Business Better (Season 4, Episode 11): The Infrastructure Investment and Jobs Act – Insights Three Years Later

Speakers: John Smolen, Sam Headon, and Jennifer Hara

John Smolen:

Welcome to Business Better, a podcast designed to help businesses navigate the new normal. I'm your host, John Smolen. I'm a partner in Ballard Spahr's infrastructure practice group, where we spend time representing the public side, private side, and investor side on infrastructure projects across the country. In today's episode, I've assembled colleagues who are renowned in the infrastructure space to revisit a conversation we had in March of 2022 after the November 15th, 2021, signing of the Infrastructure, Investment, and Jobs Act, or the IIJA as you'll hear, or as it is sometimes come to be known in cyberspace as the Bipartisan Infrastructure Law. The IIJA or BIL is still in effect and an implementation in progress.

You, our fair listeners, will be receiving this podcast and our thoughts on the law's three-year anniversary. If you would like to listen to our first episode about the act, it is titled The Infrastructure, Investment, and Jobs Act: Moving Authority into Projects, a Public and Private Perspective. It is entertaining, it is fantastic, and I do encourage you to listen to it. Joining me are two renowned players, again, in the infrastructure space, Sam Headon, the head of infrastructure investments for S&B USA Concessions and who incidentally sat with me and my colleague in the first episode I just described to you. Also joining is Jennifer Hara, the acting head of innovative finance and technical assistance for the Build America Bureau within the Vaunted United States Department of Transportation.

There are any number of developments that we expected to happen, and we'll be able to talk to how some of those worked. And then there's going to be some things that inevitably have changed in our world, and in our country and specifically, and we are able to talk a little bit about how we think the Infrastructure Act has responded with that. So, without further ado, I invite Sam to give a little bit of information about S&B and then Jennifer, a little bit about her role with the Build America Bureau. And then we will launch into thinking about where we are with the Infrastructure Act and in particular, as we had discussed previously, where we think we are with the Infrastructure Act and its impact on P3s. So, Sam.

Sam Headon:

Hi, John. Hi, everyone. And Jennifer, it's nice to see you again. Nice to be welcome back on the podcast. S&B is a global development construction and energy company publicly listed in Israel. In the US, our headquarters are in Pittsburgh, Pennsylvania. In the US we focus on development, construction and energy projects. We have a number of projects on the energy side in Texas and California. And then on the P3 and construction side, we focus in the mid-Atlantic will be with the P3s. We can look at projects anywhere in the US. We have three projects in the US, two of which are currently under construction in Fargo, North Dakota, the Fargo-Moorhead version channel and also the Penn major Bridges P3, which is also near and dear to John's heart in Pennsylvania, as well as pursuing a number of other very large P3 opportunities in the US. Thank you for having me.

John Smolen:

Jennifer.

Jennifer Hara:

Thank you, John. Nice to see you. Nice to see Sam. So, as John mentioned, I'm currently acting head of the innovative finance team within the Office of Technical Assistance at the Build America Bureau. The Office of Technical Assistance was actually stood up under the infrastructure bill and is a new office. And our role really is to do just that, provide technical assistance as well as we have under management for discretionary grant programs, three of which were created and funded under the infrastructure bill. So, that's more or less my role. Great to be here. I think folks are probably pretty familiar with what the Build America Bureau is, but we'll get into that a little bit more later in terms of how the legislation has impacted us overall.

John Smolen:

Well, I think that's a great segue, Jennifer, to really the first topic, which is that the Infrastructure Act among many things, was foremost a influx of money that was going to be dedicated to prioritize both some public policy interest, but also more importantly to bring some infrastructure up and into the 21st century where there was a lot of federal fund available, but it was also a lot of motivation to bring some private funding and to motivate the preparation and delivery of several projects. So, I was wondering frankly, out of the gates, if you could give us some of those success stories of how some of that taxpayer dollars that come in and through the USDOT has gone out into a success story or two to break how a project was broken loose as it were, we're absent that infrastructure money, we probably would be talking about a project in the future.

Jennifer Hara:

Absolutely. Well, I think what the infrastructure bill did besides obviously setting up this office of technical assistance and ended up, I think, funding probably close to around $50 million of discretionary grants that we're still working through implementing as well as awarding. But additionally, it did plus up what we have available to lend and continues to plus up the PAPS program. But what it also gave us is some additional authority. It created some new asset classes that we are able to lend into, including transit oriented development, which happens to make up about 30% of our project pipeline currently.

Another project that I think hits on some other buttons of focus for the Department of Transportation is the Hudson Tunnel project in New York. There was quite a bit of funding provided for our national rail network. But specifically along the northeast corridor, replacement of much of the old tunnels that are causing quite a lot of choke points and challenges, the Bureau was able to participate with our largest loan ever to that project earlier this spring.

John Smolen:

So, you're a busy lady, Jennifer, implementing these programs, and identifying and advancing those policy objectives, it seems to be.

Jennifer Hara:

Yes, absolutely. I mean, I would say I would not be in this role, I would not have this job were it not for the infrastructure bill. Because the Office of Technical assistance, though created back with the founding of the Build America Bureau, was not really stood up until the infrastructure bill was passed.

John Smolen:

Indeed. And we are in good hands mercifully, America. So, with that, those success stories highlight a couple points for me, which we may or may not in the swirl of discussions get at. There's the rural, there is the policies, there's any number of allusions to the appropriate thing that there was money put in place for technical assistance for these public entities largely who may not have previously been in a position to grab that money to actually have that money and put it to good use.

With that being said, I can't help but notice the Build America Bureau and the build back better monikers that we heard for several years seems to show that the emphasis within the Infrastructure Act about building has been pretty prominent, which is a good thing. But there's also the challenges of the reason that we are building is because we may be in many instances rebuilding or reconfiguring things that had been built, and that we continue as a country to face some challenges with respect to your operations, maintenance and efficiencies in that regard. Sam, I'm curious, if you have some observations three years in about how the Infrastructure Act has influenced the out-year lifecycle type approach to some infrastructure projects in the country?

Sam Headon:

Yeah, I mean I'd start by echoing a little bit of what Jennifer said, but there's no doubt the Infrastructure Act have been transformational. There's no doubt there have been significant success stories. I think she touched upon the Gateway program. In addition to that, there are a number of projects, but for the Investment Act would never have moved forward and think Brent Spence Bridge and others that have benefited greatly from that investment. And so, from that perspective, I think it has been transformational and that a lot of those initial objectives in terms of genuinely moving the needle on infrastructure in the US have been accomplished, are being accomplished. I'd also add that the technical assistance work that's being done is enormously ambitious, but also maybe we haven't seen the benefits of that yet, but we'll see the benefits of that on an ongoing basis. That's what we hope and I think we will. And I think Jennifer touched upon it and I think that's important to highlight because we're hoping to see that that's going to be a major cause for leveraging additional growth and investment in the sector.

I will say that when we had the original podcast, one of the things we were hoping, at least I was hoping was that this influx of money would be additive to existing infrastructure budgets and that we have a focus on P3, that P3 would then be the beneficiary of additional flexibility in those budgets. That there could be additional monies made available and deployed under existing budgets for other projects, maybe not of the size of some of the ones we've talked about, but other projects that, but for again, that additional flexibility would get done. I think what we've seen to date has been a little bit different, which is that at least in some instances we've seen those monies replace existing state infrastructure money, which has been redeployed understandably, or at least we can recognize and appreciate that that's an alternative. But the overall spending hasn't seen a huge bump. We've just seen a replacement of that spending with additional infrastructure, federal infrastructure fund.

So, that was I guess a little bit of a surprise. And that may change. I don't think this is a static experience, but we may see that change. And again, that's not consistent across all DOTs, but we have seen examples of that in some jurisdictions. The other point I would say is that focus specifically on P3 is there a few P3 specific innovations that came through the Infrastructure Act. NEPA, permitting reform, the creation of a requirement for value for money analysis to unlock funding for larger projects. I think it's probably too early to judge some of that, albeit that we've seen with NEPA, NEPA seems to be more efficient and more effective all the time from where it was, say 10 years ago in this market, which is helpful.

Value for money is a little bit of work in progress, certainly to your point, John, about long-term life cycle costs and major maintenance. I think that's an area that's still under-analyzed and some of the value for money in that is still not being recognized across the board. And then obviously paths, which was maybe the biggest change that no one talked too much about initially, which was that it was doubled under the Infrastructure Act. Everyone thought that would be a significant amount more than it was required, and we've seen the appetite for that private activity bond take up quickly absorbed given the infrastructure investment. So, that was maybe an unintended consequence of where we are today and something to focus on in the next authorization should we see one.

John Smolen:

Oh, and that is some foreshadowing, Sam, because we will on this podcast, time permitting, get to some speculation here we are midstream on the Infrastructure Act on what would amount to be the next move in the Infrastructure Act. Which I think is itself a good segue to like any forward-looking funding bill and for that matter, public policy bill, you're basing yourself on the information that you have now and your ability to prognosticate about what's forthcoming. And it may be no surprise to many that a number of infrastructure projects have been reprioritized, sidestepped, accelerated or reconsidered in light of some needs of late to be more focused on resiliency aspects. A couple hurricanes managed to pummel parts of our country even within the last several months. Here we are in October of 2024, which seems to underscore what had been a movement at the time of the Infrastructure Act to focus on resiliency.

The policy of course being let's do it right this time in a way that can withstand some of the things that we understand. I'm not sure that that was all properly sized. I think that the focus and the intent to incentivize resiliency is a good one. And I think that the specifics of each of the projects are bearing out on whether or not we have prepared projects that are resilient for some of the storms that we're encountering. Jennifer, have you some thoughts about some successful resiliency projects that you and your colleagues have handled through the Build American Bureau?

Jennifer Hara:

Well, absolutely. And interestingly, maybe not too surprisingly, the Bureau has always been focused on that as a component of what we're trying to achieve with the dollars that we lend. I think what's been increasingly more challenging is that natural disasters are happening in places that we never thought there would be natural disasters. And so, as time marches on and more of these, as they say one in a hundred years or one in 500 year events happen, I think that at the local level and the state level, that the affiliated agencies are starting to recognize that they can no longer ignore that they are very likely to be impacted by one of these once in a lifetime events. I mean, definitely this current administration has put a renewed focus on that. I think some of the work around electric vehicle charging, which I know we'll touch on a little bit later as well, as well as Sam mentioned, I mean just the massive amount of funding that has been deployed to move some of these projects forward that had been on folks' project plans for years, and years, and years.

And again, I refer to the Hudson Tunnel. I mean much of that work is also a result of... and the reason that it got so much attention and so much funding I believe is really what happened a few years ago with super storm Sandy, and that massive flooding that happened within the Metro Rail system in New York City. I mean, I think obviously the engineers and the scientists would've said, "Well, of course this was going to happen," but until it does, it's hard to oftentimes spur action by our political leadership and by some of the other folks that pass these bills that fund all this work that we need to get done.

I mean, there's been other things that the Bureau has focused on. I mean, obviously we've done a lot of work in the State of Louisiana. They're a poster child for what needed to get done to shore up for the next storm. And I think there was limited press because we always want to hear about the bad news, but about how all those seawalls held up during the last storm and actually did protect New Orleans from the worst of it. One other thing though that I might just mention in terms of the resiliency piece is, which I've just been over the moon to see, is that there has been a very concerted focus effort to better coordinate across all of these disparate agencies that are doing work in the infrastructure space. And I mean, there's conversations happening between USDOT, FEMA, HUD, EPA, DOE, NOAA the Atmospheric Association, in terms of making sure that we are coordinating a one-government and making sure that we're all thinking creatively and utilizing all the resources that we have at our disposal.

John Smolen:

Well, that seems like a topic, Sam, that you might have thoughts on vis-a-vis specifically some of the emergency response efforts that the federal government through and with the Build America Bureau might find themselves in this infrastructure environment in unchartered territories.

Sam Headon:

Well, I think we are in unchartered territory. And I happened to be in New York for Hurricane Sandy and watched the cars floating down the street in the West Village of New York. So, I saw that firsthand. But we've been looking a lot at just the economics of where we are, putting to one side the policy, at least where the policy discussion is at the moment, what are the economics right now? And as far as we can tell, the estimates on Helene and Milton is for relief, maybe $50 billion per storm, which is a $100 billion. Now, this is a spike. This is not what's consistently been the case, thank God, for the last 10 years. But we know the cost of these storms is significant and for the major storms, very significant.

If you compare that quickly to the IIJA funding, the transportation piece alone is maybe $500 billion, and that's spread over five years. So, the FEMA budget, which again is a spike this year, but let's just take that as an example. The FEMA budget this year may be given the special authorization that we required, roughly similar to the amount of money being spent on transportation infrastructure in the United States under the IIJA this year. That is a surprising outcome. And one that forces a reckoning on the relationship between the resiliency going forward of US infrastructure and the rebuilding from a policy perspective of that infrastructure under the IIJA. What will be the relationship between those two things going forward?

I think Jennifer was right to say, and there's no doubt, that the IIJA did have a huge amount of emphasis on resiliency as part of the project approval. We had hoped, and I hope to see this more, that there would be more hybrid projects, that we'd see more projects that were approved because they were essential infrastructure, but also because they had additional resiliency benefits or at least additional resiliency focus. I hope that's a focus going forward. I don't think we've seen, certainly of the larger projects, it's just been more criticality, which is reasonable. But we hope to see that there is a greater emphasis on the hybrid nature of those projects, not because it's a nice to have, but because of what we just discussed, because it's essential.

We do not want to be in a situation where we're ultimately paying twice for the same pieces of infrastructure coming from the same pockets of federal funding on an ongoing basis. That's in no one's interest. And maybe to come back, we are in that new normal. And so, I think is incumbent upon policymakers to have that focus for whatever the next iteration of this bill will be. And I would think that maybe there's a couple of specific areas. One is obviously the role that insurance is going to play. There needs to be a very serious look at the way in which the insurance market is responding to what we're looking at and how that affects infrastructure development. That's number one. Number two, I think is flood maps. There's far too little focus on flood maps for a lot of reasons. We won't get into it now. But accurate and up-to-date data on flood zones and flood maps, which ties into the insurance piece, is critical and very important for infrastructure.

And look at North Carolina and some of the damage has been done there. I think there's going to have to be work done there. And then, and this is near and dear to my heart, is adaptation projects at scale. If you look at Fargo North, Dakota took a view 15 years ago under the US Army cause pilot projects for P3, that for whatever causes, they have a major flooding issue in Fargo-Moorhead. Took a decision 15, 20 years ago to create a project to manage that going forward.

I can tell you that the state and the county, maybe I shouldn't say this, but I will, but the state and the counties that will not be asking for FEMA funds once that project is built in the next five years is Fargo North Dakota. That's a place that won't need a bailout for FEMA impacts, because it took a decision 15 years ago to address those challenges at scale and with the support, to be fair, of federal, state and local funds, not just support but the backing across the board. But that's an example of those projects need to be incentivised. They have to be. Lest we get into this cycle of funds going through the IIJA, having challenges with infrastructure, having FEMA money coming in to support on the back end, and the cycle just going on, and on, and on. There's got to be some reckoning associated with what resilient infrastructure looks like in the next 20, 30 years in the US.

John Smolen:

Indeed, Sam. I would hazard to say that I think in our prior podcast, we speculated that that resiliency focus that you're describing was identified in the many hundreds of pages of the Infrastructure Act. And I don't think it's been subscribed to. And as a result, the cycle that you described seems to be the working plan when there actually is an apparatus in place to incentivize more of those prospective resiliency projects that actually have payoffs in the longer term by avoided costs under the emergency management challenges that we face collectively. I will use that to spring into a notion that there are a number of resiliency projects that are not financed. So, notwithstanding the fact that we had a P3 overtone to some of our discussions. Those features are being involved and some projects are prominently identifying these resiliency efforts, but they're doing so in reliance on the federal monies and in reliance on some of the state funding, and not pulling in some of the innovations and advancements from a private investment perspective.

To our earlier point about out your O&M, it's only so good to have an excellent prospective resiliency fortification against future climate-related challenges if you keep them up. And the need to keep them up is in place in the public policy of the Infrastructure Act, but it seems to largely be only being employed on the build side, not on the planning for the O&M side. Which may actually reflect a little bit some of the growing pains of the jurisdictions that the Infrastructure Act expanded out to involve in having access to some of these monies.

Jennifer, I believe one of the missions of the Build America Bureau is to help facilitate and to help these jurisdictions that previously wouldn't have had the ability to access these monies to be in a position to access them and to advance their project. So, there has been, in my experience, some jurisdictions that were well-prepared to receive that, they were stood up and expanded. And then there are some jurisdictions that had to start from scratch, and then there are some jurisdictions that just haven't been able to pull it together. I don't know if you have any thoughts in your experience about how access has grown or some of the growing pains in getting that access to grow.

Jennifer Hara:

Well, absolutely, John. I mean, the infrastructure bill did expand the access, as you said, for localities at the city or county level to be able to directly apply for and get grants from US Department of Transportation. Which again, feeds into the need for this office of technical assistance at the Build America Bureau, as well as just more awareness-raising about our loan programs and these types of jurisdictions being interested in considering borrowing from the Build America Bureau, which they may never have done before. And so, there's a lot of hand-holding that our office, our team is now very involved in on a day-to-day basis.

Specifically the discretionary grant programs that are part of the Office of Technical Assistance are just that, they're monies, it's small pots of money anywhere from say 250 to $3 million that are available for a city, or a planning organization, or something of that nature, to hire staff, to bring on advisors to do all of this pre-planning work, what we would call it, very early stage design, conceptualization of what needs to happen, starting to think about where they're going to get all the pieces of the capital stack to make one of these projects actually become a reality. And it very well could be that maybe they have one person in all of city government that has any grant writing experience at all.

And writing a grant is actually an art. I mean, there is a bit of work that needs to go into that to be successful. This is a very, as we've talked about today, a very, very competitive environment in terms of all the need across the country for this grant funding that's available. And that would also apply to all of the additional grant programs that are available across the USDOT for helping move some of these projects forward. So, it's definitely something that takes a lot of time. Anything having to do with capacity building and educating these very hardworking, dedicated, passionate people about how they can help their communities. They're all in and they want to do it. But sometimes it's a bit of Greek to them about how this works.

Not dissimilar to probably all of our experience having been involved in P3s in the US market, what's happened over the last 15, 20 years in educating all of the public sector owners on this new way of doing procurement, this new way of looking at O&M, all of that was very foreign to a lot of these folks until some of these models were brought into play, and the light bulb went off, and folks started moving forward with that type of model.

John Smolen:

What is your view, Sam, on how those jurisdictions are sequencing in the market? Are projects influenced by who had an apparatus? Are we going slower or faster than you'd expected from your developer perspective?

Sam Headon:

I think we're going at probably at the speed that we expected, John. If there was one topic on the first podcast we did about what we thought would come from the IIJA, I think we all accepted that there would be a ramp-up period institutionally while people put in place the structures they needed in order to unlock these funds. And I think we saw exactly that for the first couple of years. There was a lag while the expertise that Jennifer's referencing was brought on board, that organizations began to understand the dynamics, the requirements, the cadence of those applications and how that was going to work out. And by the way, talk a little bit about what that cadence looked like because it's been moved just when people got to understand what the goalposts were. Those goalposts have shifted a little bit in terms of timing, which is part of the political process and other things.

But I think overall, it was what we expected. And we saw a dip in infrastructure investment in those first couple of years as the process for unlocking those funds came online. And then I think we've seen a bump in the last 12 months as those funds have started to find their way out. And in a good way. I mean, I think that to Jennifer's point and your point, John, there's been recipients of those funds who have traditionally not seen that liquidity flowing into projects that we're looking for that are finding that liquidity. Jennifer discussed TOD and other projects, which I think is really promising. What we would like to see, which is maybe the next phase of this, is more creative thinking. I think phase one was how do we get this money? Let's get in place, let team to get some of this money out.

I think what people are starting to understand is that this isn't going to be an overall solution for the challenges we have. This is but one piece of the pie in terms of finding solutions for our infrastructure challenges. How do we leverage this piece going forward in order to find those other co-benefits that we need? That sounds a little bit like gobbledygook. What I mean specifically is, if we have needs of $500 million and we only get to use from federal sources, $100 million, how are we going to plug the other 400 gap? What does that look like going forward? And I think one specific area, which would be very helpful, this is a plea to Jennifer, is greater transparency. That there's a huge benefit of having additional funding coming in, but we need clarity and certainty about when those funds... what is the process for those funds coming out? And when will they be delivered? Who's receiving the funds and who's not receiving the funds? So, that planning from organizations can take place, contingencies can be put in place, and we can look at alternatives around that funding as well.

John Smolen:

I think I will take the moderator's prerogative to observe that. I think that there is a stew of success stories and also many of these details, the timing and the reliability of the timing is one among several. The one thing that I want to underscore is the view that in the immediate wake of the Infrastructure Act, a number of jurisdictions recognize the failure to have an apparatus, as you had said, to go after these monies. But the apparatus that was put into place was one entirely of grant writing and not of the remainder of the potential more nuanced policies that were communicated, at least the way I saw it in the Infrastructure Act, where being able to go after the grant money is something that we could do collaboratively, even with private sector partners under other structures. And some of the apparatus needed to be an expansion and a critical examination of procurement and positions, procurement timing, approvals and so forth that became something that folks addressed in arrears.

As they were going after the funds, they realized that the funds required them to do this thing, and this thing required this legislative act, and that legislative act couldn't happen until 90 days from now. And there was a lot of fits and starts. So, I guess my point is not only is the timing and the reliability of the timing of the money coming from the federal side, it's actual timing and reliability of being able to receive the money to pull projects together to control some of the risks. It's no secret that for a period of time, coincidental to the Infrastructure Act, we experienced a lot of inflation. And project prices were affected by the inflation. I'll leave it be whether or not the infrastructure had something to do with that. But suffice it to say the inflationary efforts made the alacrity with which this money could be relied upon that much more critical, and then the projects became a little stymied.

My hope is that in the future, that some of the wake of our infrastructure experience in these three years is when it's time to put an apparatus in place, there's a wide apparatus in place on those technical grants, Jennifer, that you spoke to, are a great way to identify the myriad of structures that would be appropriate to put in place. Maybe an easy illustration of this is really through the NEVI program and the rollout of the policy of trying to get some EV infrastructure in place. It has been my observation that several states were quick. Several states were cautious. Several states are still waiting to see what happens so that they can know which paths to go on. And all the while, EV technologies are advancing, EV charging infrastructure, market participation and who the participants are is evolving.

And if I may, the peculiarities of EVs increasing their presence on the road affecting the infrastructure that's in place itself. It's a complicated conversation to be had. So, we had left this topic in our preparations a little bit open to just observe that NEVI is a really, in my opinion, is a microcosm of the apparatus, the public policy, the unintended consequences, perhaps starting to come to terms with the consequences that you had anticipated and understanding what they are and how much they cost. And then layer, as we talked about before, maintenance considerations, timing considerations, inflationary considerations. I just was interested, Sam, in your observations from an EV impositions on other infrastructure planning that you guys are pursuing, that you're seeing in the market.

Sam Headon:

From the EV perspective. I mean, I think it's one of the more interesting canaries in the coal mine from the IIJA was the rollout of EV infrastructure. I think we've seen a little bit as a function of that market that it's a classic example of where the infrastructure has lagged the product and there needs to be a renewed focus on the rollout of the infrastructure. I think NEVI was an attempt to address that. It's been, to your point, John, a bit of a mixed bag in terms of how it's been deployed. But no doubt the criticality is there. It must be deployed, and it must get to scale quickly, which is a real challenge and something that maybe the next round of IIJA can take on.

But it also is a good example of the interconnection, maybe I use that word advisably, the interconnection of infrastructure challenges. That there is the confluence of energy, distribution and transmission, infrastructure corridors having the ability to put EV charging in places where energy transmission is not and vice versa. And those two things go together or three things. And so, it has to be a combination of solutions. And I hope that we don't lose sight of the less sexy parts of infrastructure for the ones that maybe have a lot more focus and a lot more players because we've seen there that deploying one without the other doesn't work. It needs to have that holistic approach.

John Smolen:

And if I may briefly before Jennifer, if I may, that the IRA's approach as the public policy matter where the energy infrastructure largely exists under a different act than the Infrastructure Act, those interfaces and interconnections, no pun intended, also create some challenges. I, for one, have a personal and pet interest in the EV infrastructure because I feel as though we're going to be asked interview questions by our grandchildren about what was it like when the EV started to take over the world? "You were there, grandpa," and I have to be smart about my answer, but that also is going to show my age. Jennifer, I don't know if you had thoughts on NEVI or EVs generally.

Jennifer Hara:

Well, sure. I going back to again, the one full government approach. I mean the joint office that was set up between the Department of Energy and the Department of Transportation really planted the flag and signified that at least at the top leadership, there was a recognition of how this whole rollout needed to have an enormous amount of cross-agency coordination. I think Sam touched on a lot of the other mixed bag of the successfulness of the NEVI program. In a former life, I did some work on that, both on the client side and also from a white paper standpoint. And I think that the original intent of that piece of legislation was well intended. And I think the challenge was, is always is the case, if government is trying to create a market, it sometimes can run afoul of common market principles of how quickly users adopt a new technology, how quickly stakeholders, and policymakers, and elected leaders and other public owners agree that this is what they should be doing given our federalized system that we have here in the United States.

And then lastly, and Sam touched on this as well, I mean, the energy piece cannot be underscored. I mean, I've been hearing about EVs for probably 20 years, and I've had been to different lectures and talks about this and, "Oh, it's great because it'll help with the carbon footprint. And isn't this wonderful?" And then I would say, well, the electricity still has to come from somewhere. So, if you are not creating baseload power that comes from a renewable energy source, the thing you're trying to ameliorate has not gone away. You're still going to be impacting the environment and polluting. So, it's still a work in progress. There's lots of obviously news articles and stories out there about the successfulness of it, the uptake by consumers. I mean, admittedly, we drive a hybrid, so we had to pay to have an electric vehicle charger installed in our parking garage. These are things that some folks are just not willing to buy into. So, it remains to be seen what you'll be telling your grandchildren, John.

John Smolen:

Exactly. We'll give them a nuanced story and then they fall asleep and ask us other more exciting questions.

Jennifer Hara:

There you go.

John Smolen:

So, with that, I think we're rounding the corner. Here we are three years, hence the vaunted Infrastructure Act, the bipartisan infrastructure law, the hallmarks, all of the things that we heard about three years ago will wind down. So, there's a little bit of what are we going to do next? What can we carry forward? I asked my colleagues here to speak to things that we would like to see more of or at least hope that something is coming about, and maybe even a little bit about what we think needs to come. I offer that first to you, Sam, reserving the final word for me as the stupidest person on the podcast, just so everybody can make that their comment when they share it around the earth, that the big guy that we didn't get to see had the silliest things to say. So, Sam, please lead us with something exciting.

Sam Headon:

Well, it's not exciting, but the PAB's cap needs to get doubled again. But I'll just put that one out there. And that's a quick one and an easy one, but has a huge impact, particularly on private investment. And then we talked about resilience. It's not a nice to have, as I said, it's a must. If we're going to have tax dollars now going to towards a federalization of infrastructure, that it needs to be mindful of where these challenges are and how we're going to face them in the future. And then two other quick ones. One that you touched upon, John, which is super important that seemed to get ignored, which was the committed maintenance or the acceleration of long-term maintenance commitments and responsibility. And why is that not incentivized?

And I think there was a lot know that IIJA was an extremely ambitious act, can't do everything all at once, which is totally understandable. It took the pieces it wanted to do. Now there are other pieces. But this is really important. We're not going to have to solve infrastructure in another 30 years. Then this needs to have a thoughtful policy approach to incentivize committed long-term maintenance. And I hope P3 plays a role in that.

And then the final one, which is more of a moonshot, is thoughts around long-term sustainable funding structure. That this is not an annual appropriation business. That if the federal government is going to play the kind of role that it's played in the last five years going forward, then why isn't there a commitment to a sustainable funding source over time? I mean, not just gas taxes, which as we all know creates a principal agent problem in infrastructure. But something like a future fund, an infrastructure future fund, which says, we're going to commit to this in the long-term. And the fund looks like this. And it's not contingent upon gas taxes, but is funded on a sustainable basis to support infrastructure not in a discretionary grant basis, but as a long-term commitment. I would like even more than that, a long-term commitment to user fee backing the federal government backs users fees within states to support, I guess, the creation and the structures we need to generate those projects in long term. That one I think is maybe it's pie in the sky stuff. So, we'll see.

John Smolen:

Jennifer.

Jennifer Hara:

Well, I think Sam touched on... I mean he specifically touched on two of them that I had in my wishlist. But just to touch briefly on his moonshot, there is quite a lot of, at least from a think tanky perspective, conversation going on about what's going to replace the gas tax because in essence, it's deficient, it's underfunded, it's not useful. And the mileage-based user fee, there are folks working in and around trying to get that more accepted. There's a lot of work to do yet to make that a reality. Some of the initial arguments were around, "I don't want people tracking my every move," and you hold up a cell phone and say, "Well, they're already doing that." So, anyway, we'll leave that to all those parties to get that one across the finish line.

Specifically for the Bureau, I think what we would really hope for is additional discretionary grant funding to continue all of this work under the technical assistance bucket, continuing to provide resources to educate all of these public owners about how to better utilize all the funds that are out there, as well as the loans that are available from the Bureau. Obviously getting more PABs authority. It is an interesting unintended consequence of what happened with the funding, and then catalyzing all these projects that we're then going to need to be able to access the PABs availability. So, I mean, literally I think we're almost depleted. So, that's definitely something that needs to be replenished.

And then lastly, I mean, just to touch again on the transit oriented development, I think that moving forward, our legislators really need to, I guess, get serious, not that they aren't, about giving us some of the waivers, some of the statutory relief that we're really going to need if we're going to make that program successful and do all that it can do. Again, TOD has become such an important component of our work, not only because of the authority that we were given, but just coming out of the pandemic, and so many jurisdictions having to rethink the usage of their environment. And all of that commercial real estate that is now being utilized, thinking about how to repurpose it. And then also thinking about the national housing crisis that we have and how some of this funding that we have through the Build America Bureau can help catalyze those projects.

John Smolen:

I think between the two of you, you've articulated podcasts three, four, five, six, seven, and eight. My hope is that our listeners will come back and we can reconvene this brain trust, at least a brain trust of two in the future to speculate further about how our infrastructure postures generally have evolved. I will add my own two cents to say that the need in my mind for the transformative impulse to be potentially muted a little bit to underscore the O&M position, Sam, that you had alluded to, that I had also alluded to, to the point of let's actually recognize how it is that our country is evolving in its infrastructure use and prioritization, and have the funding mirror that, I think would be an exercise that would also allow for further investment by private sector people to allow for those investments to go where the people want as a litmus test to buy where the investors are going.

I think as a practical matter, that has been lost a bit in the policy push and the stand-up things that we've talked about. So, here we have the Infrastructure Act out of infancy into late toddler. We will talk later when we get into teenager or young adult. But I want to take this chance to thank my colleagues for coming, devoting some time for us today. For you, the listener, and it's been a privilege to be able to share a conversation with Sam and with Jennifer, and I thank each of you for your time here today.

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