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A NEW ERA FOR INFRASTRUCTURE INVESTMENT

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PARTICIPANTS:

Welcome:

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Opening Remarks:

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Panelists:

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TONY KINN
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Executive Director
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PARTICIPANTS (CONT'D):

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Introduction:

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Keynote:

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P R O C E E D I N G S

MR. KATZ: Good morning, folks. So welcome to another beautiful summer day in Washington, D.C. I'm Bruce Katz. I'm the vice president at the Brookings Institution and I'm co-director of the Metropolitan Policy Program. And I just wanted to welcome you to today's forum on can-do states. And we're really happy to have leaders from around the country, public and private sector, friends from Canada, friends from Puerto Rico to really discuss how they're financing critical infrastructure projects during what we all know is a very disruptive economic and fiscal period.

You know the world view, I think, for some of you from the Metropolitan Program, cities and metropolitan areas, particularly the top 100 metropolitan areas, are really the engines of our economy, the centers of our trade and advancement, the vehicles for environmental sustainability. State-of-the-art infrastructure is an essential driver of competitiveness, job creation, innovation. And from private sector investments in telecommunication, energy projects, pipelines to traditionally public-funded investments in transportation, water, public buildings, and parks our nation's infrastructure is the backbone of a healthy economy. So today, record low interest rates coupled with attention from private firms and foreign funds present growing opportunities for pragmatic public and private sector leaders to collaborate, to compete, and innovate around infrastructure investments at the metropolitan scale, and to motivate state and federal officials to support these efforts.

And the good news, and, you know, when you live in Washington, D.C., there's not a lot of good news in this town, but the good news is networks of leaders in many states and metropolitan areas are driving the development of new and innovative ways to deliver economically important, economically critical infrastructure projects. They're finding better ways to design, finance, and deliver these investments on time and on budget. Modern freight and logistics projects in L.A. and Miami, state-of-the-art transit investments in Denver and Salt Lake City, advanced storm water treatment upgrades in Philadelphia and New York, border crossings in San Diego and Detroit -- they're all emblematic of the growing role that states and cities are taking to build the infrastructure that will both support and enable the next American economy.

So let us be clear, they're doing all these things in the absence of clear federal leadership and reliable, stable, predictable, and flexible funding and authority. The innovation we will showcase today is, therefore, the vanguard of policy progress in America. We all know that many states and metros still struggle with financial, regulatory, institutional hurdles that slower or block the deliver of essential infrastructure assets. They also struggle, as we've talked about just at a breakfast this morning, with the capacity of staff to oversee many of these things. Our goal today is not just to honor the exception, but to distill replica models that can teach other states and metros to bring disparate funding programs together and use legislation, smart legal frameworks, smart procurement, dedicated support teams to bring the private sector on board as a partner and find new ways to collaborate regionally.

We all know the way we talk about our country. States are the laboratories of democracy. Cities and metros are the centers of innovation. So if we can invent these new models and we can spread them around the country, then we ultimately can scale them and have the kind of federal and national policies that we need and deserve as a modern economy. Thank you very much.

And now I will introduce Rob Puentes, the director of our Metropolitan Infrastructure Initiative and an inspiration to me on a daily basis. (Laughter and applause)

MR. PUENTES: Thanks, Bruce. I really appreciate that, and good morning everybody and thank you all for being here today. Thank you for those who are watching us on the webcast. And thanks especially to the folks here in the room. It's a really great group, very substantive as we said to folks earlier, very wonky -- we mean that in a very good way for us here at Brookings.

I think that the interest that we've seen in this is really a testament to the fact, as Bruce said, that there is such this hunger out there right now from folks trying to learn what's going on around the country; as Bruce said, not just the exceptions, but how to make those things more the rule all throughout the nation. How do we get these ideas? How do we replicate them? How do we have them ripple throughout the system and how do we make that part of standards of how we're doing things and not just the exceptions?

So much palpable desire, I think, to hear about these rules, the tools, and the institutions that now the states are putting in place. Some of it's in absence of federal roles, but all this designed to help cities and metropolitan areas as we recover our economy.

So this event really couldn't come at a better time. You know, we all know that infrastructure is a critical piece for our national economic recovery, how we're going to put Americans back to work. It really is that economic frame which is part of infrastructure, which I think is really helping driving it to the forefront of the national conversations. When it's still an infrastructure conversation, it's going to be on the back burner. We talked a little bit about this, also, at breakfast this morning. An infrastructure conversation among infrastructure people is helpful, you know, is good bottom line for some people's business, but it's not going to get us the change and the economic transformation that we all know that we need.

So while the discussion, you know, here in Washington is strained, I think to say the least, we are encouraged by the innovation and the experimentation and the new things that we are seeing happening in states, cities, and metropolitan areas all across the country. I don't want to be Pollyannish about this. We know that states, you know, even though they're doing better from a budgetary perspective, they're still wrestling with their own challenges, their own fiscal challenges, and their own political challenges. Many are still politically gridlocked. Many are still having a hard time getting things done. But we do think that there is this pragmatic caucus of city, state, civic, corporation, philanthropic, public sector leaders that are emerging all around the country that are really focused on getting, as Bruce would say, getting stuff done. Actually, he wouldn't say "stuff." He would say getting something else done, but, nevertheless, I think you get the point.

So let me just start then. So we have a great panel that's going to help us kind of walk through some of those things. And what I wanted to do was just to provide some overall framing remarks to kind of get us started and to set the context for the discussion that's here today.

The first thing is that cities, states, and metropolitan areas act to capitalize on new opportunities in trade, in services, and production. We know that infrastructure is a really critical part of that national conversation. Over the past three years, a growing chorus of business leaders and mainstream economists have embraced a post-recession growth model for a next American economy. So here we're talking about an economy that's fueled by innovation, not only to spur growth through idea generation, but through the virtuous interplay of invention, commercialization, and manufacturing. It should be powered by a lower carbon economy or lower carbon energy to position the United States the vanguard of the next innovation-led industrial revolution. It should be driven by exports to take advantage of the rising global demand that we all know is out there for quality products and services, and to be responsive to these massive changes that are underway in the global economy. And it should be opportunity rich so that working families can earn wages sufficient to sustain a middle class life. Infrastructure is a critical driver to each of these elements of the next American economy. From private sector-driven investments in things like telecommunications and energy and pipelines to traditionally public sector investments in transportation and water or social infrastructure, like public buildings, and the partnerships that are building bridges between the public and private sectors, our nation's infrastructure is the backbone to a healthy economy.

Our competitors -- we talked about this at breakfast this morning -- our competitors in mature and emerging markets alike are in the process of making these kinds of investments and, by so doing, catalyzing productive and sustainable growth. However, the challenge, as we all know here in the U.S., is that insufficient and misaligned investment in infrastructure has real consequences for the nation's ability to compete globally. According to the World Economic Forum, U.S. infrastructure has fallen from best in the world to 25th in the span of just 10 years. So we really need to think how, why, and through what kind of partnerships we're going to build out our next generation infrastructure.

So, for example, growing an innovation economy, as we mentioned, is going to require not only the generation of cutting-edge ideas in advanced universities and in research labs, but the creation of smart and sustainable cities that combine telecommunications technology to integrate public services, connect citizens, and enhance productivity.

Growing a lower carbon economy will require not only the invention of new technologies, but the construction of renewable energy facilities, the infrastructure to store that energy, and power new sustainable products like electric vehicles and the construction of retrofitted buildings to radically reduce energy use.

Growing an export economy will require not only the opening up of foreign markets for American goods and services, but building and retooling the next generation of advanced production facilities and the underlying infrastructure to move goods, ideas, and workers quickly and efficiently by air, rail, sea, cable, pipeline, everything else.

And growing an economy that is opportunity rich will require us to make job access part of transportation policy because while we definitely need more jobs and we need better jobs, we also need to make sure that those jobs are accessible and people can actually get to the jobs that they need.

So restructuring the economy requires us, in essence, to remake cities and metros for a productive rather than a consumption economy and for a sustainable rather than a wasteful society. All of these elements then of the next economy have their own distinctive spatial presence and footprint and they also connect to each other by multiple complementary types of infrastructure. This is a more holistic vision of infrastructure building than the one that's dominated the way that we did this over the last 25 years in the United States. The problem is that this new model is really messy, it's really complicated, it's multidimensional, and has lots of partnerships, but we think that this is reality of really what's going to drive modern economies.

So with that as a frame, the question for us today is where is the investment in the next generation of infrastructure going to come from? We think much of it is going to come from the private sector, and there is a great story to tell in things like telecommunications and freight rail and energy, all these things that are traditionally private sector-driven. And while we do believe that the federal government should play a strong role, there does appear to be a structural change in the federal budget when it comes to discretionary spending with things like infrastructure, housing, and defense all getting squeezed out. Their share of federal spending is forecast to fall from over one-third to less than a quarter in just the next decade with mandatory programs, like Social Security and interest payments, all expected to expand.

So probably because of that we do see a handful of states, we call them the can-do states, that are working to develop the new rules, new tools, and new institutions to fund and finance infrastructure projects and engage in new kinds of problem-solving. However, when it comes to the rules, many states are missing the enabling legislation to execute complex infrastructure deals, especially around public-private partnerships or else the infrastructure or the legislation is too limiting and focused only on individual projects. Others lack the institutional experience or the political alignment to develop the right kind of projects and negotiate complex deals while fully protecting the public interest, while still adhering to complex public policy goals. As a result, private sector leaders that we talked to believe there are only a handful of states in which they can really do business without too much of that risk.

Increasingly, public infrastructure investment is also occurring through state revolving loan funds and so-called infrastructure banks. While they are not-for-profit institutions in the traditional banking context, they rely on loan repayments, bonds, interest, and fees to, ideally, recapitalize and replenish the fund as a perpetual source of debt financing. These institutions support a broad array of projects. For example, in 1987, when the federal government phased out clean water construction grants, every state established revolving funds as a mechanism for leveraging additional public and private sector dollars. Clean energy funds exist in 22 states, mostly in the Northeast, and have invested nearly $3 billion in renewable energy markets and leverage an additional $10 billion in federal and private capital. They support over 72,000 projects from solar installations to wind farms to biomass energy regeneration plants.

Nearly half of the states have functioning transportation infrastructure banks capitalized initially by the federal government that provide below-market revolving loans and loan guaranties. Since established in the 1990s, they've provided billions of dollars in financing for more than a thousand projects, mostly focused in the top 100 metropolitan areas. And 10 states have other kinds of funds for a variety of infrastructure projects, all of these off the federal books.

Now, for all of these examples, we know that we're not talking about free money. Loans have to be repaid, debts, of course, have to be repaid. So states are also continuing to raise their own revenue through traditional means, like taxes, user fees, as well as still taking advantage of tax-free debt. But they're also doing more with less by coordinating their agencies to streamline project delivery and starting slowly, but still starting, to align their work on infrastructure with state, city, and metropolitan economic development policy and practice.

So the bottom line for us and for the discussion today is that despite these challenges, as we mentioned at the beginning, we are seeing creativity in states and metro areas that have figured out in ambitious and creative ways to design, finance, and deliver infrastructure projects on time and on budget. All the projects that Bruce mentioned in his remarks are in various stages of development and we truly believe these things are just the tip of the iceberg.

So in order to catalyze the development of next generation infrastructure states are recognizing that there is no cavalry coming and they're going to have to raise their own revenue. For example, states as diverse as Wyoming, Maryland, and Vermont, all recently raised taxes to pay for transportation investments. But in addition to traditional sources and debt markets, revolving funds, trusts, and innovative bonding mechanisms are producing new practices in the field of infrastructure finance.

Connecticut, for example, recently created a clean energy finance and investment authority that combines several different funds, enabling them to be leveraged and for private actors to invest with a promised financial return. Florida's state infrastructure bank chooses projects that have the most secure sources of funding as well as safeguards to repay loans which keep it functioning from year to year instead of sending out grants and not having the fund replenished.

But states also need to work in setting the rules for the proper regulatory environment to clear the way for new infusions of capital and streamlined project delivery. This year, Maryland passed legislation that modifies procurement rules to allow the state to more easily consider public-private partnerships for a range of capital investments, from schools to roads and transit to ports and water. California is streamlining its bureaucracy by combining agencies and reorganizing departments specifically to overcome the technical barriers that slow or even derail certain projects. And in New York, they're pursuing public-public partnerships by developing common planning, prioritization, and investment criteria across infrastructure types to cut down on red tape and speed project delivery. We're going to hear a lot about New York in just a bit.

So a third thing is after states take advantage of public-private partnerships for infrastructure they need to craft new institutions to help with quality control, technical assistance, standardization, promotion, and policy guidance. We all know that the United States is a latecomer in the field of public-private partnerships, but some states have been very active in the last three years in building capacity and really starting to truly close deals. In just a bit, we're going to hear from Virginia and Colorado and their specialized offices that provide the support and technical assistance needed all the way from procurement through the long-term management of these kinds of projects.

Yet, while establishing an individual PPP framework is important, only a consistent and predictable of projects can ensure private investors' continued engagement in U.S. infrastructure markets. This is why we think that innovative multistate partnerships, like the West Coast Infrastructure Exchange, holds so much promise. The WCX made up of stakeholders for California, Oregon, Washington, and British Columbia is establishing a common market for infrastructure projects, facilitating procurements, and creating a project clearinghouse for regional infrastructure investments. And we're going to hear a lot about WCX here at the end as well.

So the goal for us and really what we want to do here at this event today is to learn from these handful of can-do states and truly go to make us a can-do nation once again. So let me close by bringing us to today.

As we're seeing, city, state, and metropolitan leaders are taking increasing responsibility for their infrastructure agendas. They're experimenting and developing the new rules, tools, and institutions necessary to facilitate transformative infrastructure investments that really respond to the current moment. While no single state has addressed all of these challenges, and many are definitely still adrift, a few are taking very encouraging and productive and proactive steps.

So we've organized this panel of these can-do states here to discuss their ideas, their experiences, and their lessons for us today. So with that, let me go ahead and call up the panel and quickly introduce the moderator for the session as they're all coming up.

Fawn Johnson is a correspondent for *National Journal*. She's covering a range of issues, including immigration, education, and infrastructure. Fawn is a Washington veteran previously reporting for publications like Dow Jones and the *Wall Street Journal*, where she covered financial regulation and telecommunications; issues easier, I guess, than infrastructure. She's writing a lot on these issues that we're discussing today and we really couldn't have, I think, a better person to facilitate this discussion.

So with that, please join me in welcoming this panel. (Applause)

MS. JOHNSON: Good morning, everyone. While we're miccing people up, I wanted to say that my understanding is that this is an audience full of serious transportation gurus. While I do cover transportation, I cover a lot of other things for *National Journal*, so I'm going to treat myself as the dumb one in the audience and probably ask some introductory questions that you might already know the answer to. But we will have an opportunity for Q&A at the end of the panel.

I'd like to spend most of the discussion talking about the different institutions that our panelists have set up and been involved in. They are all (inaudible) with different aspects and I find state-by-state institutions are fascinating in how they deal with a really unpredictable and difficult federal system.

So I think I would like to open with Margaret because of Hurricane Sandy, which, I think, had one of the bizarre effects of causing people to pay attention to the kinds of infrastructure that they might ordinarily ignore. So can you talk a little bit about your Works Task Force which was, I believe, put in place almost, what, a year or so before Sandy.

MS. TOBIN: Yeah.

MS. JOHNSON: And how Sandy has impacted you ability to explain to constituents what infrastructure is, what parts of it they should pay attention to, and how you can kind of shift the conversation towards something perhaps more productive than complaining about traffic or potholes.

MS. TOBIN: Right, right, right. Thank you. So Sandy, I think most of you who probably watched the news saw that it leveled New York's economy like that (snaps fingers). Everything shut down. Power systems were out. It was quite an extraordinary event for all of us. It was obviously a tragedy, but it was also a catalyst. And when something happens sort of outside of everybody's control it becomes, oh, we better wake up and we better start looking at this.

You mentioned that I'm the executive director of the New York Works Task Force which Governor Cuomo and the legislature put in place a year ago. And we had begun to build on the work that Cuomo had started with the Regional Economic Development Councils to start to really just look at what Rob was talking about, which is that this is a systems problem and this is a multisector problem. So while transportation will always, I think, get the lion's share of the capital dollars, the way the economy works, whether it's broadband or power or clean water or clean air, is all part of how we function in the private economy. So what Sandy did is it leveled the system, the economy stopped, and people started to get that our infrastructure systems in this country are what underpin the entire economy, and that that's why we're not a third world country. That's why the modern economy's actually working.

So what we started to do as a systems problem is reorganize. I mean, we're an old Northeast state with old infrastructure and also, frankly, you know, older systems of government. The Port Authority of New York and New Jersey was set up by a compact in 1921, so we're actually grandfathered out of the FAA rules because we preceded the FAA rules. And you find that throughout. The Thruway Authority is the same thing, we were ahead of Eisenhower and the U.S. interstate system. So when you have that kind of apparatus of government it's very important to try to get the apparatus to work together. And what we did with New York Works is we said what are the major pillars of the economy -- transportation being one, power is another one, et cetera -- and we pulled together 47 agencies and authorities that are the apparatus of government that deal with each of these systems. So if you look at just transportation in the state of New York, we have 15 separate agencies and authorities that handle various aspects of it. That's a lot of people. You know, that's a lot.

On the other hand, when you add it all up, we looked at a 10-year capital plan which we pulled together using consistent criteria, it totals 174 billion over the next 10 years. That's not no money. That's real funding. So if we can start to target what we're spending that money on, what we're investing in, and keep going back to the real economy, look at what's going to happen in the future, and even just shift 10 percent of that or 20 percent of that dollars, those are very significant dollars. And what Sandy enabled us to do is really start to build on the Regional Economic Development Councils and start to use those 10 regions of the state and focus. The Long Island region, obviously, completely devastated, lots of systems down, and you've seen a lot of action coming out of that in terms of how do we organize ourselves. How do we go from, you know, me or they -- you know, it's always about "they" -- to we? You know, how are we going to pull ourselves together and how are we going to set this up?

I mean, one of the things in terms of a counterparty risk that folks talk about is that when you're the government, you're responsible. And I think one of the things that Governor Cuomo, Christie, et cetera, saw is that, you know, it's up to the government to frame it and to set the table, as it were, and then to invite in, you know, whichever private sector, whichever process you want to use. But the government needs to really set the table and frame the discussion. And that's what Sandy really enabled us to do, so that as we're proceeding now -- you know, a quick little story.

The hurricane happened at the beginning of November. You know, we kind of dug ourselves out probably by January. I think the State of the State speech was in early January, really setting and looking at climate change and saying we're going to -- you know, Mother Nature owns this, we will offer to buy you out as opposed to saying, you know, well, we're here and we want it, so that it's a very practical response to what happened.

We got to Jones Beach, which is one of the famous, you know, public state-owned beaches, and really because of New York Works sorting people by region, sorting people by sector, state DOT, state Department of Environmental Conservation, and state Parks came together, had a group of people, and were able to get the beaches completely rebuilt and reopened in time for Memorial Day. And the folks that were part of that effort said this is how government should work. This is fantastic. You know, it was very practical. It was very results-oriented. It was a can-do kind of operation. And up until these efforts I think a lot of -- I mean, I'm amazed. I've been back in government now for a little over a year. The number of people that I have introduced to other people continues to astound me really. I mean, I think we're really -- we are "we" and we are all in this together, and I think that's part of what the catalyst of Sandy, as tragic as it was, helped people start to experience and kind of get out of their own world.

MS. JOHNSON: Right. I was looking up the New York Task Works, and in the press release when it first was announced one of the -- this is my favorite sentence of this, "All major state agencies and authorities will be required to participate on an implementation council and coordinate capital planning." So this is not voluntary, you have to mandate it.

Which makes me want to turn to Michael because your High Performance Transportation Enterprise, which is a good name, also has -- I think on your website or something it says this shall operate as a government-owned business within the department and shall be a division of the department. So a government-owned business, sometimes that might sound like an oxymoron. So exactly what is the High Performance Transportation Enterprise? And after 40 years of being a lawyer in private practice, why have you now become a state employee running it?

MR. CHEROUTES: It's a long story. (Laughter)

MS. JOHNSON: Shorten it for us.

MR. CHEROUTES: But I will try to make it short. The whole notion of a governmentally owned business, on the legal side, is a function of making an enterprise which is exempt from a particularly onerous constitutional restriction against incurring long-term financial obligations without an election, which, of course, you can't do without -- if you want to sort of push the envelope in pursuing public-private partnerships, long-term concession agreements, whatever. So it's partly a legal requirement and it is partly, also, an expression of a new vision of a legislative mandate that was introduced by a Democratic governor who felt a need to pump some new energy into the state transportation system and with whom I worked closely in trying to pull together some new ideas into some legislation.

That particular concept and enterprise which has been lodged within the Department of Transportation, it's been in existence now for five years I think. I always thought it was a little ironic that it was generated by a Democrat because I think the conventional wisdom is that public-private partnerships are a creature of the Republican philosophy, you know, turning over governmental services to private enterprise. But it has also now survived and been given new momentum by a second Democratic governor.

I joined the enterprise I think under some compulsion from the governor, who, after having helped him craft this legislation, came back and said, you know, this isn't going to work unless you come in and help get it started. And, you know --

MS. JOHNSON: What particular skills were needed, do you think?

MR. CHEROUTES: It's a good question because we were talking about it this morning. I mean, there are, I think, one of the problems in generating more of this activity is it does take a particular skill set. It takes somebody, as Tony maybe will come back on later, it takes somebody who knows how to make deals.

MS. JOHNSON: And that's not a government bureaucrat skill necessarily?

MR. CHEROUTES: Typically, I think. But it also takes somebody who understands that on this side of the table you're dealing with the government and you're dealing with a political process. You're dealing with a democratic process. You're dealing with goals that aren't necessarily always financial. And so it's a unique set of competencies that are required on this side of the table, which is part of the problem in getting this, I think, established throughout the states.

MS. JOHNSON: Right. Well, and you mentioned something interesting that your office spans two Democratic governors.

MR. CHEROUTES: Right.

MS. JOHNSON: Tony's office spans both a Democrat and a Republican governor, who, on many other topics, probably would not agree. But, I mean, we had talked about this. Full disclosure: I wrote a story that featured Tony and his office of public-private partnerships. But tell us about the transition from one administration to another in terms of, you know, how that worked and the challenge of trying to continue a pipeline of deals as you've got administrations that are shifting with other political tides.

MR. KINN: Okay, Fawn. I mean, to follow a little bit on Mike's comment, our office has been set up as a separate state agency that deals with all other sister agencies. We have, and it doesn't matter who the governor is, probably one of the fanciest mission statements you could get. It's close the deals and grow the business. So our function with regard to any governor is production. And, yes, we have an election coming up in November, but we've also just put about $6 billion worth of projects on the street with more to come and we expect to complete them.

I don't think, again, Fawn, in ending this that the party of the governor is that important because what happens is every state in the union suffers with the same problems. They have financial problems. There is no more federal funding that's going to come. There are major issues, I believe, in most states to raise taxes. You have an educational problem with the people in the states that times have changed and there's no longer free money, as Bob said, and there's no longer -- these projects don't happen to be free.

So how we deal with it is very simple: We do not look at them as public-private partnerships. That is, I think, very aptly misnamed. They are public-private-political-publicity partnerships across the board. (Laughter)

So what we try to do is -- and a couple of people have mentioned it this morning, we're lucky and we have a state law in place since 1995. We have strong support in the legislature. We have a strong secretary of transportation. We have a strong governor. And they believe and they believe totally that infrastructure is the key component of Virginia's growth.

So with that in mind, our job then is to use limited state funds to develop a pipeline that's meaningful of projects, which we have and it's on our website and a couple of projects just went out. But it's very important in us that this -- and you asked Mike about a business in Colorado. Our job is to function as a business. We must develop the projects completely and do all the work up front with regard to environmental, all those components of it. So when we put a project on the street, the private sector knows there's a reasonable chance to get it done.

So, Fawn, to answer your question, if we have a Democratic governor come November or a Republican governor come November, those charges and mandates won't change.

MS. JOHNSON: Right. And I think that's one of the challenges, I mean, among many, in trying to merge government entities and private sector entities. They just -- in some ways, they don't even speak the same language.

So, Larry, I saved you for last because your exchange is, to my mind at least, probably the most complicated. Not only does it span several states, it spans a country. And just looking at your bylaws, I mean, it's several pages long, but here's one of the goals. They're aiming high here. They're going to, "Target infrastructure investment opportunities that include but are not limited to energy transmission efficiency, water storage capacity, municipal water systems, wastewater management."

So just tell us about this exchange. It seems probably the biggest and most ambitious of what I've heard in the United States; how it came to be and we could talk a little bit more about the challenges you faced statewide -- I mean, intrastate.

MR. BLAIN: Well, it's just getting started and it involves California, Oregon, Washington state, and British Columbia, where I come from. And currently, the objective is to create a standardized market and present it to the private sector so that there can be standardization across a bigger market than just one state. And the reason that British Columbia is involved is because we've been doing public-private partnerships since 2002. So British Columbia has about 4 million people, has a capital spend of 6- to $10 billion a year depending on how you define it, and we've done and working on 40 public-private partnerships for a capital value of some 13- or $14 billion. So we've been working on it for some time and we've learned some things about how to create a viable and attractive P3 market.

And I think the four states -- three states and British Columbia have similar ingredients. One is you have to have political support that motivates the bureaucracy and also provides comfort to the private sector to come and bid in your market.

You need a policy environment, and British Columbia has that. It's pretty straightforward. It's the capital standard. If it's a capital project more than $50 million, you have to look at a public-private partnership when you do your business case. It's the same all across the Canada and the federal government has the same policy, and we would hope to introduce that kind of a framework elsewhere in the exchange.

And finally, you have to have an institution and so British Columbia has an institution, Partnerships BC, which works across all sectors: transportation, health care, energy, dams, correctional facilities, educational institutions, social housing, water, wastewater, the works. And you learn in one sector and you apply it in another, and so we'd be recommending the same kind of frameworks for the West Coast Exchange.

So it's starting. There's a Memorandum of Understanding among the four organizations and people are working hard to see where it goes. They've got an executive director and are moving forward.

MS. JOHNSON: Well, tell us a little bit about how the -- since it sounds like British Columbia was farther along in terms of its development of this kind of project, how you brought the other states along. Did you have any problems with that? Any lessons you want to share?

MR. BLAIN: Well, we're in a different country, so we don't intervene. But we were, in British Columbia, invited, just based on our experience, to participate in developing some best practices and we've got template documents and we've got lessons learned and we've got some things that we can contribute, and so we are volunteering to do that. But, no, we were invited.

MS. JOHNSON: Yeah. Well, and I think -- I mean, Tony, you had mentioned, also, and probably all of you function as opinion leaders in the transportation community around states that are in the infant stages of trying to attract any kind of private investment. I know that we've talked about this.

So, Margaret, you had suggested a question to me earlier, but I actually would like to open it up to the entire panel because I think this really gets to the heart of the publicity aspect of infrastructure development that Tony was talking about. So your statement is that financing infrastructure will always be taxes, tolls, fares, or fees, whether it's a public-private partnership or any other kind of structure. So I'd like you to explain that, but I also would like the other panelists to talk about why it is that it's important to remind the people in your state that this isn't free. Because I think that that's part of the issue in terms of getting from a can-do -- or getting a can-do place because a lot of people are like we should be doing this already and I shouldn't be stuck in traffic. So explain this a little bit more.

MS. TOBIN: And I think going back to, you know, this isn't really a Republican or a Democratic idea particularly. It's a practical American idea in my view. And I don't think that Europe invented this or Canada, to be frank. I think America invented this. And we started in I think it was 1789 Congress passed the first piece of legislation that created I think it was a toll road. You know, the Brooklyn Bridge was built as a concession agreement. That was it. It's not that complicated. You know, that's how the subways got done in the city of New York. So this isn't anything new. It's just we haven't done it since I believe it really stopped around 1933. Why? Because the private financial markets stopped functioning. That's it.

The way that this works is that the public municipal debt market is alive and well and functioning perfectly well and will continue to do that as long as there are issuers. You know, my state has really four major issuers. The city of New York issues, lots of people issue general obligation debt. All this debt -- and I do have to correct my friend Rob about one of his slides about sources of funds. The source of funds is not municipal bonds. That's simply a financing vehicle. The sources are whatever the cash flow stream are that underpin the debt that you take on. And really what you want to try to do is set it up so that your asset and the length of time that your asset's going to be in service is in tune with how you're financing it. And I think all of us as homeowners, all of us as taxpayers, we kind of get that.

The sources of the cash flow are government receipts and government receipts are taxes, tolls, fares, and fees. And I'm quoting one of my task force members, Bob Yaro, who's the president of the Regional Planning Association, a very long and storied, you know, regional planning association that's done a lot of work in the tri-state region over decades and decades.

So all that I'm saying is that when the private sector defined it, you know, back in the day, I think it was sold to many public officials as a pot of free money and such a thing does not exist. And I think this cannot turn into a fee bonanza where the private sector comes in and says, you know, give me, give me, give me. It has to be a counter-party, two counterparties, the government counterparty with, you know, a very deep skill set. The public sector operating environment is way more complicated than the private sector operating environment. And I spent enough time in the private sector to be able to say that. It's much simpler to run a multinational corporation than it is to run a public enterprise in a democratic society. It just is. It's just by its nature. It's not a command and control environment.

Now, I think what's actually really interesting is that the term of art in the Internet world is a "distributed network." So in a distributed network everybody is smart and it's the network that becomes smart. And what we saw in New York state after Sandy is the network went black and you had to get it up and going, you had to get everything going, and it's all connected. The apparatus of government, where we are right now, is we're still in this kind of silo mode which, you know, you could say maybe General Motors looked like before its bankruptcy, where you're flat. Where we're growing now is we're growing from that very siloed thing to turning it so that it's connected across all the sectors of the economy.

So from my point of view, when you look at how do you pay for it, it's always going to get paid for by the same way. It's just a matter of you take those streams of money, the streams of cash coming out of everybody in this room's pockets, and you say, well, how are we going to direct it? How do we use it efficiently? How do we not do sort of bridges to nowhere? Why? Because we are now in a global economy and we can't afford to do that anymore. And how do we make sure that we're staying at the forefront of competing?

You know, my own view is I'm going to bet on New York, I'm going to bet on the U.S. any day of the week. You know, I think we have an open system. I think we're really smart and I think we know how to be very pragmatic. But that means that you have to then look and say, okay, taxes, tolls, fares, and fees, what's the most cost-effective, practical way to get this particular project done?

MS. JOHNSON: Well, and, Michael, can you talk a little bit about what you had to learn about the very complex way that the public sector works coming in from private practice when you took on your new role? And I think Tony probably has some stories as well. In fact, I know he does, but.

MR. CHEROUTES: Sure. I had a number of lessons that I needed to learn. And I had the benefit of having not only a governor's office, but also a transportation director and a regional transportation director who got it, who were supportive, who were willing to make changes within the department to support this particular activity, who reorganized around it to provide the support capability that those departments had always had to provide engineering support and environmental support and design support for the projects that we were financing. But I needed to learn the lessons, you know, that the engineers have been able to provide for me and that kind of thing. So there is a learning curve. There's a steep learning curve.

MS. JOHNSON: And did they need to -- what did they need to learn from you? I mean, I think part of the issue here sometimes is literally being able to take somebody who is well versed in the ins and outs of how a bureaucracy and try and explain it to -- I mean, if you're thinking about it in your own board room and trying to make a deal, you need to be able to explain it to somebody who's in the private sector. Were there ways that you could -- things that you had to explain to them before you could even get the conversation going?

MR. CHEROUTES: Well, one is, you know, you need to assume that public servants are genuinely interested in serving the public. I mean, they're there and they want to do a good job and they want to learn new things and they want to do good things. So if you come from that understanding, I think, you get a long ways. And if there is mutual respect between -- you know, I'm a state employee at this point, so we're colleagues, and if you approach things on that basis it goes a long way.

And I've got things that I can teach them given my, you know, long sort of history as a finance lawyer, and they've got things that they can teach me. And we've been able to hammer that out and I think to the benefit of everybody.

MS. JOHNSON: You should tell us about your right hand man at the Office of Public-Private --

MR. KINN: Well, basically every one of our employees started internally at VDOT, so you would think, although we work with all state agencies, that you would have just an open-minded staff that thinks about how to do these businesses in a different way. That is absolutely not true. And how these P3s start, they're all very complicated, but I think there's an education process that must take place from both sides.

You always have the public side talk about the private sector. It's not us and they, it's we. And I think the private sector I think has done a good job, but they have to continue to work harder and harder and harder to understand what a state bureaucracy has to go through. In the United States that's difficult, there's 50 of them. By the same token, you cannot have a state operation say that's not how we do it, this is the way we've done it for years. Because those days are over. And as Margaret talks about, the pot of free money from back in the past or, my god, you're working with a concessionaire, it's a foreign country where 85 percent of the jobs are done by people in Virginia, that's an education process.

The hardest education piece, though, I think, for P3s is you have to assume that your state will back you up. You have to assume that you have strong enough partners to get these deals done. The most difficult part of successful P3s is the outreach with the public and legislature. I would contend that in your state most of the legislatures do not have a full understanding of P3s. I think they do not. And if they don't, what percentage of the public do you think has an understanding of P3s?

So as you drive these benefits forward I think a strong outreach program that starts very much in the beginning, whether it's your local MPOs, the local senators, legislators, Baptist ministers, I don't care who it is, you educate them on the benefits of why this project is important. Our office will never care of the quality of asphalt that goes on these roads. I can tell you that right now. But we're going to spend a myriad of time working with the public so the public can't come up with a misconception on what the project is for and what the benefits are.

They always start with safety. They talk with military egress. They talk with economic development. And they're the things that are important. Why are you going to have a concession that I may have to pay a toll for? Because it might get you home an hour earlier and it won't cost you $1,000 a year, it'll cost you 18 cents a day. I think we have to translate this communication to me and to everybody in this room so they understand that it at a grassroots level. If we talk about billion-dollar projects and we talk about that type level, the public just goes away. We don't need it, it's another road project. But you know something, if we can save you a gallon of gas a day to get home to your family, that's a benefit. Or we can do this and save you 30 minutes of congestion time in Washington, D.C. That's a benefit and we have to continue to sell those benefits.

So what I've learned from it is you cannot assume that because you come out with this brilliant P3 project that the public understands why you're doing it. You need to educate them.

MS. JOHNSON: Well, let's talk for all of you a little bit about the most common public consumption or public understanding of a P3. I'm not even sure we should call them P3s -- that's such a wonky term -- which are concession agreements on tolls. You know, the big knock on concession agreements, as I understand it, is that they last a long time. They last lifetimes. And those are the kinds of deals that if someone is newly elected to office, they might have a hard time swallowing.

So how do you -- I mean, this is obviously one way, not the only way, but one way to finance needed infrastructure. How do you explain concession agreements? Where are they appropriate? And what can you do to elevate the level of discussion on, say, you know, the comments that you'll see in the local newspaper about the -- which is where -- that's about the level that I like at sometimes just to see how the public is portraying this. How can you elevate that? And what are the essential elements of that?

So I open that up to whoever wants to --

MR. BLAIN: What we have found after 12 years is that the public doesn't really care how the project is delivered. They just want the project. So when they see a new car, they like the car, they don't care what the factory was that produced the car.

The really important thing that we learned about P3s is that government has to spend money up front. Because of the 30-, 40-year nature of the project, because they're so complicated, you have to do a business plan that includes a really comprehensive risk analysis. If you're thinking about transferring tolls, the concessionaire, if they take toll risk, they will have more equity in the project and they'll require a higher return. There is a cost of transferring tolls, so why are you doing that? Why are you transferring toll risk? Is it worth it? And every risk can be analyzed in the same way. Should this be transferred to the private sector or should you keep it? It's so critical. And the exercise of doing a business plan, it might cost you $2 million. But for a $300 million project, you know, you're going to get paid back that cost.

But that exercise of risk assessment and whether you should mitigate a risk or whether you should transfer it and where are the interface benefits from combining design and build and finance and maintain? Are those benefits there? Are your performance specifications correct to transfer risk and encourage innovation? Because P3s are all about cost-effective risk transfer and encouraging innovation. And, you know, you have to do the work up front.

MS. JOHNSON: Tony?

MR. KINN: I agree. I mean, basically I agree totally. I think there's probably a couple of other things there, and, again, that gets back to education.

Most states do not have the money to do these massive transportation projects right now. Most states cannot afford to sit back and wait for that because other states are competing with them for economic development and those kind of things. So if you hesitate, you're going to lose. So P3s, I must tell you, are never going to be for every project. At most, they're probably going to be 10 to 15 percent of our projects, and I think that's a high number.

But what happens, if you're going to do that P3 and you're going to ask the public to get involved, you must get the public involved. And the public has to understand why their money is being used this way and what it's going to deliver. All the value for money studies and those type things that we're talking about must be done. But until you do that, I mean, you can't go on the street and say you have a P3 because you'll get annihilated. It's really about building a business. And that's why I said in the beginning, a public-private partnership is not a public-private partnership. It's public, private, political, and publicity, and you must educate everybody.

There are benefits here. You hear so many things that on a public-private partnership, well, the concessionaire is going to realize a profit. I don't believe anybody on this panel or anybody in this room has ever written a contract that didn't have profit in it. The word is not to be profit, it's a reasonable rate of return.

And that comes to my colleagues' comments about what are the benefits of a project going forward? If we're going to do it, what does it mean?

MS. JOHNSON: Right. Well, Margaret, I mean, you guys -- New York has other ways of financing.

MS. TOBIN: Right. So I'd like to talk as an example, you know, as an illustration of this is the Tappen Zee Bridge, which is a New York Works project, New York Works Task Force project; very much run from the top. And the initial engineer's estimates for that project -- and the discussion had been going on for, I think, 15 years about this bridge because it's expensive, and Governor Cuomo said we're going to rebuild this bridge and got legislation done to do a design build as opposed to a full-on P3 for exactly that reason. There's no reason to shift the toll revenue risk. You know, we'll just hold on to that risk.

And we also did, through the design and build procurement, a stipend to the finalists. You know, over a million dollars went to each of the finalists. Well, you know, this was a pretty big sort of uphill push. But, at the end of the day, we had an engineer's estimate started extremely high. There was a zillion different public discussions through Westchester County, Rockland County, et cetera. And ultimately, the bridge cost came down by a billion dollars because the private sector bidders who do what they do very well, you know, they're entrepreneurial engineers bringing to the table how to do the construction process, were able to take a billion dollars out. Now, we think it might come in lower than that, actually, but we'll go with that. We'll take it. And so, you know, just as a business model, if we're the business, that was well worth the time and the money that it took to bring in a different sort of design and build approach.

And one of the big things that I see between the private sector, when I was doing, you know, private sector building and private sector development, and the public sector is that we had an ownership mentality, meaning the profit-and-loss statement, the P&L, the cost was completely baked into the engineering decisions and how you go about doing that. What happens in the public sector currently is the municipal bonds markets are one thing and the engineers are something completely different. And what a P3 allows you to do is come in and look at it, sort of knit that back together, which, again, goes back to what Rob was saying.

We have this kind of apparatus of government that is currently relatively siloed. The private sector has gone flat. You know, they turned it on its head. I looked into one project on the 287 route was 10 years behind schedule, yabba, yabba, yabba, you know. It's all caught up; we got done eight months early. You know, we did beat the last schedule. But when I looked at it, the engineer in charge at state DOT was 13 levels below the commissioner of DOT. And when I was in the private sector I was two down from the chairman. I mean, it's just not -- there's going to be very slow decision-making when you have that kind of structure. But, again, in a democratic process there's a reason why there's all those layers. There's a reason why there's a lot of people in the room. I mean, we could have project meeting with this many people in the room, right? I'm sure for the Tappan Zee Bridge there was many project meetings with this number of people trying to come to some kind of agreement.

And that's what I mean about you can't say that the politics is over here and the engineering's over there. And, you know, Tony, I think you're exactly right. You need to be out and about and we need to decide how do we want to approach this. How do we want to skin this particular cat?

MS. JOHNSON: And maybe both Michael and Tony you can talk a little bit about how your particular offices are structured within the state to allow you a little more flexibility. So, Michael, why don't you tell us, how far down are you from the governor or from the transportation secretary?

MR. CHEROUTES: Well, you know, there are organizational charts and there are also relationships.

MS. JOHNSON: Well, right. (Laughter)

MR. CHEROUTES: You know, my particular enterprise is a unit within the Department of Transportation, so, technically, I answer to the director of transportation. I have an independent board which I answer to, and then, ultimately, to the governor. So I have some independence because of that board from the Department of Transportation.

MS. JOHNSON: And how important is that for you to be able to --

MR. CHEROUTES: Quite important.

MS. JOHNSON: Right.

MR. CHEROUTES: It's quite important. And, you know, you always look for as much independence and flexibility as you can get, but you're working, you know, within a certain structure.

MS. JOHNSON: Right.

MR. KINN: Well, I think you always have a bureaucratic structure. We report directly to the secretary of transportation and then to the governor. And that's important because we work very closely with all the sister agencies because our function really does have a target on the front and a target on the back. As you can imagine, the governor and the legislature wants these projects done. The individual agencies may get a little upset sometimes because you're bringing a project to them that they haven't brought forward. But, at the end of the day, by having a separate office, we work very closely with these agencies. We develop the project and the procurement for them, but, ultimately, at the end of the day's day, they'll sign the contracts, but we still have to report back to the secretary and the governor and say this project will be completed; here are the options; here's what we studied.

So the flexibility that we have enables us to be free of binding alliances. It allows us to be in a spot to be a little bit of a noodge, quite frankly, with the agencies to push a project that they may not have thought. But lastly, at the end, it delivers completed projects to the citizens of Virginia, and that's our function. So we never go to work in the day feeling that this is going to be a quiet, calm day. It generally is never that. (Laughter)

MS. JOHNSON: Well, I mean, we've got an even more complicated situation with the WCX, so tell us how it's working out for you.

MR. BLAIN: Well, to begin, Partnerships BC is outside the government. We're owned by the minister of finance, but we're independent and have a separate board, like Colorado. And that enables us to work across all sectors and to focus on P3S and procurement. So we work for a government department, they pay us by the hour, and they tell us what the services are that they want to get from us. They evaluate our performance and we work on business planning on the procurement manager in the project team and then, in some cases, we'll do construction oversight when we're past financial closing.

That kind of model, I think, has a commercial jump to it. And we're outside the rules of government, so we can hire and fire and retain more with flexibility like the private sector. We can load up for projects and then we can downsize when the projects are finished. We can bring people on as contractors for projects. We can finish -- when they're finish we can let them go back and do other things. And whether the West Coast Exchange does the same thing, I think each state will have to make its own decision about what works for them.

But I really believe in the importance of an independent organization that can work across sectors and focus on procurement. Like, in government, procurement is not the most glamorous thing. Most people would rather do the health care or do the highway or do something else other than the procurement. We do the procurement and we do the stuff that everybody else doesn't want to do and we specialize in it.

MS. JOHNSON: I think it's time for us to open up to questions. So we have a couple of mic runners, so it looks like right up here in the first. If you can just identify yourself and keep your question a question so that we have time to get to everybody. That would be awesome.

MR. SCARLIS: I'm Basil Scarlis. I used to work on economic policy at the U.S. Department of State and I'd like to direct my question to Mr. Blain.

I just wondered how did the transportation disaster, the collapse of the bridge between Seattle and Vancouver, have an impact in BC? Did your commission get involved and make suggestions or encourage reconstruction?

And secondly, I have a question relating to NAFTA. Did the North American Free Trade Association give you a context or were you able to operate completely outside of that context?

MR. BLAIN: I think the bridge slowed down shopping for a while because a lot of Canadians go down. (Laughter) But we haven't had any involvement in the project, you know, the reconstruction project. But, I mean, that would be an example where if they wanted to do a procurement, that it could use standardized documents through the West Coast Exchange. It would be very appropriate, you know, in the future for that sort of relationship to take place.

Now, your question about NAFTA is really interesting because the critics of public-private partnerships, the main critics in Canada, are the public unions. And they made the case that, you know, due to NAFTA, if we had a contract with a foreign concessionaire, that they could come in the middle of the night and steal our wastewater treatment plant and take it back to some other country under the NAFTA rules. And so we went to the trouble of getting legal opinions, which said very, very clear that doing a PPP procurement, you know, whether it be with Canadian suppliers or foreign suppliers, it was irrelevant to NAFTA.

MS. JOHNSON: Other questions? I see one, how about in the back here? And then we'll go back there and, wow, lots of them. We'll get through as many as we can.

MS. GANDER: Great, thank you. I'm Sue Gander with the National Governors Association. Since this is a room of wonks I'm going to get down into the weeds.

One of the models that we've been hearing more about within the P3 realm is the use of availability payments. You saw it in Long Beach at the courthouse there and the Miami project. I'd just like to get folks' thoughts on where they see that model going, pros and cons. What's the prospect on that?

MS. JOHNSON: Tony, you know about this one.

MR. KINN: I think from our perspective in the Commonwealth of Virginia, availability payments must be something that's added to our toolkit. When you have a concession, a project, by design it's going to be tolled or there'll be user fees. If you have an availability payment, that's not necessarily so.

It all depends, I think, on the laws in your given jurisdiction. We are one step away from having them approved and coming out with three availability payment projects. And I think there's two key reasons for it. It will enable us to get our facilities up to the standards that we think they should be quicker. It will, also, on the P3 perspective, and I go back to the public-private-political-publicity partnerships, if we're successful with this, this opens up rural areas for projects that could be construed under availability payments, which would eliminate -- in Virginia, if you look at the map, you're going to have Northern Virginia and you're going to have Tidewater and perhaps Richmond, but there is Lynchburg and there is Roanoke and there is Charlottesville, and this could enable us to do projects in that area.

We're kind of excited about the possibility. We're going to pursue it. I think it's something that will continue to grow in the states, depending on their legislation. It makes sense to me in a business perspective.

MS. JOHNSON: Colorado? New York? Talk.

MS. TOBIN: We've done it with the Goethals Bridge, the Port Authority of New York and New Jersey did an availability payment. To me, design, build, finance, operate, and maintain, in a lot of ways it makes sense for the finance to be held on the government side of the ledger. You know, it depends really, work to your strengths.

MR. CHEROUTES: Colorado agrees, as well. We are starting to look at it quite seriously, primarily because of the -- well, not primarily. It may be cheaper to do it that way and the availability of risk capital seems to be diminishing.

MR. BLAIN: Well, most of the projects in Canada are availability projects, one reason being because a lot of them are in the health care sector where there is, of course, no revenue. But on the transportation side, we've learned that it's very expensive to transfer toll risk and the private sector can't really manage that risk any better than the public sector. And then there's public policy issues around tolls and who can set them and how long they have to be hardwired in. So most of the projects are availability.

MS. JOHNSON: Good question. So, let's see, I saw a hand up here, on the aisle here, and then we'll move in, I guess.

MS. WAN: Hi, good morning. I'm Tiffany Wan. I'm a GovLab fellow at Deloitte's public sector think tank and I have a question for all four of you.

Do you think there is a role for the federal government to play in facilitating this type of creative infrastructure investment? And if so, what do you think it should be?

MS. JOHNSON: Thanks for that one. (Laughter) Who wants it? Tony's looking at me, so.

MR. KINN: Look, I think the states need all the help they can get. I think as long as the federal government can come up with policies that are not restrictive and enable the states to do more, I think there's a place for them. I think it all comes down to a simple fact. I think financing -- increasing of the financial opportunities if probably the most important. But there probably is a place for the federal government, but this business is in its infancy. I think we've got to go a little bit and see where it comes.

MS. JOHNSON: Michael?

MR. CHEROUTES: Well, you know, an essential element of most of the successful P3 financings that I'm aware of has been either the TIFIA Program, which the federal government has increased in size. It's running into some problems in terms of efficiency and moving quickly and flexibility, those kinds of things, so those have to be ironed out.

I think there's a new counterpart in the water area, WIFIA or something like.

MS. JOHNSON: Uh-huh, right, yeah.

MR. CHEROUTES: So those kinds of financial assistance, I think, are helpful.

MS. JOHNSON: I also -- I remember asking a similar question to a long, long time staffer on the Transportation Committee in the House when I was writing a story about tolling a couple of years ago. And one of the things that he told me was that he felt like the federal government could act in an advisory capacity to a lot of the smaller -- particularly on the municipal level. Because, I mean, the way he described it is that you've got these multi-global companies, you know, billions of dollars, that are used to doing these deals all over the world, sitting in a conference room with someone's mayor. And that -- I mean, this is assuming, of course, that you have a government that is working fairly well and, you know, sometimes that happens and sometimes it doesn't. But that struck me as a particularly good way to think about a federal role that this is where they can develop some expertise. How they distribute it is a whole other question.

But, so let's see, where are we? How about up here in the front? Because the hand's been up for --

MR. WEBSTER: Hi. Hank Webster with the American Road and Transportation Builders Association. I was wondering if I could get comments from any of you, Tony, I understand you might not be able to, but if you are looking at the Virginia court case and what your are on the possible implications of an opinion in either way; and certainly, Larry, in your capacity with the West Coast Infrastructure Exchange. I know that it won't affect Canada, but if you could comment at all on that.

MS. JOHNSON: Does everybody know what he's talking about? It was a federal -- or no, a state judge ruled state unconstitutional a tolled bridge or a tunnel in between.

MR. WEBSTER: Right.

MR. KINN: Portsmouth and Norfolk.

MS. JOHNSON: It's Portsmouth and Norfolk. Because -- I can't remember what the exact legal ruling was, but it's a setback in one of the deals that you guys have been doing.

MR. KINN: Well, not necessarily a setback. Hank, I can talk a little bit about it.

MS. JOHNSON: I didn't say it.

MR. CHEROUTES: This is called positive spin? (Laughter)

MS. JOHNSON: He didn't say it was a setback. That was my --

MR. KINN: I mean, he knows us. Hank, no, look, there have been tolls implemented in Tidewater since 1790, which is quite a while. The state has followed every rule they can on the midtown tunnel project. The Portsmouth judge that passed that rendering, everybody talks about there was eight points; they won one. That will be decided in court in September and we are going to aggressively pursue it because all laws have been followed. I mean, I hope that answers your question. We are not backing down.

MR. WEBSTER: We're in agreement. I was just wondering if there's any -- if the different programs that you are running, especially in Colorado, looking at it with the availability payment method becoming more, you know, trendy or popular, you know, are there preparations underway anywhere encased either way?

MR. KINN: Yes. Yeah, there are either way and, you know, quite frankly, in doing the study it seems like most every major P3 project in the United States has some type of court case attached to it, so we're preparing as you would. I mean, I hope that answers your question.

MR. WEBSTER: It does. Thank you.

MS. JOHNSON: More questions? Up here in front, I guess. I saw your hand first, so you win.

MR. ORR: My name is Caleb Orr. I'm an intern at the House of Representatives, so not exactly a policy wonk at this. (Laughter)

MS. JOHNSON: Yeah, don't worry, give you about six months.

MR. ORR: If the Federal Reserve goes through with its tapering of bond-buying programs or if any time in the future the buying of bonds significantly becomes less aggressive, how does that affect the interest rates within your infrastructure investments? And how has that changed the way in which you pursue infrastructure projects in the future?

MS. JOHNSON: You said you weren't a wonk and ask that question? (Laughter) Go ahead.

MR. BLAIN: I can share with you the experience that we had in 2008 with the financial crisis when we were relying on cheap long-term money to finance all our projects and, all of a sudden, that cheap long-term money became expensive long-term money. And we learned to economize on the private finance that goes into a P3 versus the public finance. And we learned to combine borrowed public money, which is cheap, with more expensive private capital and we learned to optimize. And I think if interest rates go up, you'll find the same effect. If those entities that can borrow in their own name will borrow and combine the capital with private capital, and that way you get more value for money on the P3, I suspect that will happen globally if interest rates go up.

MR. KINN: One more, I think. In the back here or in the middle, I guess. The longest walk for our mic runner.

MR. McGAW: Yes, good morning. I'm John McGaw, the director of Capital Improvements for Mayor Gray's office.

Would anyone care to comment on what a stupid idea it is for the Congress to consider limiting income from tax-exempt municipal bonds? And should that go through, hopefully it won't, how would we restructure the deals that we're doing in a way that makes sense financially.

MS. JOHNSON: Who wants it? Margaret? (Laughter)

MS. TOBIN: Well, I guess this is what I would say. I think it's a problem that we'll face when we get there, which is not to punt on it. But the reason I went to business school, honestly, is that my mother was a widow and her interest rate on our home was, at that point, the prime rate I think got to 18 percent. And I kept wondering what the heck does Paul Volcker do for a living? I don't get this. And so off I went to business school to try to figure that out.

I think when it comes down to it, it's just another stream. We as a country are extraordinarily wealthy. We have 300 million shareholders, if you want to think about it that way. And we have to decide, like, where's the money coming from and where is the money going? And I think there's really just two questions that government asks and answers.

And the first question is who gets to decide? That's the first question. And, in fact, I had the radio on this morning and I heard all about the nuclear option and (inaudible) who gets to decide, right?

The second question is who pays? And I think what happens is that it becomes a corollary to the answer of the first question because I think different -- you know, obviously, I work for a Democratic governor. Governor Cuomo believes in the power of government and he is a progressive. So we have, I would say, a fairly healthy regard for what government can do and what it can't do.

Every single one of these policy decisions have downstream effects. And you just have to decide what's the effect that you're looking for and how does that work? I think the sooner that the private sector gets that when they come to see us and we're looking at doing -- structuring these things, I'm trying to make sure that the counterparty risks are -- you know, that we have two equal parties sitting at the table.

Municipal debt is just municipal debt. It doesn't mean that it doesn't have to get repaid; it does. So you have to look at the length of term, you have to look at the interest costs. You know, we've all -- those of us that have been around long enough have seen up and down cycles in terms of interest rates. You adjust to whatever that reality is, which, without a doubt, as interest rates go up, fewer projects will get done because we can't afford them.

But we are a very wealthy country. And it is up to us to decide how do we want to, you know, proceed together on that.

I don't know what's going to happen with the Senate rules. Clearly, whatever happens will have effects immediately. It will have effects in 10 years. It will have effects in 20 years. You know, it's --

MS. JOHNSON: But it takes the Senate so long to make these decisions.

MS. TOBIN: Exactly. (Laughter)

MS. JOHNSON: I think we're going to have to cut it off here, much as I'd like to continue the discussion, because I know the governor has to catch a plane. So can we give a round of applause to all our very smart people on this panel? (Applause)

MR. PUENTES: Thank you to all the panelists. That was a great session and actually I think (inaudible) really want to get to the specific message with respect (inaudible) and I didn't think it was too wonky at all. I'm probably a bad judge of what's wonky or not, though, but thank you. Thank you very much.

So continuing our focus on the pragmatic real world solutions for getting things done, you know, it's my pleasure to introduce the former governor of Puerto Rico and a current partner at Steptoe & Johnson, Luis Fortuño. During his time as governor of Puerto Rico, he actually did all of these things that we're talking about there today, not just pieces of it, but really did kind of all of them; really created the rules, the tools, and the institutions that were highlighted in that past panel discussion.

He moved path-breaking P3 legislation through his legislature. He created a dedicated P3 advisory unit; took substantive steps to rebuild Puerto Rico's infrastructure assets, including its airport, schools, and highways. We're very lucky to have him here for us today and to share his perspectives.

As mentioned, he's got to catch a plane internationally, so we really appreciate his time. Please join me in welcoming Governor Fortuño. (Applause)

MR. FORTUÑO: Well, thank you, Rob. And certainly, I commend you and Bruce and Brookings for putting together this conference. And I want to thank my colleagues in the previous panel for their lively discussion.

Indeed, as Rob mentioned earlier this morning, the World Economic Forum has stated that we as a country have fallen behind. And actually, in terms of our infrastructure, now ours is considered to be the 25th best infrastructure in the world. It should be the best. And we would think that it ought to be the best. We were talking earlier about the fact that we're a wealthy country. So what's going on and what can we expect exactly?

Last year, the American Society of Civil Engineers did a study and it stated that in order to bring our infrastructure up to par, in the next 5 years we will need to invest $2 trillion. That's $1.4 trillion more than we invested in the previous 5 years. So obviously, we have an issue here because as they call it the new normal is that there is no money coming from Washington and, actually, even the states are facing serious fiscal problems.

And all that deferred maintenance and underinvestment is eroding our nation's competitiveness. It affects our economy and it's costing us jobs. And that's the bottom line here.

And as a result of that, we see that the states are taking a leading role in moving forward and looking for opportunities and other ways to finance and modernize our infrastructure.

There is plenty of capital out there and it is looking for opportunities to get used. We just need to provide the proper vehicles for that money to come in here and be used properly. Because we all know, as we sit in the morning and in the afternoon in our cars, we need more and better expressways and mass transportation systems. We need better schools, courthouses, airports. I travel a little bit around the country and I can tell you that when you travel abroad and you look at many of our airports, it is shameful the state of our airports. And so there is a way to design, finance, build, and operate and maintain this infrastructure in a much better way. And actually, it doesn't have to stop there. Why not do correctional facilities, police stations, water/energy projects, medical facilities as British Columbia has done?

And I'd like to share with you briefly what I call best practices in setting up a program like this. And I will say that when we looked around four and a half years ago, we looked around the country and we truly could not find in any of the 50 states those best practices. So we looked elsewhere. We looked to Canada, Australia, and the UK mostly. And one of the things we needed to do right away is create a proper and modern legal framework for this to operate. Many of the states -- you know, some states are moving in the right direction, but, as Rob showed us earlier, most states do not have that modern, proper legal framework to operate on. Otherwise, the money will not come in.

Secondly, a dedicated P3 authority makes all the sense in the world, and we learned this from Canada. And it should -- that authority should protect the public interest. And there is a common mistake in many -- some of the states are moving in this direction is that they approve some sort of P3 legislation, they just dump on the Department of Transportation at the state level this responsibility with no other guidelines, and that will be a mistake. It requires guidelines and it requires an authority or semi-independent authority.

That authority must also monitor the progress towards specific benchmarks. This cannot be left out there a wing in the air. And it should become the single point of contact with investors. You do not want those investors to be jumping around to different government agencies.

Third, you need a proper staff, and we saw here why that is important. And certainly, we saw some excellent example of that. Not just officials, government officials, but proper consultants that don't just have the expertise, but the entrepreneurial disposition to accomplish these goals.

Fourth, and I could not underscore this one more, transparency. There must be full transparency in these processes. Actually, the way we did it in Puerto Rico is that everything was on the Internet all the time. Actually, it was an information overload, but that's the way to do it. So anyone at any level can access all documents. There's nothing confidential about any of these transactions. We're talking about the public will.

Fifth, different projects. Be focused on projects that can be financed. Not every project can be financed. And there was an excellent question earlier as to, you know, different modes to finance projects, but it must be financed.

Sixth, you must have an aggressive schedule to close and stick to it. The worst thing you could do is just keep kicking the can down the road and not close the deals. And actually, Larry reminded me this morning, last year at a conference in Puerto Rico on P3s that I said I start projects and I close the deals. I'm here to close the deals. Perhaps my professional training had something to do with that, I'm a transactional lawyer, but that's what I insisted on our P3 authority to do, to close the deals.

Seventh, that authority must be totally insulated from politics, and we saw excellent examples in the earlier panel. The way we did it is that we had a board. And actually, a board is an excellent idea. And I'm reminded of what happened in Pennsylvania with the highway transaction that never closed. Throwing this back at the state legislature will be a major mistake. Oftentimes, constitutionally, you need the authorization by the legislature. The way we did it was speaker of the house at the state level and the president of the senate suggested each three names and I picked one of those three in each case to be part of this five-member board. And actually, all final decisions had to be made by unanimous consent of that board. And otherwise, the transaction will not go forward.

Eighth, all projects you deal with must deliver a public benefit. And here I'd like, if I may, briefly touch upon something that I'm seeing. I hear about some states having unsolicited tenders. It is public officials that should decide in that dialogue what the public benefits of each transaction should be. Unsolicited tenders make no sense. Number one, because god knows what the public benefit is. But, secondly, if you really want the best and the brightest with the deepest pockets and the most experience to compete in your project, do you think they're invest millions of dollars to compete and put forth a proposal on a transaction that may never happen? It simply makes no sense.

And finally, there must be the political will. And actually, in my case, I followed up every two weeks to understand where each transaction was. I didn't care to know who the specific players were. I would find out two hours before the rest of the public would. But I did care about the process to make sure that the process was moving forward, and that was key because that provided the certainty to the investors that they knew that if they went down to Puerto Rico to compete as in any other state or province, that the transaction will take place and it will not be years from now, it will be when we said the transaction would close.

Actually, I remember the last transaction was the airport and they informed me that they were going to push back the date for the final decision two weeks. And I jumped off of my seat and I said no way unless the finalists unanimously decide that they are all in agreement in having two exact weeks. And they decided they wanted -- they could use the two extra weeks. And I said okay, that's what they want, that's fine with us, but I don't want the marketplace to get the wrong impression.

I'll close with the following, if I may, and that's why, again, Rob and everyone here at Brookings I commend you for the leadership you're taking in this issue. If we look around the world, we're competing for jobs that today could be here and tomorrow could be elsewhere at every technical level. In terms of infrastructure, infrastructure determines, to a great degree, in addition to the education of our people, determines whether we are going to be competitive or not in the next decade.

China and India announced recently that in the next five years they'll be investing over a trillion dollars in their infrastructure. Brazil announced that they will be investing over $900 billion. So why can't the U.S. rise up to that challenge to improve our quality of life, to make us more competitive, and to create jobs here in America?

Thank you and God bless you all. (Applause)

MR. PUENTES: Thank you again, Governor. That was a great way to end the session here for us.

I absolutely learned a lot here today. As we start to get into this, we see that it's really complex, it's really complicated, it's all multifaceted. We've got to continue to have these conversations because we've got to keep exploring these issues. We've got to keep pulling out some of these common themes. I think we had some really good lessons here today.

I think that the subtitle for the event could have been, you know, "There is No Silver Bullet." I think that people keep thinking that we're going to find a silver bullet, that solutions like these or other things are going to solve all of our challenges. They're not. We're going to have to do a lot of different things. This is one thing that we're going to be doing, but it's certainly not the only thing.

There's not going to be free money. I think there was really important lessons here. This isn't really political. I thought that came really through very strongly in the panel and in the keynote speech. Maybe it's because states can't -- they don't have the luxury to do that. They have to get things done; they really can't afford to waste time on things like that.

Really need strong partners. Educating the public is key. And I really like this idea and this very important point at the end about transparency. If we're going to get things done, if we're going to do things differently, it's got to be out in the open, and I think the lessons from Puerto Rico in that case are really great.

The work here doesn't stop for us. After this panel today we're going to continue to work on this. Pat Sabol and other folks on my team are going to continue to lead on this. We want to stay connected to all of you, to stay connected to the panelists. So please continue to work and to reach out with us.

I want to thank you all again for being here today and thanks again to the panel. (Applause)

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I, Carleton J. Anderson, III do hereby certify that the forgoing electronic file when originally transmitted was reduced to text at my direction; that said transcript is a true record of the proceedings therein referenced; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and, furthermore, that I am neither a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

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