicate container cargo at U.S. ports will quadruple in the next 20 years and you have got a tremendous amount of pressure bearing down on our Nation's rail system, with no solution in sight.

- I recently traveled to San Diego to meet with General Atomics, which has a proposal to alleviate congestion at the Port of Los Angeles. General Atomics has developed a magnetic levitation train that can take intermodal containers from the Port of Los Angeles to a staging area for loading onto freight railroads and trucks: a first of its kind in the United States and an innovative, intermodal solution that is needed to help resolve a serious bottleneck at our ports.

- That project is going to cost money, so I advised General Atomics to apply for a RRIF loan. Soon after, I find out that the Administration wants to – once again – do away with the loan program because there is "no compelling public interest in the program."

- If the General Atomics' maglev project – which will provide congestion relief across an entire transportation system – is not in the public interest, then I don't know what is.

- Mr. Chairman, I see that the Office of Management and Budget declined to testify at this hearing. I hope that the witness from the Department of Transportation is prepared to explain the Administration's ill-conceived proposal and subsequent statements.

STATEMENT OF HONORABLE DON YOUNG
RAILROAD SUBCOMMITTEE HEARING:
IMPLEMENTATION OF EXPANDED
RAIL INFRASTRUCTURE LOAN PROGRAM
MARCH 15, 2006

THANK YOU, CHAIRMAN LA TOURETTE.

I COMMEND YOU ON THIS VERY TIMELY HEARING TO CHECK UP ON THE IMPLEMENTATION OF THE $35 BILLION RAIL INFRASTRUCTURE LOAN PROGRAM UPDATED IN LAST YEAR'S SAFETEA LU LEGISLATION.

THIS DIRECT AND GUARANTEED LOAN PROGRAM—KNOWN AS R.R.I.F., WAS CREATED IN 1998 UNDER CHAIRMAN BUD SHUSTER AS PART OF THE TEA 21 BILL.

UNFORTUNATELY, THE PROGRAM WAS SABOTAGED FROM DAY ONE BY D.O.T. AND THE OFFICE OF MANAGEMENT AND BUDGET IN THE PREVIOUS ADMINISTRATION.

EVEN WORSE, BIPARTISAN REQUESTS FOR CORRECTIVE ACTION FROM THIS COMMITTEE'S LEADERSHIP WERE COMPLETELY IGNORED, EVEN WHEN AT LEAST TWO ADDITIONAL HEARINGS WERE HELD ON THIS MATTER.

SADLY, THIS CONTINUED TO BE THE CASE AFTER THE BUSH ADMINISTRATION TOOK OVER D.O.T. AND O.M.B.

WHEN I BECAME CHAIRMAN OF THIS COMMITTEE, WE HELD A RAIL INFRASTRUCTURE HEARING IN APRIL 2001.

THIS R.R.I.F. LOAN PROGRAM WAS DISCUSSED AT LENGTH.

SO WERE THE ILLEGAL OBSTACLES PLACED IN THE WAY OF LOANS.

IF YOU LOOK AT THE TRANSCRIPT OF THAT HEARING, I TOLD THE DEPARTMENT'S WITNESS AT THE TIME THAT D.O.T.'S JOB WAS TO ADMINISTER THE LAW THE WAY CONGRESS WROTE IT, AND IF THE DEPARTMENT FAILED TO DO THAT, OUR FURTHER JOB WAS TO "STICK IT IN THEIR EAR."

D.O.T. SHOULD CONSIDER ITS EAR FILLED.

IT TOOK FIVE YEARS OF OUR RIDE-21 LEGISLATION, AND THE 2005 SAFETEA LU BILL, BUT THE "CORRECTIONS PACKAGE" THAT RANKING MEMBER OBERSTAR AND I DESIGNED TO UNCRIPPLE THE R.R.I.F. PROGRAM IS NOW LAW.

TODAY'S HEARING IS A MUCH NEEDED "TRUST BUT VERIFY" EXERCISE, TO USE PRESIDENT REAGAN'S EXPRESSION.

WE WOULD LIKE TO TRUST D.O.T., BUT WE WANT TO VERIFY THAT, FOR THE FIRST TIME SINCE 1998, THE R.R.I.F. PROGRAM IS BEING ADMINISTERED ACCORDING TO LAW, WITH NO ARTIFICIAL OR ILLEGAL OBSTACLES PLACED IN THE WAY OF LOAN APPLICANTS.

HEAVEN KNOWS OUR RAIL AND RAIL-INTERMODAL NETWORK NEEDS EVERY DOLLAR OF IMPROVEMENT CAPITAL IT CAN GET.

THIS SELF-RENEWING, OFF-BUDGET $35 BILLION LOAN FUND CAN GO A LONG WAY TO MAKING THOSE MUCH-NEEDED IMPROVEMENTS.

THANK YOU, MR. CHAIRMAN.

American Short Line and
Regional Railroad Association

The Voice of America's Independent Railroads

March 7, 1006

The Honorable Don Young, Chairman
House Committee on Transportation & Infrastructure
2111 Rayburn House Office Building
Washington, DC 20510

Dear Chairman Young:

The American Short Line and Regional Railroad Association (ASLRRA) strongly supports the Railroad Rehabilitation and Improvement Financing (RRIF) loan program and urges you to oppose any effort to eliminate this program. ASLRRA represents over 500 short line and regional railroads across the country which together operate nearly 50,000 miles of track.

The RRIF program was designed to help short line and regional railroads upgrade, refinance, construct or acquire track and equipment infrastructure that otherwise would be lost to the national railroad network. The federal government recognized the importance of this infrastructure when it provided the regulatory incentives for the creation of short line railroads in the early 1980's. Those regulatory incentives worked remarkably well. In 1980 there were approximately 190 short lines operating some 8,800 miles of track. Today there are over 500 short line and regional railroads operating nearly 50,000 miles of track or approximately 30 percent of the national railroad system. Short lines originate or terminate one out of every four carloads moved by the domestic railroad industry.

This is the most vulnerable part of the railroad system serving thousands of small towns and small customers who would otherwise lose their connection to the national main line railroad network. For shippers the ability to use the short line railroads results in lower transportation costs, more flexible local service and a greatly expanded market reach for local products.

From the beginning these railroads have faced daunting challenges. They operate over former Class I lines that received little or no investment because they had low traffic volumes. These lines were purchased by entrepreneurs who had to take on large and very expensive bank debt to buy them and who must reinvest a huge portion of their revenues in eliminating deferred maintenance. Today the average short line invests one third of its revenues in infrastructure improvements, a far higher percentage than any other industry in the country. Because they are small, risky ventures they do not have the same access to capital enjoyed by larger more established companies. The

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RRIF program was created to fill this gap between what is needed and what is available.

The RRIF program does not cost the federal government any money. It is a loan program and each loan carries the same interest rate the government would earn if it invested the loan amount in a treasury security of comparable term. The railroad itself must pay a so-called "credit risk premium" which is the government's estimation of the risk of default. The railroad must provide collateral equal to the amount of the loan. The advantage to the short line is the twenty five year term and the relatively low interest rate, neither of which a short line or regional railroad could obtain through private markets.

The RRIF concept is not a new one. It is an updated version of the Title V loan program that Congress enacted in the Railroad Revitalization and Regulatory Reform Act of 1976. This loan program was used extensively by the Class I railroad industry, much of which was in or near bankruptcy in the 1970's. In combination with other regulatory reform measures the loan program was credited with saving railroad lines that are today considered a vital part of the national main line network. To the best of my knowledge there has only been one default under that program since 1976.

The demand on the nation's freight system is growing at an astounding rate. The U.S. Department of Transportation predicts that freight traffic will increase by 69 percent between now and 2020. Railroads are a vital part of the transportation network required to meet that demand. Short line and regional railroads are particularly vital in large areas of rural and small town America where transportation infrastructure requires substantially higher investment. The RRIF program is making a significant contribution to increased investment and it should be continued.

We sincerely appreciate your Committee's past support of the short line railroad industry. Under your leadership the Congress has enacted programs that have helped preserve and enhance valuable transportation infrastructure. We look forward to working with you and your Committee as you continue to address these issues.

Sincerely,

Richard F. Timmons
President

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