

## Business Better (Episode 29): Oh The Places You'll Go: A Discussion Regarding the American Jobs Plan

Speakers: BJ Clark, Gov. Ed Rendell, Brian Kirby, John Smolen

BJ Clark:

Governor Rendell, you've been a major champion of infrastructure and federal investment in infrastructure for a number of years. You've also been a longtime friend and advisor to President Biden, and were active on his campaign early on. Can you tell us a little bit how this package came together over the last two years as President Biden was running for office and since he's been in office? And also, maybe give us a little, insight of what has happened in your view nationally over the last eight, 10, 12 years that maybe sets the stage for such an historic investment.

Gov. Ed Rendell:

Well, interestingly BJ, it's really what has happened over the last 60 years that sets the stage for investment. I said to the press last week and I've said it many times before, the United States hasn't done a comprehensive infrastructure revitalization plan since Dwight Eisenhower did the interstate highway systems. That was the last time we had some visionary, well thought out significantly large infrastructure plan to address not only our quality of life and the safety that we have, but to address economic competitiveness in the global market place. This has been long overdue and it makes the next four years, President Biden's initial term, it makes them so important, because we can't wait five years into the future to do infrastructure. We have to do it now.

Gov. Ed Rendell:

Less than a decade ago, we had been rated number one infrastructure in the world by the World Economic Forum, every year for 20, 25 years in a row. We're now down to 13th in those international ranks. It's embarrassing some of the countries that are ahead of us. There's a nonprofit agency that ranks the best airports in the world. They rank, they put out a list every spring, of the 25 best airports in the world. How many do you think are American airports? Well, if you said zero, you're right. Zero. Our high-speed trains go about 110 miles an hour. High-speed trains in Asia and Europe, routinely go 220 miles an hour and there's one under construction that goes 317 miles an hour. We are an embarrassment. We are a third world country when it comes to infrastructure.

Gov. Ed Rendell:

In major cities like Philadelphia, a lot of our water pipes were literally laid in the 19th Century. In the 19th Century. It is absolutely stunning in what state of disrepair and lack of competitiveness the American infrastructure is. It costs us jobs. It risks our wellbeing, and it makes us economically uncompetitive. We have to do something. Everyone agrees. Republicans agree, Democrats agree. The rub is, what are we going to do, but more importantly, how are we going to pay for it? Now, there are two groups that seem to not be interested in paying for it. They think we can just load it up to the national debt, that's the progressive way in a squad of the Democratic Party.

Gov. Ed Rendell:

The Republicans, they say, "We're not going to raise taxes." But you said you wanted to do infrastructure. How are we going to pay for it? "Pay for it? Let's just borrow the money." People are acting like there's no consequence to us borrowing the money to go into another two trillion dollars in debt. We'll there are consequences, because we have to pay the debt service on the debt every year. The debt service is cutting more and more into other non-mandatory programs, mostly domestic spending. We're going to have virtually no money to spend on anything else but defense and the mandate programs like social security and Medicare, basically that will be it.

Gov. Ed Rendell:

So there isn't a prior impetus to move, the question is, how are we going to move? Can there be a meeting of the minds so Republicans can support some aspects of the Senate and President's bill? Will the bill be fleshed out? The answer is yes. We're very interested in this conversation about 3Ps and public private partnerships. Well, there was nothing in the bill, in the initial rollout of the bill that creates incentives for private investment, and yet, everyone agrees there ought to be that. We need significant government investment, but we can't make the mistake of not worrying about leveraging significant private investment. A lot remains to be seen. There are going to be changes in this bill, modifications. I'm hopeful it will pass and I believe some infrastructure bill will pass either through reconciliation, because it clearly has to do with the budget, either through reconciliation, or hopefully with some bipartisan approach.

BJ Clark:

So Brian, the governor makes an interesting point. Obviously public sector is only a piece of this and as coming from a major private infrastructure developer, talk a little bit about what you see the ... obviously there're opportunities to build, if government dollars are coming through. But how do you think the private sector can and will really leverage a package like this to multiply and make the impact more significant?

Brian Kirby:

First of all, just touching on what the governor just said, in the last, I would say three or four presidential elections and the mid terms afterwards, as a member and a developer involved in this industry, I have attended seminars put on by law makers and lobbyist, which constantly say the same thing. It's that infrastructure is badly needed in this country, that we need anywhere from two and a half trillion to 10 trillion dollars in infrastructure needs, depending on what source you look at. Then it should be an area of bipartisan agreement, that both Republicans and Democrats can agree upon. Yet, each cycle comes and goes and we haven't had the kind of big package that's being talked about here. So, I've grown into a cynic on this, but I'll tell you, I'm optimistic about this one. I can't put my finger exactly on why, but everything I've seen so far, certainly makes me optimistic.

Brian Kirby:

In terms of how a developer company like mine can utilize this and the way we would like to see it funneled and shaped, I think first and foremost, we have to use the programs and the tools that we have available to us right now and streamline them and make them work better. So TIFIA is a great example of that. You can look around the country and see tons of projects, including in my native Virginia, the 495 and 95 express lanes, and most recently interstate I-66. That simply could not have gotten done without TIFIA funding. We need to increase funding to TIFIA. We have the playbook, we've seen that it works. We have to increase and expand the eligibility for TIFIA. Right now, it's a little narrower than what it could be and if we could expand it to utilize it on other projects, that would certainly be useful.

Brian Kirby:

WIFIA is much newer, but it's following that same model and ought to be useful. Private activity bonds, we could expand the allocation of private activity bonds and again, the eligibility for their use. Going even further, and again, as the governor stated, right now what we know about this package, it's pretty high level. There's not much of the mechanics that will need to be fleshed out, but if you look at to the international examples that we have, Australia with their asset recycling is something that we might consider.

Brian Kirby:

For those that may be listening and aren't familiar with that, what Australia did essentially did several years back, was begin to take many of their public assets and either sell to the private sector or lease to the private sector. And then, and this is the key piece of this, not just blowing that money once they received it, but taking the money they received and investing it in new infrastructure, new greenfield projects and also the rehabilitation of existing assets. What they really did was take an asset and really get something for it. Not only the tangible project that came after, but also all the jobs that were developed as part of

that. And the title of president Biden's plan, the American Jobs Plan, doesn't escape me. These should be plans and projects that generate jobs.

BJ Clark:

When you talk about how to pay for it, right now, the proposal is to raise the corporate income tax. John, obviously there's been a lot of debate about how you pay for infrastructure. There's been a focus on methods other than the gas tax. Governor and Brian, you both just mentioned a couple different scenarios, but John, talk philosophically about where you think this bill will go from a funding perspective, and if you do this based off of the corporate tax, does that fix infrastructure funding forever, or will this only be a solution for this bill? I'd like to sort of hear your thoughts on that and then maybe Governor and Brian you can chime in as well.

John Smolen:

Well, BJ, the answer is that I want to build frankly on what Brian and Governor Rendell have said, in as much as, yes, it fixes, putting money into a system, fills the gas tank to do a big squirt to probably get at some things that need to be funded. Now does that effort in a large upfront ... I think the President called it historic funding approach ... solve the infrastructure problem more comprehensively? And I think to your point about longer term funding, the answer is no. Brian had cited some of these loan programs, some of these bond as something that's pulled into transactions to incentivize those parties that deliver the infrastructure to keep up the infrastructure.

John Smolen:

So in many ways, giving us a lot of money now, setting aside the very real issue that the governor pointed out on how we pay for it, I'm worried about payments later. The ability of these DOTs, the abilities of these federal and state agencies, municipalities to take this new bright shiny thing, or this new rehabilitated thing, or refurbished thing and then be able to count on a cash flow, be it through taxes, be it through federal infrastructure investment on a longer term. But what I'd like to see is some more sustainable cooperation between the state and the municipalities and the federal government comprehensively to ensure there's out-year money so then we don't incur fixing costs, we have the lower amount of up-keeping costs.

John Smolen:

Brian spoke to that about his organization, Sacyr, playing in this space where a public private partnership takes those cost into account on a procurement basis, and then places that responsibility with the private sector to manage, and in the out years, the payments that are infrastructure money now are going towards life cycle anticipatory costs later, which aren't as newsworthy now, but keep us from getting to a, why are our bridges, why are our ports, why are our road falling apart?

John Smolen:

Now with that sort of a premise, I'll offer to you that I don't think that the capital investment - and we're going to put a billion here, 100 billion there - has set aside the utility of continuing to explore these other out year sustainable revenue streams. There's user fee based fees, tolls. I know that in Pennsylvania, where you're sitting, that's a hot topic of days. It's how we're going to thinking about and use tolls and about people's receptiveness to tolls. And quite frankly, understanding the roles that tolls have played on infrastructure funding for millennia.

John Smolen:

The other couple of offers, not off the table as well, are vehicle miles traveled, as another version of a user fee, specifically of course in the transportation context, we're talking about someone using a car for a longer number of miles means more of a proportional impact by way of assessment, to pay for their use of that road, and more importantly the upkeep. Now, I'll stop there, because I will want to transition back to some P3 statements. But, the governor's remark that there's nothing in this about private sector investment, really to me, I can extend to, there's nothing really incentivizing participation on these long

life cycle focused infrastructure solutions, which I think can be introduced without frustrating the pay for in as much as where does the money, presuming it comes.

Gov. Ed Rendell:

I think those are all good points, but I think the real answer is, the reason we struggle with infrastructure spending, is because infrastructure in the federal government, where it's set for us right now, infrastructure which creates long term value, competes with things that are one year. That inherently, the spending occurs in one year. Food stamps, there's no, if there's X amount of money appropriated for food stamps that money is used and spent during the year. The benefit occurs during the year, the money is used and spent during the year.

Gov. Ed Rendell:

The federal government is the only political subdivision in American that does not have a capital budget. It puts us at a great inferior position because we don't have a capital budget. Let's take some of the things an infrastructure does. In 19 ... I think it was, correct me if I'm wrong guys ... 33, we financed the construction of the Hoover Dam. The Hoover Dam supplies electricity to seven western states. That was 90 years ago. The Hoover Dam is still providing value. And yet, if we were doing the Hoover Dam today, the CVL would score that, the entire cost of the dam, the governments going to put in \$200 million to build the dam, that were all the year one expenditure. Even though, the benefit is continuing towards a century. So in the long run, we ought to take a look at going to a capital budget.

Gov. Ed Rendell:

Interestingly, Bill Clinton thought that and he commissioned a task force. I actually testified in front of the task force. I was mayor then, but I was leader of a group called Rebuild America, and we endorsed the capital budget. The capital budget looked like it was going to carry the day, and the committee, until Bob Rubin came in, and guys in the finance industry don't like for the country, they don't like capital budget. So Rubin was able to beat it back and there hasn't been an intent to look at this in a long time.

Gov. Ed Rendell:

And, we have to persuade the American people in better tolls, I don't think they need much persuading. We have to convince the American people you get what you pay for. They know that in their own lives. We've got to tell them the government's no different. The last time the gas tax was raised, 1993. Bill Clinton got it raised. It hasn't been raised since. That is 28 years. To give you a frame of reference how difficult that is, any of my co-panelists want to take a gander at what the federal ... Not the federal gas tax ... What the average cost of a movie was in 1993?

Brian Kirby:

I'm going to go with two bucks Governor Rendell.

Gov. Ed Rendell:

A little under four dollars. Does anybody know what the average cost of a movie today is?

Brian Kirby:

12 maybe?

Gov. Ed Rendell:

\$12, right on the nose, Brian. It's tripled. The cost has tripled. The money the federal government lays out for infrastructure has stayed at zero. So in actual dollars, it buys far less. The cost of the average car, Brian, in 1993?

Brian Kirby:

10,000.

Gov. Ed Rendell:

13,000. Cost of an average car today?

Brian Kirby:

25.

Gov. Ed Rendell:

34,000. 34,000.

Brian Kirby:

Okay, I'm buying cheaper cars.

Gov. Ed Rendell:

Given those things, why would we expect the gas tax not to increase? And yet, people are petrified at the thought of raising our gas tax. So look, I think the funding scheme that the president has proposed is a good one. If you go back and look at what was being said when President Trump was formulating his tax cut plan, businesses were taxed at that time at 35%. Businesses said, "If you could tax us at 27% or 28%, that would put us in the middle of the country's tax burden."

Gov. Ed Rendell:

Number two, we've got to do something to make sure that every corporation pays a minimum income tax. If we do those two things, I think we've got a reasonable funding scheme. Now the Republicans are going to put their head in the sand and not agree to vote for some increase in revenue, and I think the Democrats are going to have to do it under reconciliation.

BJ Clark:

I'll ask this to everyone, the estimate that this package would cost between two and two and a half trillion, is that enough?

Gov. Ed Rendell:

Well, that depends how you look at it BJ. I tell people, it sounds like a lot of money, but it's really to cover eight years. Eight years, and figure at 1.6 trillion of that is real infrastructure. Assume you're isolating it at that, that's only \$200 billion of additional infrastructure spent in a year, what the American Society of Civil Engineers say we need to do for a decade, to get back to an average infrastructure. So no, it's not enough. It should be higher.

Gov. Ed Rendell:

The way to make it higher is if you have a capital budget. You could do literally three trillion for infrastructure and debt service on that would be somewhere around \$240 billion a year. You could stretch it out and you could afford it without any question. So, I'm worried that it isn't enough. It certainly isn't enough for the progressives, the leader of the squad, not Ocasio-Cortez, but the congress woman from Washington. She recommended an \$11 trillion bill. Well, this isn't a visual podcast, but I would like to wake up tomorrow morning and comb my hair in a pompadour. That isn't going to happen. That isn't going to happen and we are not going to persuade the United States Congress to do an \$11 trillion bill.

Brian Kirby:

So exactly what the governor said, it can always be bigger and certainly our needs are large. At least speaking for myself, I'm not going to let the perfect be the enemy of the good. I think again, over these last several election cycles where we've come up empty on this, if they could actually get more than a \$2 trillion plan through, that's a huge positive and I won't cry that it wasn't bigger. I think that's important. I think for us, I was really listening to the governor a few minutes ago, struck by the fact that things like the Hoover Dam and the interstate system, I wonder if they could get done today and so, for me, seeing a package even of the size that's proposed get through would be a break.

John Smolen:

If I could heap on too, I completely agree with you both. The direct issue of funding, about being an obstacle to that, Brian, how much of the reason the Hoover Dam couldn't get built is procurement? How much of the reason the Hoover Dam couldn't get built is commodities prices? How much of the reason the Hoover Dam can not get built is going to be in some of the impositions on the federal funding process itself, that were maybe not around back then. I mean, we could wander into any number of places and I think that this bill is devoting some money, strategically, and probably, if I may, insightfully into solving some of those problems.

John Smolen:

In many ways, I guess my punchline is, an \$11 trillion bill, still saddled with all those problems, just creates more debt. But a \$3 billion, trillion dollar bill, pardon me, that also sort of carefully pays attention to some of the adjustments that can be made here, actually may put that money toward infrastructure. In which case, I would think that the chances of getting the Hoover Dam out of a bill with smaller number on it, with that money targeted to the right things is actually more probable.

BJ Clark:

That's a great segue, John. Let's fast forward and say this time next year, a bill is passed with historic investment. What are the changes that need to happen in how infrastructure projects are executed and planned and developed from the federal government to make this doable? To not have this become a country full of big digs and 80 years to anything done. You hear, Brian, you certainly here often, from private developers, that there's too much red tape. Governor, I know you've talked about it as well, what are the big ticket items that should be in this package to produce something that's actually executable in an efficient and obviously safe way?

Gov. Ed Rendell:

BJ, I'm going to jump in for a second and get to answering your question, but I want to say, what needs to be in this package is some recommended changes that will make it easier to get private investment. So for example, Brian talked about TIFIA, TIFIA was actually cut in the last transportation bill. Inexplicably it was cut. TIFIA needs to be expanded, because it leverages almost \$10 for every one dollar of government loan money that's put out through TIFIA. So we've to lift the government prohibition against tolling. Tolling highways that were initially built with some participation of federal money. That is crucial, because that more than anything else, can unleash the private sector dollars into helping the infrastructure price tag. Right now, there is not tolling allowed in America for a highway that was previously built with some government money.

Gov. Ed Rendell:

We need to raise private activity bonds, as Brian said. We need to bring back Building America bonds, because that was the incentive, not so much to the private sector, but it helped the states who wanted to do projects on their own, but infrastructure projects. If you bring the percentage of repayment up from 28% to 35%, it turns out to be a wash for the federal budget. So there's so many things. We need infrastructure money, with the power to loan money at lower, almost no interest rates, to projects, loan money to private developers or to states, to operate the way the European infrastructure banking operates. The European infrastructure bank has been a great success in unleashing the private sector contributions.

Gov. Ed Rendell:

And then, of course, we've got to streamline our regulations. I give President Trump credit for understanding that we need to cut through the regulatory red tape. Of course, he cut the good regulations along with the bad regulations. He just took a machete and started cutting everything. There are some regulations that are good, because they do generally protect the environment. There are some that are good, because it regulates the way spending occurs. But a lot of the regulations can be cut and the time that is laid out for processing some of these regulations is absurd. Absolutely absurd.

John Smolen:

I could jump in on that. I couldn't agree with you more Governor. I thank you for raising that, an obstacle, you can have a lot of money in a six year NEPA process and that money's not going to get spent. As I draft contracts the risks and the amount of time on a transactions cost basis diverted to managing the timing of commodities, costs, labor, other ... Brian, I'm hoping your head's going to be nodding up and down, as general council for a company that has contractors, you're trying to keep people occupied. So if things get moved out, you have to figure out where to put these people to productively participate in our economy. Something that can use this money and give more certainty in a permitting process, where we are cutting to the chase, and to use your words, Governor Rendell, "the right regulations operating at the right time in a more predictable basis," is going to let this stuff implement, absolutely.

Brian Kirby:

I think you guys hit on a couple of key points. I mean, with certainly with permitting and NIPA, which you referenced, those are two areas where we lose a lot of time. The other thing I would highlight is that in terms of expanding access to private capital, in the leveraging of private capital in projects around the country, there are some states that have a lot of experience in delivering projects like that, Virginia, Texas, being two examples of that. Pennsylvania most recently with the package of bridge rehabilitation. But there's lots of localities, municipalities, waste and water districts around the country that don't have experience with that. I think some aspect of this, whether it's providing grants to make sure that they have good advisors that can evaluate whether a P3 is the right approach, and if so, how best to structure it.

Brian Kirby:

From our side of the table, when we're looking at what projects to pursue, making that go, no-go decision, a lot of it is about how certain is it that this project is going to be seen through to the end? One of the things that we struggle with is that there are tons of projects around the country that sort of never get off the ground and it's hard to decide where to spend our resources, time and money, without having that certainty. So the more we can do to educate states and municipalities that maybe don't have as much experience in this type of a project, and give them the tools and the initial money in order to go down that road, the better, from my perspective.

BJ Clark:

Do you think Governor, so when I worked for the governor, we did the Delaware River Deepening Project, we were in a NIPA process for almost 20 years as you remember Governor, where there was about 12 studies that confirmed there was not detrimental, environmental impact. And it cost years and money and jobs, but with the makeup of Congress and the push from the progressives and the push for the Green New Deal, do you think it's realistic to think that there maybe some changes toward the environmental regulations?

Gov. Ed Rendell:

Yeah, it would depend on the guts and courage that President Biden has and I think he has plenty. I think President Biden, he says he intends to run for a second term, but he's acting a lot like a first term president, who has no intention of running for a second term. He's trying to do everything now. I think he'll have the courage to do ... He's rolled back a lot of the Trump environmental regulations that were very dangerous to the environment and didn't serve much of a purpose, but he's kept in place, and I think he will add additional ones, that move along the process. There is no way that a NIPA environmental impact statement should take six years to complete. I don't care if it was rebuilding the Great Wall of China, it shouldn't take six years to complete. In China, rebuilding the Great Wall, would take six weeks of environmental study, if that.

Gov. Ed Rendell:

But, I'm not saying to abandon environmental study and the review of applications. I'm just saying do them in a sensible rate of speed. Building a bridge from scratch, in America, because of the regulations and because of the environmental impact study, would probably take these days four to six years. But when the bridge went down in St Paul, in Minnesota, and people died, they rebuilt that bridge in nine and a half months. Now there was environmental impact statements, there was a review and it all got done. It was any harm to any of the regulations, so how did it get done? It got done because we did it. And we did it because there was a quote, emergency.

BJ Clark:

John, I know you represent a lot of local governments. At this point in the process, if you're a state department of transportation secretary, or if you're the head of it, an independent agency, what should you be doing to make sure that your projects are in a bill and also make sure that you're ready to execute on whatever comes out?

John Smolen:

So if I am the secretary of transportation for state X, well the first thing I'm doing is, I'm going to go grab my TIP and my STIP and see what I have in my docket and I'm going to ask some pretty hard questions of my CFO and my director of operations and say, "Which ones of these are waiting, because we don't have money?" Because if they're waiting because we don't have money, we now have the opportunity to have some money and let's talk about bringing them forward in time. But further to some remarks I had said before, I would say, we also need to be calling on some folks that can influence this bill to suggest that some of this money can be allocated on a long term basis towards some lifecycle considerations that heretofore, we've been having in our maintenance budget, that I would like to use our maintenance budget to be involved more cooperatively in our capital budget with the benefit of some of this federal money, so that we can reduce overall our catch up and fix type approaches to take advantage of the word fix that is so prominently displaced or displayed in this bill.

John Smolen:

The next thing that I would do, and further to the governor's remarks regarding some of the challenges with NEPA, as one example, I would take a hard look at the projects that I have programed based on state money of municipal money, relative to federal participating money to really understand what taking some of this money is going to do in terms of my presumptions on the costs for federal participation. There are impositions through the federal design build regulations, as an example, that are clearly favored through this bill with its focus on labor. And all of that is fine. That's how we speak policy in this country. But in terms of how it is that you're going to rack and stack what a project is going to cost, when you start to federalize that project, you need to understand what those additional impositions from the federal government on that money is going to cost.

John Smolen:

I know, Brian, I'm going to project that in your role as general counsel, on your decision tree, one of the earlier things towards the base of the tree is, is this or is this not a federalized job, because that is going to inform where you're putting resources, how you're calibrating your timing, what risks you're going to be worried about. So I would take stock of those, and I would certainly invite Brian's view in particular on that, because that's where the rubber meets the road, no pun intended. Then the last ... Or maybe the pun was intended, BJ.

BJ Clark:

That's fine.

John Smolen:

And maybe the last one I would do is, I would probably pull my folks in to take a giant deep breath and say, "This is a federal policy statement and we are a state aware municipality, and there's money that's being available. Are we going to let this? Do

we want this? Does this align with the objectives and our capital planning from a policy and infrastructure approach perspective. Because in many ways, if there's money out there saying, "you can get a haircut," and you like having long hair, you might not want to take the money if you know you've got to cut your hair. I think in particular about some inland ports that have \$17 billion that are available now under this program, and suddenly everyone's going to want to build a port. If you're holding a hammer, everyone's looking around for a nail.

John Smolen:

It may not be in your overall state's transportation planning to think that the port is where you want to put your money, which is frankly BJ, where I think the folks in your line of work come in handy, because you could be in the room with that deep breath saying, "Before this all happened, what were we trying to do? How can use this to shape what we're trying to do faster or better or more efficiently to free up money in another place?"

Brian Kirby:

Just to comment on some of what you said, John, some of the additional requirements from a compliance standpoint, that come along with federal funding. The vast majority of our projects are federally funded anyway, so we're accustomed to that and we welcome that and it's well worth the price of admission to have additional projects to do. So we're glad to accept that. We were talking about delays in the permitting process, and in NIPA, that has a number of pernicious effects on getting projects done, that the sheer time that we focused on being what we focused on mostly and the cost, but also, the uncertainty.

Brian Kirby:

So not even ultimately that the project doesn't get approval or doesn't ultimately get the permit, but politicians changed during the period of time that these things are pending and their priorities change. So if you're approaching this from outside of the table and again, deciding where to put those money and resources, and you know that there're going to be three different mayors during the time that this is pending, or two governors, that's a major change, and you really have to be judicious about where you invest and this certainly effects it. So by speeding things up, we can do a wealth of good.

Brian Kirby:

Something else that I want to go back to is, when we were talking about TIFIA and the ability to streamline and make that work faster in addition to providing additional funding and expanding eligibility, I think just within how the TIFIA program works, there are some things we could tweak that certainly would generate an improvement. One would be having the credit council meet more often, so the decisions can take place faster. Prioritizing projects that require significant private capital would be a positive, because these private parties are really reliant upon that TIFIA decision, and so making sure that it happens in a timely fashion would be huge. Prioritizing critical projects, such as the ones that President Biden is currently proposing would be again, a huge benefit.

BJ Clark:

Governor, what do you think, you talked about President Biden, what do you think the President learned from overseeing the recovery stimulus when he was vice president, that will be applicable to this package?

Gov. Ed Rendell:

Well, as you recall, there was a big dust up, because the President Obama said that states misled him saying there were shovel ready projects. Well, we misled him because we thought having been a state senator he would understand that in most states, you had to bid projects. And that means inherently, they're not shovel ready. You can't give them a check on Tuesday and have the work begin on Wednesday. But, I think vice president Biden, because of his oversight of the program, learned a lot of things about regulation and learned that everything could be speeded up. You recall Pennsylvania was rated a year after the stimulus money came out. We were tied for first place with four other states for spending the money that was given to us quickly.

Gov. Ed Rendell:

We were given about a billion dollars for infrastructure, about 800 million of that was highways, bridges and roads. To the bureaucrats I said, "You're not going to have three or four months to review your RFP to make a decision. You've got one month to make a decision." So I took a process that normally took us between six and nine weeks and I cut it down to two months. Vice President Biden saw that, not just in Pennsylvania, but understand that you can move these projects up without hurting the quality of regulations. And he was an excellent steward. If you recall BJ, despite all these hooting and hollering from Republicans, there wasn't one dollar of fraud, one dollar of loss, one dollar of federal money that went to a project like the Bridge to Nowhere, in the Biden-Obama stimulus program. I think he learned the value of it. That's why I think he leaned so heavily on infrastructure. He also learned that our technology is not at a pace with the best technology in the world, which is why that there's so much money in there for research. Smart idea.

John Smolen:

Can I riff on that, the technology point? Governor, you are spot on. The advantages that are drawn out in this plan about emphasizing the utility of technologies and the infrastructure plan, is spectacular. I mean, the marquee is broadband, everybody has access to it. I get that. I think that's fantastic, but there are incentives to put an infrastructure in place that's forward thinking that doesn't at the same time displace the existing infrastructure. I'm not a governor. Were I have been a governor and somebody said, "Here's a whiz-bang thing, but you've got to spend a lot of your money to get rid of this old thing to put the new thing in place," that would frustrate me.

John Smolen:

What I'm seeing with specifically the EV infrastructure and some incentives on stretching dollars with technology in transportation and transit, like approaches to the infrastructure is exciting to me. As a P3 lawyer, it's further exciting because folks like Brian Kirby can jump to the table and say, we have this new technology, or we have a new approach and we want to plug that into our response in this organization that stretches those dollars farther, that gives more value to a public sector owner. All of that now is, from a policy basis, clearly favored under President Biden's approach.

Gov. Ed Rendell:

That's a very good point and if I'd been appointed to the secretary of transportation, the first thing I would have done was literally gotten people who are involved in the industry, lawyers like yourself, business leaders like Brian, into a room and say, "All right, I'm going to sit here for 20 hours, 20 hours a day through the next two days. I want you to tell me what's wrong with the current system and how do we fix it?" It's there, the knowledge is there, it just needs to be tapped into. And we miss an opportunity if we don't take advantage of that knowledge. It wouldn't take that long of time. It wouldn't at all.

John Smolen:

They give you eight hours a day, Governor Rendell. You'd need 10, you can sit down and have a long lunch.

BJ Clark:

John, you just touched a little bit on mass transit, switching topics, what's the future of high-speed rail in this country? The proposal includes funding for Amtrak and expansion for Amtrak, probably historic, since Amtrak was founded. But, we haven't seen anything yet on what Governor, you'd probably call true high-speed rail, as far as in the European or Asian model of over 200 mile per hour, high-speed trains. I mean, should we assume that the future of rail in this country is existing infrastructure and building a new high-speed network?

Gov. Ed Rendell:

We'll you can be confident that Amtrak will object to true high-speed rail in 2000, they'll get to it by then. Now the answer is, you can't have high-speed rail in America with the existing infrastructure. You cannot have high-speed rail operate on a curved

basis. As you know, the Acela can go 160 miles an hour, but the Acela which is in Boston to Washington, only goes about 50 miles of that stretch at 160, because all the other tracks are laid in such a curved shape that it would be totally unsafe to operate at anything more than 110. So you need to build a whole new infrastructure. It's only going to come if you let high-speed rail out and the private sector develops high-speed rail, working with the government in two part system.

John Smolen:

As an infrastructure lawyer, I am agnostic, and I'm excited about anything that builds infrastructure that makes people use transportation in particular as a way to get from one thing that they're trying to do to get on with their life to another, in many cases to make money. So getting there quicker is a fantastic idea. I think the challenge with the high-speed rail is that the places this has come up in the states so far has either been challenged by the fact that it's a dense demographic for obvious reasons. It improves the likelihood for ridership, but I also creates challenges on figuring out how to get a straight away that lets you get to those speeds. Or it's been, and I say this with great respect, in states that have their own extra layer of regulatory imposition on top of an already rigorous, federal environmental in particular, regulatory process that drives those timelines out and make Brian Kirby think about where he's going to stick one construction team to another.

Gov. Ed Rendell:

Now, John, you're fully right, but I want to repeat my favorite quote from an American politician, was from Jack Kennedy, "Not to ask what your country can do for ... what you can do for your country." My favorite quote was, "We do these things not because they're easy, we do them because they are hard." If we really want high-speed rail, if we want to get into the 21st Century, we'll deal with all those problems. We'll deal with density, we'll deal with the environmental regulations, we'll find a way to do it. We need someone with a fervor and ardor to get it done, who's not going to say, "Well, this is going to be too hard. We can't do it. Let's forget it." We do things because they're hard. We have stopped doing hard things in this country.

Brian Kirby:

I think there're two particular challenges with high-speed rail. I think if you look in the countries where it's successful, they tend to be much smaller than the United States. The sweet spot for a high-speed rail trip is really that four hour and less trip. You can build a series of regional networks in this country, but it would be hard to get something truly nationwide. Although, I certainly hear the governor that it's good to shoot for hard things and we should. I think the other thing is, high-speed rail is highly subsidized everywhere where it's been successful in the world. We have to decide as a society that that's worth doing. I personally think it's worth doing and would love to invest in it, but we have to collectively decided that it's worth investing in, because this is not a pure profit making endeavor. At least it hasn't-

Gov. Ed Rendell:

How do you feel if I told you that in the year 2050,, there'll be two and a quarter million more cars on I-95 Monday through Friday?

Brian Kirby:

I would feel very fortunate to be working from home right now.

Gov. Ed Rendell:

The question is not whether we should build high-speed rail, we have to build high-speed rail. We've got to get vehicles off our highways, off the streets. By the way, do you know how much carbon we would be avoiding if we replaced one-third, one-fourth of the cars who drive on 95 with high-speed rail?

Brian Kirby:

Without a doubt.

John Smolen:

74, I believe that was Maglev, which I understand is banding about down in my neck of the woods with you Brian. The Mag-

Gov. Ed Rendell:

I rode Maglev in Japan and it went 317 miles an hour, and you know what? When they Acela is at 160, I challenge you to make your way to the bathroom, and you can't because you get thrown over like a small boat in a storm, at 317. Governor Pataki was with me on this mission that we took. Governor Pataki is a tall guy, about 6'4", he sat up, took a pad out of his breast pocket, and a pen, and he wrote a note to the head of Amtrak and his pen didn't slip one iota's worth at 317.

Brian Kirby:

I think the best thing that could happen for us is to have a couple of these lines built. I mean, the vast majority of Americans have never ridden high-speed rail. And so having the Dallas to Houston line that's in development right now and having that complete and be a success, would be a huge example to look to and say, "This can be done, and let's look at the places around the country where it makes sense to do it."

Gov. Ed Rendell:

Well, that would make sense Brain, except let's look at Phoenix as an example. When Phoenix decides to put in rail transit, people said, "Oh, that will never work in Arizona. People are never going to take a train in Arizona." It's been a huge success, but has it inspired other cities, who thought that their populations would not take mass transit, to do it? A little maybe, but not a lot. Sometimes you have to do some things that people aren't going to like in the short run, but that you believe they will come around to in the long run.

Gov. Ed Rendell:

When I was mayor, we had this saying about anytime you to site a supermarket in a neighborhood, neighbors would be up in arms. "It's going to bring bad people into our neighborhood. We're going to have more street crime, et cetera. People are going to get robbed." We had a saying, we proposed a supermarket, they hate it, they hate it. It opens, they love it. That's the truth. You all know about, not in my backyard, right, the saying? Well there are two organizations that have started recently. I don't know if you've heard about them. One is called NOPE, Nowhere on Planet Earth. The other is called BANANA, Build Absolutely Nothing Anywhere Near Anybody.

Gov. Ed Rendell:

What I did as mayor, and I'm not putting myself up as a hero, but groups would come and say, "We don't want this." I'd say, "Listen, we're going to work with you. Tell me what your objections are. We'll try to ameliorate as many of the objections as we can." Eight weeks later after we'd gone through this process and caving in on two or three things, I had the group in and said, "We've done two or three things you've asked, we can't stop the project. We're going to go ahead. November 6, 1995. What's that? That's my reelection. You can vote against me, but I believe the best interest for the city as a whole and the best interest for your neighborhood is to be served by having this supermarket sited in your area."

BJ Clark:

So supermarket is a good segue Governor, to our last topic, what does this proposal do for social infrastructure? That's been something that's been debated about what the role for social infrastructure is. Maybe John, you could give us a little bit of overview and everyone could talk about what place in this proposal social infrastructure has and if it's the right amount? Is it the right policy? Is it the right strategy?

John Smolen:

I will say, for better or for worse, there's very little on social infrastructure, and it may come from a fundamental misunderstanding of the role that these public buildings and public spaces can have to further some of the objectives that

came through in the introductory language and in the lead up that the president brought to the table. I for one saw a little bit of information about affordable housing as an opportunity that really creates in the near term jobs for folks to have a place to build to live, which a subsidy of that undertaking would be helpful. But the truth is, further to my earlier remarks, there's very little in there to signal about the long-term upkeep in sustainability of those affordable houses, such as that the affordable housing budgets of given jurisdictions don't find themselves constantly repairing, rather than building, or replacing for that matter.

John Smolen:

Similarly, there was information that I saw about helping with the federal buildings. Federal buildings in particular. The VA Hospitals was also called out specifically. As a vet, that's of course important to me and I'm happy to see the president valuing that. But further to the governor's remarks earlier, purely federal buildings are still hamstrung by that OMB circular that scores the entire capital cost in that one year rather than in over the long-term for the value of that federal infrastructure as it relates to serving the public policy purpose that puts it into place. I would have liked to have seen a few more words about things bringing - right sizing, if you will - some of the things that are perhaps less attractive, but still functionally valuable to our societies.

John Smolen:

As an example, there was a project, I want to say, almost 10 years ago now, that tried to eliminate transportation costs between a jail facility and a court facility and a holding facility, by centralizing those government functions in a building that was working towards the functions of those services in a way that eliminated those costs. There's nothing in this infrastructure bill that suggests ... and bill, I should say proposal ... that suggests that those sorts of calculations that folks in Brian's spot, who see those efficiencies could bring to the table. I'm not sure if it's an oversight or it's a policy decision, but I would have preferred to have seen a little bit more thinking about the social gains that he is taking to advance through the actual apparatus and the infrastructure for those social undertakings.

Brian Kirby:

Yeah, absolutely. A couple of question back, we were talking about some of the regulatory changes that could take place, you certainly touched on one here in this last bit that's important and that is, fixing CBO scoring so that long-term thinking is not punished and that it's really prevented there from being a robust federal P3 pipeline. So to the extent that we could address that in this build-up that would be great.

BJ Clark:

Great. Well, we're at time. In true pandemic fashion, my wife just reminded me she has a call in 10 minutes and the kids are otherwise unmanned in 10 minutes. So I've got to make sure Daniel Tiger is operating at full speed, but this was great. Any final thoughts from any of you guys?

John Smolen:

I would offer just as a parting thought that I've already in preparation for this podcast, I read the Washington Post and the New York Times and I read politico and I saw that Bob Poole put something out from the Reason Foundation and a number of people are talking about it, almost all of whom are talking about the funding, which is valuable. Then we talked a little bit here about, there's a better way and the worse way on the pay-for basis. But we also glanced off on the idea that the sizing of this could be the second distraction frankly, away from what's going on here.

John Smolen:

I really want to say, it's not hard to be thoughtful about putting in policy positions, putting in legal terms that enable the lubricating efforts of the collaboration between a private sector, a technology, someone with a positive view of things, ways to

de-risk, to mitigate risk, to create more reliable timelines, are valuable undertakings. I would rather have a one trillion dollar infrastructure build that solves most of those problems, than a \$10 trillion infrastructure build that keeps them all in place. There's real value to delivering this infrastructure in terms of paying attention to the things that are not going to be readily apparent, I think that if people are worried about numbers and worried about taxes. If we can afford the opportunity for those people to influence the language and can get some of these enabling words in, I think that the vision for the transportation, and for that matter the infrastructure plan, will be much more readily realized.

Gov. Ed Rendell:

I'll just say, people like Brian and John, have so much to offer. Don't give up. Get your congressman you know best or senator you know best, and get your ideas on the table. I think the reason this is going to take til July, is because it's a work in progress. I think if there are enough voices, if there enough logical reasoned voices, we can bring about some improvements in the act, some things that they act just didn't cover. Just by bringing them up, I think we can get them in. So not only Brian and John, but anybody else who is listening to this podcast, who's got some good ideas, get to your congressman, get to you senator, and let's see if we can get some of these things done.

Brian Kirby:

My parting piece would be this, earlier the governor talked about the importance of going big here, being ambitious, I think it's important to be ambitious, both in terms of the scope of this, but also the timeline. I've heard some people saying that the timeline is too ambitious and I don't agree. I think the governor also mentioned President Kennedy earlier in this talk, and when President Kennedy in 1962 was talking about putting a man on the moon and bringing him back safely to the earth by the end of the decade, ultimately they succeeded. 1969, the man landed on the moon. If it had happened in 1973 instead, I don't think anyone would have jumped up and down and screamed about how bad it was. So let's shoot ambitious, and if we fall a little bit short, we still will have made tremendous progress.

BJ Clark:

Well great. This has been great, very informative. Obviously a really important and timely topic and something that's going to continue, so perhaps at some point we will reconvene as this progresses to talk about the development of the bill. There's obviously a lot of different constituencies out there who are listening, who I think will really benefit from this conversation and followup conversations. I thank all three of you and have a great weekend.