

John L. Mica
Member of Congress (1993-2017)

May 17, 2018

The Honorable Elaine Chao
Secretary
U.S. Department of Transportation
1200 New Jersey Avenue, Southeast
Washington, DC 20590

Dear Madam Secretary:

While I hesitate to intervene on issues before the Department, I recently learned of some controversial discussion among a few of my former colleagues surrounding the All Aboard Florida/Brightline project and questions raised about Congress' intent to establish eligibility for Private Activity Bonds for projects of this type.

Having been involved in the drafting and adoption of that language in the 2005 SAFETEA-LU transportation authorization bill, let me say it was our clear intent to establish eligibility for transportation projects which have a public benefit by providing this incentive to the private sector in order to assist in the funding of these projects.

It was also our intent that a surface transportation project would include rail. In fact, this mechanism was established to provide a means of shifting the obligation from the taxpayer to private investors, and to encourage their subscription to help fund highway, rail and other surface transportation projects.

In defining a qualified highway or surface freight transfer facility as "any surface transportation project which receives Federal assistance under title 23", Congressional intent is expressly defined as including rail as part of our nation's surface transportation system.

The Department of Transportation was absolutely correct in its previous utilization of the program for this Florida project. It is imperative, both for federal credibility and for the success of the Administration's infrastructure program that the Department continue supporting this and similar projects through this incentive program.

Brightline is the most viable private project of this type to come along in decades in the U.S. Already operating in its first, most populous segment, it represents a huge private investment with an absolute minimum government outlays, while offering a public benefit and engine of economic growth that is immediately evident and which will persist for the foreseeable future.

This bond program is the cornerstone for advancing any private participation in public purpose infrastructure projects which require substantial financial backing.

The alternative to this is either direct public funding, public grants or public appropriations, all of which necessitate that the taxpayer bear 100% of the cost, burden and liability. With the Private Activity Bond program, the private bond holder assumes the entire risk and the financial obligation.

And furthermore, the tax-benefit incentive these projects provide stimulate economic activity and actually create huge investments in new infrastructure. In the construction, operation and maintenance of this infrastructure, they provide substantial tax revenues which are perpetuated years into the future, not only during construction but during operation.

If anything, the Administration and Congress should expand eligibility and strongly back any private sector infrastructure project which commits substantial private financing while reducing taxpayer exposure. This is the cornerstone of President Trump's infrastructure initiative.

Though Congress correctly preserved Private Activity Bonds in the recent tax reform bill, they missed the mark by not expanding incentives. Currently, this program is one of few tools available to encourage private sector investment in these mega-projects.

It would be a setback if this first-of-its-kind project in the U.S. was not afforded this opportunity as Congress intended.

While I do not represent any party in this current debate, I would be glad to provide any additional information.

With my regards and best wishes, I remain

Sincerely



John L. Mica

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Former Chairman, U.S. House Transportation and Infrastructure Committee

Former Chairman, Oversight and Government Reform Subcommittee on Transportation Oversight

cc: Jeffrey A. Rosen, Deputy Secretary