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House of Representatives

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Opening Statement
Vice Ranking Member Gerald E. Connolly

**Hearing on “Examining Tax-Exempt Private Activity Bonds for All Aboard
Florida’s Brightline Passenger Rail System”**

April 19, 2018

Thank you, Mr. Chairman. As a former local government official, I am afraid I recognize all too well the nature of this hearing. In fact, it feels like I am back in my old boardroom in Fairfax County.

What we have here is a local dispute between a new transportation facility—in this case Brightline passenger rail—and the communities that object to building the facility in their backyards. This is the kind of dispute I dealt with countless times as Chairman of the Fairfax County Board of Supervisors. No case was easy, but what we always hoped for was a resolution that balanced the interests of the community with the need to make necessary transportation improvements, and that is what I hope ultimately happens in this case. As federal overseers we also have a

responsibility to ensure that projects using government funding or financing mechanisms are held to the highest safety standards.

This hearing appears to focus on a strictly local dispute, which is currently subject to litigation. The witnesses are the parties to the litigation and the testimony they are offering tracks closely with their legal briefs.

Of course, we are not a court of law, and nothing that happens here will affect the eventual outcome of that litigation. Nor should it.

However, I think this hearing raises some issues that should be relevant to President Trump, though perhaps not in a way the Republican majority intends.

I believe that we can all agree that this country's infrastructure is in an appalling state of disrepair. The state of our infrastructure is so bad that the American Society of Civil Engineers gave us an overall score of "D plus." Although our rail system scored a "B," the Society stated that, **quote**, "U.S. rail still faces clear challenges, most notably in passenger rail, which faces the dual problems of aging infrastructure and insufficient funding."

The dispute at the center of the lawsuit is how a major passenger rail infrastructure project in Florida is funded. The project is privately owned and operated. It is funded by private investors, who receive tax exemptions for the income they earn from their investments in the railroad. The financing vehicle is called “private activity bonds” or PABs for short.

Two Florida counties and a group of homeowners in Florida’s “Treasure Coast” want to stop the project. They are saying, in effect, “Not In My Backyard.” And they have gone to court to contest the appropriateness of the use of PAB’s for this infrastructure project.

And here’s why this Florida dispute should matter to President Trump.

President Trump’s infrastructure plan abandoned the long tradition of public funding of major infrastructure projects. Instead, it would rely significantly upon the private sector to finance the cost of upgrading our infrastructure. As is the case with this passenger rail project in Florida, PABs are a key financing option that the federal government uses to incentivize private sector investment in infrastructure. The Trump plan depends upon them.

So it is not too much of a stretch to say that if this hearing and accusations of crony capitalism based on government-supported financing mechanisms can stop a private passenger rail project in Florida from using tax-exempt bonds intended to incentivize private investment in infrastructure, then President Trump's plan to rely upon private investment for infrastructure projects across the country could be stopped in the same way. In a way, then, it is the Trump infrastructure plan that is on trial today.

Isn't it ironic that the loudest critics are likely to be in the President's own party and probably believe in *private* ownership and *private* investment of infrastructure. Just not in their backyard.

I have no opinion one way or another about whether this passenger train should be built in Florida. However, I am skeptical that the nation can rely entirely on private investment to repair and improve our aging infrastructure, and I'm doubtful that President Trump's privately funded infrastructure plan will ever be anything more than an empty campaign promise, like making Mexico pay for a southern border wall or draining the swamp.

But I have a suspicion that this hearing will shine a light on the Achilles' heel of President Trump's infrastructure plan, because it will demonstrate that

private financing is not a panacea for our infrastructure woes—something that will become more clear every time someone in this hearing attacks Brightline for taking advantage of an existing tax-exempt financing vehicle.

I look forward to hearing from our witnesses today on the deficiencies of the President's infrastructure plan, and hope that this dispute can be resolved to the satisfaction of all involved. Thank you, Mr. Chairman.

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