# Neg

## “Lift Restrictions” CP

### Airport Privatization CP 1NC

#### Text: The United States federal government should remove caps on passenger facility charges, lift the prohibition against airport revenue diversion, exempt airport sponsors from the requirement that they pay back any federal grants or return any property purchased with federal funds, and privatize air traffic control systems.

#### Removing PFC caps allows private airport owners to fund capacity improvements without federal dollars – Canada proves

David Bentley-Air transport researcher and analyst-October 18 2011, “Time to rethink US airport funding”, CAPA, <http://www.centreforaviation.com/analysis/time-to-rethink-us-airport-funding-60733>

Recently, Airport Investor Monthly posed the question “Is management outsourcing the answer to the growing need for privately-run airport operational activities in the United States?” On a similar theme, Bob Poole, Director of Transportation Policy at the Reason Foundation in the US, argues that given the impending collision between reduced federal funding and large unmet airport investment needs, it is high time to deregulate airports. Growing political concern about the fiscal condition of the federal government has prompted a flurry of activity by US airports, calling for a fundamental rethink of traditional means of airport funding, and in particular federal Airport Improvement Programme (AIP) grants and the federally-controlled local passenger facility charge (PFC). The basic problem is that with the federal budget essentially out of control due largely to entitlement programmes that Congress is thus far unwilling to tackle, there are increasing pressures to reduce the deficit by cutting back discretionary programmes. AIP “at risk” That means all federal grant programmes (such as AIP) are at risk, even though they may be largely funded by means of user taxes. The overall FAA budget in recent years has increasingly depended on general-fund support; as recently as 2007, the general fund provided less than 16% of the FAA budget, but in FY2011 that percentage has grown to over 31%. If and when Congress cuts way back on general-fund support, AIP would likely be the “least-bad” candidate for cutbacks (as opposed to air traffic controller payroll or NextGen ATC modernisation funding, which are the other two major budget categories). US aviation structure lags behind Panama and Chile Yet at the same time, the need for airport investment is huge. The World Economic Forum ranks US aviation infrastructure 32nd in the world, behind that of Panama, Chile, and Malaysia. The Airports Council International-North America (ACI-NA) identifies some USD80 billion worth of airport capital projects (while the FAA puts the figure at a still sizeable USD52 billion), the implementation of which would go a long way towards improving airport capacity and quality. AIP, by contrast is about USD3.5 billion per year. Given the impending collision between reduced federal funding and large unmet airport investment needs, airport CEOs and the two major airport organisations — ACI-NA and the American Association of Airport Executives (AAAE) — have been holding meetings to brainstorm major changes in how US airports are funded. The main theme seems to be that it is high time — 33 years after airline deregulation — to deregulate airports, too. As ACI-NA President Greg Principato put it recently, “The financial regulatory framework under which airports operate dates from the days when the federal government told the airlines where to fly and how much to charge, and when someone [Richard M. Nixon] actually thought wage and price controls were a good idea.” Principato invokes Moses in bid to minimise AIP grants as a quid pro quo for decontrolling the level of PFCs Thinking bold thoughts, airport leaders are considering the following trade-off for air-carrier airports: give up some or all AIP grants in exchange for decontrol of the level of PFCs. In Aug-2011, for example, ACI-NA’s Principato wrote to all 12 Senators and House members comprising the deficit-reduction Super Committee asking them to get the federal government out of setting the level of PFCs. (Principato calls ACI-NA’s reform effort the “Moses initiative” — as in “let my airports go.”) A group of 10 of the country’s largest airports sent the Super Committee a letter on 14-Sep-2011 saying they would be willing to give up AIP entitlement funds in exchange for PFC autonomy. Several member airports wanted to go further, giving up all AIP funding if they got PFC autonomy, sources say. Leaders of 12 commercial airports in Texas met in Houston on 27-Sep-2011 to discuss the same set of issues. In addition to PFC reform, they argued that Congress should make permanent the exemption of airport revenue bonds from the Alternative Minimum Tax. There are reports that similar airport groups now exist in California, Florida, and New York. Way back in 1990, in my (David Bentley) first Reason Foundation policy paper on airport privatisation, I analysed FAA data on the 50 largest US airports, comparing how much federal ticket tax revenue each generated in 1987 and the amount each received in 1987 AIP entitlement grants. Most of the largest airports (Boston, New York La Guardia, Los Angeles LAX, San Francisco, etc) got back less than 12% of what they generated, compared with significantly higher rates of return at medium-size airports (Dallas Love Field got 42.5% back, Maui [Hawaii] got 33.6%, Memphis 30.6%). In other words, the very airports that were most congested and providing the largest amounts of air travel services were getting short-changed by this sort of redistribution. But that tends to be the way the political process works. Canada provides a workable model Canada de-federalised its airports several decades ago, devolving nearly complete control to newly created local airport authorities. Instead of getting federal grants, each airport is free to set its own Airport Improvement Fee — essentially an uncapped PFC. The result has been significant improvements in airport capacity and quality, not a proliferation of “Taj Majal” terminals (as feared by US airlines). Conservatives and tax-cutters should welcome a deal that would significantly cut AIP in exchange for having the federal government excuse itself from telling locally governed airports how to fund their capital improvements. This is precisely the kind of devolution many of them are supporting when it comes to highways and transit.

#### It solves better – Public airport funding causes mismanagement and waste

Chris Edwards and Tad DeHaven - budget experts at the Cato Institute – 6/17/10, Privatize Transportation Spending, The Washington Times, http://www.cato.org/publications/commentary/privatize-transportation-spending

After the 2008 election, President Obama promised to "go through our federal budget — page by page, line by line — eliminating those programs we don't need." We haven't seen much of that from the president so far, but at the Cato Institute we are going page by page and finding whole agencies to abolish. If the president ever gets serious about eliminating programs, the $91 billion Department of Transportation would be a good place to start. The DOT should be radically chopped. America's mobile citizens would be better off for it. Rising federal control over transportation has resulted in the political misallocation of funds, bureaucratic mismanagement and costly one-size-fits-all regulations of the states. The solution is to devolve most of DOT's activities back to state governments and the private sector. We should follow the lead of other nations that have turned to the private sector to fund their highways, airports, air traffic control and other infrastructure. The first reform is to abolish federal highway aid to the states and related gasoline taxes. Highway aid is tilted toward states with powerful politicians, not necessarily to the states that are most in need. It also often goes to boondoggle projects like Alaska's "Bridge to Nowhere." Furthermore, federal highway aid comes with costly regulations like the Davis-Bacon labor rules, which raise state highway costs. For their part, the states should seek out private funding for their highways. Virginia is adding toll lanes on the Capitol Beltway that are partly privately financed, and Virginia is also home to the Dulles Greenway, a 14-mile private highway in operation since 1995. Ending federal subsidies would accelerate the trend toward such innovative projects. Another DOT reform is to end subsidies to urban transit systems. Federal aid favors light rail and subways, which are much more expensive than city buses. Rail systems are sexy, but they eat up funds that could be used for more flexible and efficient bus services. Ending federal aid would prompt local governments to make more cost-effective transit decisions. There is no reason why, for example, that cities couldn't reintroduce private-sector transit, which was the norm in U.S. cities before the 1960s. To government planners, intercity high-speed rail is even sexier than urban rail systems. The DOT is currently dishing out $8 billion for high-speed rail projects across the country, as authorized in the 2009 stimulus bill. Most people think that the French and Japanese fast trains are cool, but they don't realize that the price tag is enormous. For us to build a nationwide system of bullet-style trains would cost up to $1 trillion. The truth about high-speed trains is that even in densely-populated Japan and Europe, they are money losers, while carrying few passengers compared to cars, airlines and buses. The fantasy of high-speed rail in America should be killed before it becomes a huge financial drain on our already broke government. Through its ownership of Amtrak, the federal government also subsidizes slow trains. The government has dumped almost $40 billion into the company since it was created in 1971. Amtrak has a poor on-time record, its infrastructure is in bad shape, and it carries only a tiny fraction of intercity passengers. Politicians prevent Amtrak from making cost-effective decisions regarding its routes, workforce polices, capital investment and other aspects of business. Amtrak should be privatized to save taxpayer money and give the firm the flexibility it needs to operate efficiently. A final area in DOT to make budget savings is aviation. Federal aid to airports should be ended and local governments encouraged to privatize their airports and operate without subsidies. In recent decades, dozens of airports have been privatized in major cities such as Amsterdam, Auckland, Frankfurt, London, Melbourne, Sydney and Vienna. Air traffic control (ATC) can also be privatized. The DOT's Federal Aviation Administration has a terrible record in implementing new technologies in a timely and cost-effective manner. Many nations have moved toward a commercialized ATC structure, and the results have been very positive. Canada privatized its ATC system in 1996 in the form of a nonprofit corporation. The company, NavCanada, has a very good record on both safety and innovation. Moving to a Canadian-style ATC system would help solve the FAA's chronic management and funding problems, and allow our aviation infrastructure to meet rising aviation demand. There are few advantages in funding transportation infrastructure from Washington, but many disadvantages. America should study the market-based transportation reforms of other countries and use the best ideas to revitalize our infrastructure while ending taxpayer subsidies.

### Airport Solvency 2NC – Privatization (in general)

#### Privatization is comparatively better than increasing public investment – only competition incentivizes efficiency

Steven A. Morrison (Chair, Department of Economics, Northeastern University) and Clifford Winston (Senior Fellow Economic Studies @ Brookings) – May 2008, Delayed! U.S. Aviation Infrastructure Policy at a Crossroads, <http://www.brookings.edu/research/articles/2008/05/~/media/Research/Files/Articles/2008/5/aviation%20winston/Winston_aviation_chpt2.PDF>

Congress has repeatedly criticized the FAA for the excessive delays and cost overruns it has experienced in trying to develop a technologically up-to-date air traffic control system that would reduce U.S. airborne delays by expanding usable airspace capacity. Some members of Congress have characterized the TSA as a bloated bureaucracy whose screening tasks could be performed better and more efficiently by private screeners. Congress has not singled out airport authorities for criticism, but before September 11,Rudolph Giuliani, then the mayor of New York City, advocated privatization of the airports managed by the Port Authority of New York and New Jersey. Despite complaints by elected officials and an increasingly frustrated flying public, delays seem to be an inescapable part of air travel. Finally, in September 2007, President George W. Bush invited aviation officials and U.S. Department of Transportation secretary Mary Peters to the Oval Office to discuss solutions to air travel delays, proclaiming,“We’ve got a problem,we understand there’s a problem, and we’re going to address the problem.” In our view, excessive travel delays are—to a significant extent—a manifestation of the failure of publicly owned and managed airports and air traffic control to adopt policies and introduce innovations that could greatly improve the efficiency of the U.S. air transportation system. Given little economic incentive and saddled with institutional and political constraints, major airports and the air traffic control system have not exhibited any marked improvement in their performance for decades despite repeated assurances that they would do so, and they have provided little reason for policymakers and travelers to expect such improvements to ever occur. Some observers believe that delays would be reduced if the nation invested more money in airports and air traffic control. However, the returns from such spending would be compromised by the system’s vast inefficiencies. Thus, the key to reducing delays efficiently is to rid the system of its major inefficiencies. We believe that can be accomplished only by privatizing the nation’s aviation infrastructure. The aim of this chapter is to argue that by operating in a less constrained and a more competitive environment, privatized airports and air traffic control would have the potential to improve service to travelers and reduce the cost of carrier operations while maintaining the nation’s outstanding record of air travel safety in the face of an ever greater volume of traffic. In addition, privatized airports could facilitate greater competition among airlines that would lead to lower fares. We recognize that privatization of public aviation facilities does not guarantee that monopolies will not be formed. Thus, we call for carefully designed privatization experiments to preview the extent of competition that is likely to develop among airports and the resulting economic effects and to alleviate concerns that public airports will be replaced by private monopoly airports. We also recognize that privatization faces strong resistance from entrenched interests who benefit from current policies. At the same time, as indicated by President Bush’s recent attention to the problem, policymakers cannot ignore the political costs of periodic crises related to increasing travel delays. It is our view that the impasse in reforming aviation infrastructure policy would be broken if experiments reveal that the flying public would realize large benefits from privatization.

#### Only privatization creates incentives to innovate

Frost-Frost and Sullivan Research Foundation-April 25, 2006, “Airport Privatization”, Potential Economic Benefits of Airport Privatization, http://www.marketresearch.com/Frost-Sullivan-v383/Airport-Privatisation-1286859/

Potential Economic Benefits of Airport Privatization The airport industry is going through an exceptional transformation that has driven the market towards increasing levels of competition. Additionally, major investment programs are required to meet the expected growth in air travel demand (particularly in some emerging regions, such as Asia). Nevertheless, governments and city airport authorities are becoming more reluctant to support airport projects, since they have major budgetary constraints. Airports and airlines have historically been considered as essential components of the national aviation system, and hence both were regarded as public utilities. Due to this approach, operational and handling activities were contemplated as being fundamental for the development of the airport business, and commercial activities had a less important role to play. For that reason, airport assets and property have always been publicly managed and commercial activities have occasionally been contracted or outsourced to private companies. Within such a framework, economic regulation was seen as superfluous. The traditional airport management model becomes visibly unsustainable when most governments begin to be concerned about the burden of airport financing and its lack of efficiency. However, for many years, a majority of airports around the world have continued to operate under this model and some still remain attached to it. Since the 1980s, the industry started to evolve with changes being brought about in the traditional airport management model. Currently, governments are progressively regarding airports as potential profit-making enterprises rather than merely considering them as part of the infrastructure suppliers. There are three main potential economic gains obtained from privatization, namely improvements in operating efficiency (the private for-profit business model more often leads to a further exploration for means to cut costs and boost revenues than public management), the introduction of new management styles and marketing skills directed to serve users with a more consumer-oriented approach, and better investment decisions. However, in many cases, these investment decisions might also imply under investment or capacity reductions, which mandates the presence of a regulatory environment. Regardless of all its potential benefits, privatisation also involves risks and requires prudent management from the public authorities. Several policy issues have to be contemplated by the governments if the public interest needs to be safeguarded. Specifically, the eventual externality, negative or positive effect imposed by airport users over non-users or other users, generated by the provision of airport services or strengthened market position gained by the airport operator after privatization should be carefully considered. In this respect, a regulatory regime (in terms of charges, safety, quality, and noise intensity or spatial planning) should be designed before privatization takes place and the regulatory role ought to be delegated to an independent body.

#### Other sectors of US aviation and international experience prove – privatization solves best

Evan Sparks-Associate editor at the American Enterprise Institute-December 5, 2008,”Should We Privatize Airports?”, The American, <http://www.american.com/archive/2008/december-12-08/should-we-privatize-airports/>

In 1977, as a group of policymakers attempted to apply economic theory to the regulation of airlines, future American Airlines (AA) chairman Robert Crandall was not happy. Then an executive at AA, Crandall claimed that the economists’ ideas would ruin the airline industry. Things came to a head when he confronted a Senate lawyer prior to a hearing, reportedly shouting: “You f—king academic eggheads! You don’t know s—t. You can’t deregulate this industry. You’re going to wreck it. You don’t know a g——n thing!” Thirty years after a bipartisan coalition passed the Airline Deregulation Act (in October 1978), the subject is still hotly debated. Supporters of deregulation claim that it worked mostly as predicted: fares fell dramatically in real terms as new entrants clamored to serve competitive markets. Critics such as Crandall point to numerous bankruptcies, industry upheaval, and the increasingly miserable experience of air travel as evidence of its failings. As I noted in the September/October issue of THE AMERICAN, proponents of the Airline Deregulation Act knew at the time that it was incomplete. Congress deregulated the airline sector but left the government-run aviation infrastructure intact. As deregulation guru Alfred E. Kahn said in 1978, “There is no guarantee that freer competition on the airline side of the equation—that is the part that creates the demand for airports—alone will solve these problems. On the contrary, it will stimulate more air travel.” Competition unleashed a torrent of demand for flying, but the infrastructure has not been able to keep up. Airports are still largely owned and operated by the government. They serve as chokepoints in the aviation system, and their capacity has been constrained by the Federal Aviation Administration (FAA), which has been slow to implement new air-traffic control technologies. Economists are once again wading into the deregulation debate, much to the chagrin of industry insiders but to the benefit of the traveling public. In Aviation Infrastructure Performance: A Study in Comparative Political Economy (Brookings Institution Press, $24.95), edited by economists Clifford Winston and Ginés de Rus, several authors explore how other countries have succeeded in enhancing their aviation infrastructure sectors through privatization. When it comes to such privatization, the United States trails far behind the rest of the world. Indeed, its first large-scale experiment with private airport ownership began just a few months ago, when, as part of a pilot program run by the FAA, Chicago’s Midway Airport was sold for $2.5 billion to a consortium including Citigroup, Vancouver International Airport, and John Hancock Life Insurance. Winston and de Rus report that in many foreign countries, “privatization has not had an adverse effect on an air transportation system’s performance.” The countries that have experimented with airline privatization include Australia, New Zealand, the United Kingdom, Canada, and China. In Australia, where airports are privately owned in order to optimize efficiency, airport operators “under pressure from regional interests” have incentives to make “excessive investments.” Early in the privatization process, price caps were set too low, causing airports to suffer excessive losses. The caps were then replaced by “monitoring,” which has allowed airport fees to rise but not above uncompetitive levels. Canada’s major airports, by contrast, are owned by nonprofit corporations designed to boost airport investment. Their investment objectives have been largely achieved, but the nonprofit model has led to higher airport fees than might otherwise prevail.

#### Privatized airports introduce rational pricing that solves congestion

Steven A. Morrison (Chair, Department of Economics, Northeastern University) and Clifford Winston (Senior Fellow Economic Studies @ Brookings) – May 2008, Delayed! U.S. Aviation Infrastructure Policy at a Crossroads, <http://www.brookings.edu/research/articles/2008/05/~/media/Research/Files/Articles/2008/5/aviation%20winston/Winston_aviation_chpt2.PDF>

We would expect private airports to introduce some form of rational pricing to make efficient use of available taxiing areas and runway capacity, to make efficient investments in terminals and runways to reduce delays, and to allow access to any carrier that is willing to pay the cost of using its facilities.49 Privatized airports would also be able to allocate their resources for security toward the greatest threats to safety. To this end, they would have the choice of whether the government or the private sector provides their security without any constraints on private sector provision. In addition, airports would be free to coordinate and share their security strategies with each other. Similar to other profit-maximizing entities in the private sector, airports would have a strong financial incentive to ensure that their security is efficient and minimizes passenger and carrier inconvenience. As noted, the private sector has had considerable experience and success in providing security for facilities such as theme parks, gambling casinos, and the like. Generally, we would expect efficiencies to accrue to the traveling public as airlines and airports develop their buyer-seller relationship without governmental interference or contractual mandates. In a more competitive environment, airlines would be more forthcoming about their preferences of the types of airport services that would reduce operating costs and improve service to passengers, while airports would have an incentive to respond to these preferences and introduce new services. It is, of course, difficult to predict what service innovations airports might offer. But deregulation of the U.S. intercity transportation system has demonstrated that consumers have substantially gained from pricing and service innovations that are introduced when firms are exposed to a more competitive environment.50 Although we expect privatization to have positive economic effects, we also recognize that uncertainties exist about how to manage the transition to private airports and how airport competition will evolve. Thus, we believe it is imperative for policymakers to design privatization experiments before proceeding with the policy. In 1996 Congress enacted legislation creating an airport privatization pilot program. But a major barrier for participation in the program was the requirement that a city or state had to obtain the approval of airlines representing 65 percent of the landed weight at the airport. In many cases involving hub airports, this enabled one airline to have veto power over privatization efforts. Policymakers must be more committed to designing useful privatization experiments, especially because interest in these experiments among investors and cities is starting to develop. For example, private equity firms such as Goldman Sachs are raising billions of dollars for infrastructure investments including airports, while the City of Chicago has filed a preliminary application with the FAA to include Midway Airport in a pilot privatization program. Accordingly, policymakers should convene meetings with potential investors, airport authorities, and other major stakeholders for guidance on how to conduct airport privatization experiments. We envision that several issues must—but can—be resolved. First, airport competition should be encouraged to develop by selling each airport in a given metropolitan area to a distinct owner. Airports serving the London metropolitan area, Heathrow, Gatwick, and Stansted, were sold to the same owner, raising concerns about the effectiveness of privatized airport service. Second, private airports should be able to finance themselves with user charges and without tax-exempt debt financing. Third, local and state governments should be able to reap sufficient financial benefits from the sale of U.S. airports but be prohibited from imposing residual regulations as a condition of a sale. Finally, policymakers must ensure that entities do not have legal grounds for blocking privatization. Although these and undoubtedly other issues pose major challenges to formulating experiments and transitioning to a privatized system, policymakers must persevere because it is clear that they do not have the option of standing still and hoping that public airports improve their performance. Air Traffic Control The Clinton administration recognized that the nation’s air traffic control system was inadequate to meet the growth in airline traffic and sought to “corporatize” it by spinning off air traffic control operations as an independent government corporation that would be financed by user fees and be able to borrow money from capital markets. Although Congress did not support the effort, the justification for it—and an even stronger reform, privatization— is more valid than ever.51 In a comparison of the U.S. Air Traffic Organization with Nav Canada, a private sector air traffic control corporation established in 1996 and financed by publicly traded debt, Oster and Strong concluded that the ATO was disadvantaged by a disconnect between its source of funds and costs, the poor performance of its capital investment programs, and a lack of organizational independence that would enable it to take steps to improve its performance. The authors concluded that Nav Canada was able to overcome these problems while maintaining a high level of air safety in Canada by having the main stakeholders and users determine user fees subject to legal requirements that limit charges to full cost recovery, by undertaking modest projects that could be efficiently managed, and by having complete freedom to allocate resources and consolidate facilities when necessary.52 Generally, we would expect that a privatized air traffic control system would introduce some form of rational pricing for its services, allocate resources to address the greatest risks to safety and the major sources of delay, and adopt the latest and most effective technology in a timely fashion. As in the case of airport privatization, we would also expect that travelers would gain from service improvements as airlines and the control system provider develop their buyer-seller relationship. The evidence provided by Canada’s privatization experiment suggests that the United States could realize significant benefits from a privatized traffic control system. Accordingly, U.S. policymakers should explore ways to overcome the political opposition that has blocked previous efforts to reform the nation’s air traffic control. An incremental approach could include an agreement to conduct an experiment to privatize the nation’s air traffic control system. As in the airport case, key stakeholders must be consulted and critical features of the experiment must be pinned down—including the selection of a private air traffic control corporation; the contractual framework within which airlines and the provider would negotiate prices and service; and the oversight role, if any, for the federal government. While formidable, the challenges to resolving these matters should not obscure the motivation for or impede the implementation of this vital experiment. Final Comments As shown in figure 2-1, during the past thirty years airline travel times have been characterized by cycles of sharp increases followed by modest decreases. Growth in travel times and delays have spurred promises from the FAA to address the problem; however, declines caused by recessions in the early 1980s and 1990s and by the September 11, 2001, terrorist attacks have changed the FAA’s focus. On net, delays continue to mount, the flying public accepts the inconvenience without calling for a change in policy, and the performance of the nation’s aviation infrastructure worsens.At some point, however, the level of delays—not the increase—may generate a public outcry that cannot be silenced by an external shock. We have argued that travel delays are a manifestation of inefficient pricing and investment policies and the slow adoption of state-of-the-art technology by public airports and a federally managed air traffic control system. Given little reason to believe that policymakers have the determination to overcome regulatory obstacles and given the existence of political forces that preclude the introduction of efficient policies, we have argued that the private sector represents the best hope for improving aviation infrastructure. But we have also recognized that such major institutional change should not proceed without hard evidence that it will benefit the public. Thus, we have called for the federal government to initiate privatization experiments, which we expect would produce favorable evidence that strengthens the case for a change in policy. During the past decade, periodic interest among U.S. policymakers in privatization and the implementation of it abroad have provided some hope that the policy may eventually receive consideration in the United States.With the growing realization among public officials and the public that the U.S. air transportation system is being severely compromised by its infrastructure, it appears inevitable that privatization will be thoroughly—and justifiably— explored.

### Airport Solvency 2NC – ATC

#### Only privatized ATC can set efficient prices and reduce delays – Canada proves

Steven A. Morrison (Chair, Department of Economics, Northeastern University) and Clifford Winston (Senior Fellow Economic Studies @ Brookings) – May 2008, Delayed! U.S. Aviation Infrastructure Policy at a Crossroads, <http://www.brookings.edu/research/articles/2008/05/~/media/Research/Files/Articles/2008/5/aviation%20winston/Winston_aviation_chpt2.PDF>

Performance of Air Traffic Control Today, the probability of dying in a commercial aviation crash is at an all-time low, following a dramatic improvement in safety during the past ten years.35 FAA expenditures on air traffic control deserve some credit for the nation’s excellent safety record.36 But the FAA’s inefficient pricing of and investment in the system and its slow adoption of the latest technology have exacerbated air travel delays. In addition, some observers in industry and academia caution that air transport safety could be threatened if the air traffic control system is not expeditiously upgraded so it can handle the expected growth in traffic over the next decade. pricing. The relevant consideration in pricing air traffic control services is the marginal cost that a given flight imposes on the air traffic control system, including delay costs to other users. The cost clearly increases with the volume of traffic in a controller’s airspace. Because the ticket tax is based on a percentage of the price of a given flight that may or may not vary with the time of day and, incidentally, with airspace congestion, it does not force a plane to account for the delays it imposes on other aircraft. In addition, because of the intensity of airline competition, real average fares have declined over time; thus, the ticket tax is not a stable source of revenue. As air traffic controllers try to manage congested airspace near airports, delays may take the form of slower air speeds, indirect routings, suboptimal altitudes, and the like. Unscheduled aircraft (general aviation) may cause greater delays than scheduled aircraft cause because of unpredictable peaks in their demand for airspace, especially near airports, and because general aviation prefers altitude approach levels that create additional complexity for controllers. These costs are also not reflected in the ticket tax. We are not aware of any studies that quantify the welfare effects of replacing current air traffic control charges based on the ticket tax with appropriately measured marginal-cost user fees. The Congressional Budget Office reports rough estimates of the marginal cost of services provided by air traffic control.37 But because of data limitations, these estimates are based on the unrealistic assumption that all air traffic control facilities are optimized. Investment in these facilities, however, has not been optimal. Under efficient (marginal-cost) pricing and investment, it is likely that air traffic control operations would be designed so that they exhaust any scale economies and fully cover costs. A fundamental problem in determining efficient charges for air traffic control services is that the FAA has had historic difficulties in establishing its costs for these services. In fact, Russell Chew, the former head of the FAA’s Air Traffic Organization, which operates the air traffic system, acknowledged that after extensive work by analysts, “an understanding of air traffic control costs is only now just coming.”38 In any case, we expect the efficiency gains from marginal-cost pricing, as reflected in reduced delay for travelers and lower operating costs for carriers, would be significant given that the ticket tax bears little relationship to the costs that an aircraft imposes on the system and on other aircraft and does little to discourage planes from using airspace near airports during congested periods. In addition, marginal-cost user fees would generate revenues that cover the costs of air traffic control services. The expiration on September 30, 2007, of the taxes and fees that support the U.S. Airport and Airway Trust Fund and the trust fund’s reauthorization provide an opportunity for the FAA and Congress to reconsider how the air traffic control system should be funded. Not surprisingly, input is being provided by the system’s users. Commercial airlines support user fees, instead of the ticket tax, because they believe that under this pricing scheme they will pay less for their use of air traffic control services and business jets will pay more. The private- and corporate-jet owners prefer a fuel tax and argue that they should not pay higher fees because they cost the FAA less to handle than do the commercial airlines. Instead of mediating the debate, the FAA should focus on how current pricing inefficiencies are contributing to travel delays and develop a cost-based pricing scheme. As of January 2008,Congress had been unable to agree on a measure that would reauthorize the trust fund. Frustrated by these delays, Transportation Secretary Mary Peters had begun to encourage congested airports to adopt congestion pricing. investment. As noted, the FAA hires air traffic controllers and other air traffic control personnel and supplies terminal and en route facilities with new equipment. Personnel and equipment tend to be added to those parts of the system where traffic levels exceed a threshold. The FAA’s allocation of funds is also influenced by airlines, airports, trade associations, and members of Congress, a process that may compromise the efficiency of FAA investments. Morrison and Winston document at least one way that FAA investments could be improved.39 Compared with the current allocation, we find that allocating expenditures at towers and TRACONs to airports where travelers incur the most costly delays would generate more than $1 billion in annual time savings to air travelers and cost savings to airlines. Under the current allocation, smaller airports get a disproportionately large share of funds, an allocation that appears to be zealously protected by representatives of the districts where the airports are located. For example, Oster and Strong point out that when the Air Traffic Organization proposed in February 2005 to close control towers between midnight and 5:00 a.m. at forty-eight lightly used airports, U.S. representatives from the airports’ districts strongly opposed the action without even considering whether the tower services were needed or even used.40 technology adoption. The FAA could also reduce delays by expeditiously implementing technologies that have the capability of expanding navigable airspace around airports and en route. We have indicated that the FAA has yet to fully adopt the air traffic control technology that was envisioned when the advanced automated system was initiated during the early 1980s. Worse, the technology is no longer state of the art. By enabling pilots to be less dependent on controllers and to choose the most efficient altitude, routing, and speed for their trip, the NextGen satellite-based system could reduce air travel times and carrier operating costs, especially those related to fuel, and handle more traffic while maintaining, if not improving upon, the nation’s outstanding air transportation safety record. In fact, the NextGen system would facilitate the first significant change from the air traffic routes established in the 1920s when the government was developing airmail service. Today’s pilots, while flying at much higher altitudes than they did several decades ago, still follow the same routes. Unfortunately, the delays that the FAA has experienced with implementing experimental satellite-based systems suggest that NextGen will take more than the projected twenty-five years to become fully operational and that the current system may eventually have to impose additional delays on aircraft to handle growing traffic volumes safely. The GAO has concluded that the FAA has failed to provide the expertise to make the transition to NextGen and has urged it to seek assistance from a third party.41 In addition, because the old equipment continues to consume vast amounts of money for operations and maintenance, it will need to be shut down to implement new navigational procedures. Eventually, all the facilities associated with the current system will be eliminated or consolidated as NextGen is managed and operated with fewer and more technologically up-to-date facilities. Such disinvestment and consolidation will undoubtedly face political resistance that slows the implementation of NextGen because members of Congress will attempt to keep navigational aids and jobs in their districts.42 Institutional and Political Constraints on Reform Although many travelers and some policymakers are painfully aware of the suboptimal service provided by U.S. aviation infrastructure facilities, regulations and political forces have made it extremely difficult for would-be reformers to rid the system of its major inefficiencies. At the heart of the problem is the FAA, which lacks organizational independence and is prevented to a significant extent by Congress and the administration from using its resources— and from encouraging airports to use theirs—more efficiently. Special interest politics has also thwarted efforts to reform aviation infrastructure policy. Joseph Stiglitz described his efforts, as part of the Clinton administration, to institute peak-period pricing for air traffic control only to find reform blocked by owners of corporate jets and small planes who opposed higher user fees.43 The FAA and commercial airlines appear to support replacing the expired ticket tax with user fees—although commercial airlines are opposed to congestion pricing. In any case, the current funding mechanism is supported by the potent National Business Aviation Association and the National Air Traffic Controllers Association; hence, a compromise that falls far short of marginal-cost pricing is likely to emerge.44 Both associations fear that any user fee is the first step to taking air traffic control out of the congressional funding process and privatizing it. Political pressure applied by air transport interests including members of Congress is the primary cause of misallocated FAA expenditures among traffic control facilities and is also behind the inertia preventing the elimination and consolidation of these facilities to implement the NextGen system. Turning to airports, a problem with introducing congestion pricing is that existing residual and compensatory contracts between airline tenants and their airport landlords would have to be abrogated and an acceptable framework for determining all airport charges would have to be instituted. Efficient expansion of airport runway capacity is impeded by regulatory hurdles imposed by the Environmental Protection Agency and by opposition from the local community; “majority in interest” clauses permit incumbent airlines to block construction of new terminals and gates that could enable new entrants to serve the airport; and TSA’s shortcomings can be partly traced to the political objective of Congress and the Department of Homeland Security to convince an anxious public that they are doing something to combat terrorism, even if their efforts are wasting resources. Finally, the FAA, TSA, and local airport authorities are constrained by the inflexibility, shortsightedness, and conflicts that characterize most regulatory agencies and are entangled in a decisionmaking process with diffuse accountability. 45 Hence, technological advances that could improve airport and air traffic control services require an excessive amount of time and resources to be implemented, which reduces productivity in the air transportation sector. Building the Case for Privatization Given the vast and growing inefficiencies in the aviation infrastructure, our view is that policymakers should question the wisdom of allowing public sector airport authorities and a federal air traffic control system to continue to provide aviation services, especially when there is little indication that the efficiency of air travel will significantly improve in this institutional environment. Accordingly, we believe policymakers should explore whether privatizing airports and air traffic control could enhance the efficiency of the air transportation system. Political resistance to such dramatic institutional change is great. As noted, the very interests that oppose efficient pricing of air traffic control fear that it will lead to privatization. Thus, political support for privatization must be built carefully and strengthened by favorable experimental evidence of its economic effects. Here we briefly outline the conceptual case for privatizing airports and air traffic control, its likely economic effects, and important considerations in designing experiments to provide evidence of these effects. Privatizing Airports The central tenet of airport privatization is that travelers will experience fewer delays and airline competition will increase if airports are forced to compete with each other to attract passengers and airline service. To be sure, airport competition already exists to some extent as airports located in adjacent metropolitan areas compete for passengers through their location and the airlines that serve them. Examples of competing airports include Oakland, San Francisco, and San Jose in northern California; Boston, Manchester, New Hampshire, Providence, and Hartford in New England; Los Angeles, Orange County, and Long Beach in southern California; and Washington (Reagan), Baltimore (BWI), and northern Virginia (Dulles) in the Middle Atlantic region. In addition, satellite airports could expand and provide competition in certain major metropolitan areas; examples are Palmdale airport (Los Angeles), Stewart airport (New York City), and Gary, Indiana, airport (Chicago). The potential for competition also has been demonstrated by airports that have tried to induce carriers to offer new service or expand existing service and by airports that have lost carriers that are dissatisfied with their facilities and performance.46 And competition among airports in different metropolitan areas even exists. For example, LAX is spending $1.2 billion to build ten new gates at an extension of its international terminal to remain competitive with San Francisco for overseas traffic.47 In principle, privatization would make unrestricted airport competition a reality by giving airports the freedom and incentive to compete for passengers and carriers by efficiently producing a level of service that its users value. Skeptics may counter that privatization would enable some airports to become monopolies, which would charge excessive prices for and have little incentive to provide high-quality services. But the economic conditions under which an airport would have monopoly power are not clear. A fundamental constraint on any airport’s exercising monopoly power—even if it is the only airport serving an outlying area—is that the airport will still have to be efficiently integrated into a carrier’s entire network. Thus, if an airport sets monopoly charges, an airline may not find it optimal to include the airport in its spoke routes. Or in the process of determining the routes that it will serve, an airline may be able to play off monopoly (spoke) airports against each other to reduce charges.48 We would expect private airports to introduce some form of rational pricing to make efficient use of available taxiing areas and runway capacity, to make efficient investments in terminals and runways to reduce delays, and to allow access to any carrier that is willing to pay the cost of using its facilities.49 Privatized airports would also be able to allocate their resources for security toward the greatest threats to safety. To this end, they would have the choice of whether the government or the private sector provides their security without any constraints on private sector provision. In addition, airports would be free to coordinate and share their security strategies with each other. Similar to other profit-maximizing entities in the private sector, airports would have a strong financial incentive to ensure that their security is efficient and minimizes passenger and carrier inconvenience. As noted, the private sector has had considerable experience and success in providing security for facilities such as theme parks, gambling casinos, and the like. Generally, we would expect efficiencies to accrue to the traveling public as airlines and airports develop their buyer-seller relationship without governmental interference or contractual mandates. In a more competitive environment, airlines would be more forthcoming about their preferences of the types of airport services that would reduce operating costs and improve service to passengers, while airports would have an incentive to respond to these preferences and introduce new services. It is, of course, difficult to predict what service innovations airports might offer. But deregulation of the U.S. intercity transportation system has demonstrated that consumers have substantially gained from pricing and service innovations that are introduced when firms are exposed to a more competitive environment.50 Although we expect privatization to have positive economic effects, we also recognize that uncertainties exist about how to manage the transition to private airports and how airport competition will evolve. Thus, we believe it is imperative for policymakers to design privatization experiments before proceeding with the policy. In 1996 Congress enacted legislation creating an airport privatization pilot program. But a major barrier for participation in the program was the requirement that a city or state had to obtain the approval of airlines representing 65 percent of the landed weight at the airport. In many cases involving hub airports, this enabled one airline to have veto power over privatization efforts. Policymakers must be more committed to designing useful privatization experiments, especially because interest in these experiments among investors and cities is starting to develop. For example, private equity firms such as Goldman Sachs are raising billions of dollars for infrastructure investments including airports, while the City of Chicago has filed a preliminary application with the FAA to include Midway Airport in a pilot privatization program. Accordingly, policymakers should convene meetings with potential investors, airport authorities, and other major stakeholders for guidance on how to conduct airport privatization experiments. We envision that several issues must—but can—be resolved. First, airport competition should be encouraged to develop by selling each airport in a given metropolitan area to a distinct owner. Airports serving the London metropolitan area, Heathrow, Gatwick, and Stansted, were sold to the same owner, raising concerns about the effectiveness of privatized airport service. Second, private airports should be able to finance themselves with user charges and without tax-exempt debt financing. Third, local and state governments should be able to reap sufficient financial benefits from the sale of U.S. airports but be prohibited from imposing residual regulations as a condition of a sale. Finally, policymakers must ensure that entities do not have legal grounds for blocking privatization. Although these and undoubtedly other issues pose major challenges to formulating experiments and transitioning to a privatized system, policymakers must persevere because it is clear that they do not have the option of standing still and hoping that public airports improve their performance. Air Traffic Control The Clinton administration recognized that the nation’s air traffic control system was inadequate to meet the growth in airline traffic and sought to “corporatize” it by spinning off air traffic control operations as an independent government corporation that would be financed by user fees and be able to borrow money from capital markets. Although Congress did not support the effort, the justification for it—and an even stronger reform, privatization— is more valid than ever.51 In a comparison of the U.S. Air Traffic Organization with Nav Canada, a private sector air traffic control corporation established in 1996 and financed by publicly traded debt, Oster and Strong concluded that the ATO was disadvantaged by a disconnect between its source of funds and costs, the poor performance of its capital investment programs, and a lack of organizational independence that would enable it to take steps to improve its performance. The authors concluded that Nav Canada was able to overcome these problems while maintaining a high level of air safety in Canada by having the main stakeholders and users determine user fees subject to legal requirements that limit charges to full cost recovery, by undertaking modest projects that could be efficiently managed, and by having complete freedom to allocate resources and consolidate facilities when necessary.52 Generally, we would expect that a privatized air traffic control system would introduce some form of rational pricing for its services, allocate resources to address the greatest risks to safety and the major sources of delay, and adopt the latest and most effective technology in a timely fashion. As in the case of airport privatization, we would also expect that travelers would gain from service improvements as airlines and the control system provider develop their buyer-seller relationship. The evidence provided by Canada’s privatization experiment suggests that the United States could realize significant benefits from a privatized traffic control system. Accordingly, U.S. policymakers should explore ways to overcome the political opposition that has blocked previous efforts to reform the nation’s air traffic control. An incremental approach could include an agreement to conduct an experiment to privatize the nation’s air traffic control system. As in the airport case, key stakeholders must be consulted and critical features of the experiment must be pinned down—including the selection of a private air traffic control corporation; the contractual framework within which airlines and the provider would negotiate prices and service; and the oversight role, if any, for the federal government. While formidable, the challenges to resolving these matters should not obscure the motivation for or impede the implementation of this vital experiment. Final Comments As shown in figure 2-1, during the past thirty years airline travel times have been characterized by cycles of sharp increases followed by modest decreases. Growth in travel times and delays have spurred promises from the FAA to address the problem; however, declines caused by recessions in the early 1980s and 1990s and by the September 11, 2001, terrorist attacks have changed the FAA’s focus. On net, delays continue to mount, the flying public accepts the inconvenience without calling for a change in policy, and the performance of the nation’s aviation infrastructure worsens.At some point, however, the level of delays—not the increase—may generate a public outcry that cannot be silenced by an external shock. We have argued that travel delays are a manifestation of inefficient pricing and investment policies and the slow adoption of state-of-the-art technology by public airports and a federally managed air traffic control system. Given little reason to believe that policymakers have the determination to overcome regulatory obstacles and given the existence of political forces that preclude the introduction of efficient policies, we have argued that the private sector represents the best hope for improving aviation infrastructure. But we have also recognized that such major institutional change should not proceed without hard evidence that it will benefit the public. Thus, we have called for the federal government to initiate privatization experiments, which we expect would produce favorable evidence that strengthens the case for a change in policy. During the past decade, periodic interest among U.S. policymakers in privatization and the implementation of it abroad have provided some hope that the policy may eventually receive consideration in the United States.With the growing realization among public officials and the public that the U.S. air transportation system is being severely compromised by its infrastructure, it appears inevitable that privatization will be thoroughly—and justifiably—

explored.

### Airport Solvency 2NC – Caps

#### Current pilot programs prove lifting federal restrictions attracts private investment – but de-regulating the PFC cap is key to capacity investment

AJ Muldoon-DOT transportation analyst-May 20, 2011,”The Airport Privatization Pilot Program: What It Is, and What It Isn’t”, Centerlines, <http://www.aci-na.org/blog/2011/05/20/the-airport-privatization-pilot-program-what-it-is-and-what-it-isn%E2%80%99t/>

In 1996 Congress created the Airport Privatization Pilot Program. The program allows up to five airports (with certain restrictions on the various classes of airports) to be granted exemptions from certain federal statutory and regulatory requirements that would otherwise discourage private investment in airports. As it is currently constructed, the pilot program has little benefit for airports but is a way for the local government entities which own airports (cities, counties, states, etc.) to get cash in exchange for selling or leasing their airport to a private entity. Given the dire budget situations being faced by many states and municipalities, such a program is starting to look very enticing. Before the recent economic collapse, Chicago had reached a tentative deal to lease Midway Airport for $2.5 billion. That is quite an attractive number to a city facing billions in unfunded pension obligations and other costs. The main obstacle to privatization which the pilot program alleviates is the prohibition against revenue diversion or taking money “off airport.” Federal law requires that any airport which accepts federal grants must reinvest all airport revenues back into the airport. Why would an airport sponsor sell or a private investor buy into an asset that could never give them a return? The pilot program provides the necessary exemption from the revenue diversion prohibition to solve this problem but requires that 65 percent of carriers operating at the airport and carriers that constitute 65 percent of the landed weight at the airport approve such a deal. The pilot program also exempts airport sponsors from the requirement that they pay back any federal grants or return any property purchased with federal funds. The incentive for airport sponsors is clear: the potential for a cash windfall. However, the upside for the airport itself is less clear. ACI-NA’s Capital Needs Survey found that airports in the U.S. will need $80 billion in capital improvements over the next five years. Funds available from the AIP program have fallen in real terms, Congress has not acted on increasing the PFC ceiling, and airlines, perpetually in financial difficulty, have little of their own capital to contribute. Participation in the pilot program changes none of this. The pilot program is not a first step towards airport deregulation. The pilot program does not provide an exemption from the PFC-cap and it does not exempt private operators from the FAA Rates and Charges Policy, safety oversight and regulation, environmental reviews or any other statutes or regulations. The one exemption it does provide, from the revenue diversion prohibition, is one that many airport managers would like to see maintained under any deregulation program. Participation in the pilot program may make sense for a city seeking to fill a budget gap, but in its current form, the benefits for airport operations and improvement are far from clear.

#### PFC funding caps prevent full privatization – makes airports dependent on federal funds

David Grossman-Travel Writer and Guest editor for USA Today-5/23/2011, “U.S. airports eye privatization, seek to remove caps on fees”, USA Today, <http://travel.usatoday.com/flights/post/2011/05/airport-privatization/171259/1>

While airports in some other countries, like Australia, India, Russia and Spain have either privatized their airports or are in the process of privatization, of the nearly 20,000 U.S. airports, only one small airport in Branson, Mo., is privately run. The rest are owned and operated by local or state governments. Some airport operators would like to change that. "Airlines are deregulated, but airports are more hamstrung under government regulations," says Debby McElroy of Airports Council International (ACI), in a recent report by CNBC on airport deregulation and privatization. Airports earn revenue from airline and passenger usage fees as well as income from privately owned restaurant or parking concessions. Security costs are borne by the Federal government or specific fees assessed to airlines and passengers and most airport improvements or expansions are funded by a government entity or bond. Passenger Facility Charges, first implemented in 1990, are included in the price of your airline ticket. These funds may only be used by airports for development and expansion and are capped at a maximum of $18 per airline ticket. ACI would like to see those caps removed and would like to allow airports set their own fees charged to passengers or airlines.

### Airport Solvency – Airline Competition

#### Airport privatization promotes airline competition by reducing exclusive gate-lease agreements

Robert Poole-holder of two MIT degrees in engineering and founder of the reason foundation-June 2000, “Another Reason for Airport privatization”, The Freeman, <http://www.thefreemanonline.org/features/another-reason-for-airport-privatization/>

That said, however, it is clear to most frequent flyers that today’s airline service leaves much to be desired. Record-high levels of delay, overcrowded planes, less meal service, new restrictions on carry-on baggage . . . flying in many ways is not what it used to be. But if government regulation is a cure worse than the disease, what hope is there for beleaguered air travelers? The answer is supposed to be competition. If you don’t like the quality and price of Airline A, take your business to Airline B instead. Surely some profit-seeking entrepreneurs will attempt to offer a better combination of price and performance to appeal to those frustrated by today’s typical airline service. And indeed, there are some such alternatives. For millions of people, the low-fare, no-frills, but highly reliable service of Southwest is a viable alternative. For others, Midwest Express offers a much more luxurious form of service, albeit at a somewhat higher fare. But for millions of other air travelers, innovative airline service offerings are very hard to find. This is especially true at many cities with a single large airport where the vast majority of service is provided by a single airline’s major hub—for example, Atlanta (Delta), Minneapolis (Northwest), and Pittsburgh (U.S. Air). Why haven’t airline entrepreneurs broken into such markets, offering clearly different alternatives for air travelers? It turns out that many have tried, but have had great difficulty obtaining gates at such airports. And that leads us to one of the key respects in which airline deregulation is an “unfinished revolution.” While airline service itself has been freed of economic regulation and allowed to become a dynamic industry, U.S. airports are still run in the old-fashioned, static, bureaucratic manner typical of the pre-deregulation era. Among other things, this means that their management style is more passive and risk-averse than that of the world’s growing body of privatized airports, now numbering more than 100 (and including the main airports in such cities as Auckland, Buenos Aires, Dusseldorf, Johannesburg, London, Melbourne, and Rome). Privatized airports (and also leading “corporatized” airports such as Amsterdam and Frankfurt) are run as businesses, intended to make a profit by aggressively developing various profit centers, tailoring their services to many different groups (including airlines, originating passengers, transfer passengers, meeters and greeters, and employees). Recent research at Oxford University has shown that the management approach of privatized airports is—not surprisingly—significantly more passenger-friendly than that of traditionally managed airports. Willing to Take Risks Privatized airport managements are also more willing to take on the risk of new investments—such as the creation of new terminal space to provide gates for new-entrant airlines. And this brings us back to the question of increased competition by such airlines, especially in “fortress hub” cities where air travelers today have very limited options. Under typical U.S. airport management practice, the major incumbent airlines have signed long-term gate-lease agreements (making them “signatory” airlines). From the standpoint of risk-averse airport management, these long-term agreements give them a more-or-less guaranteed revenue stream to pay off the bonds they issue to build the terminal facilities. But in exchange for this security, they give up substantial control to the signatory airlines. Usually, the long-term agreements give these airlines what amounts to a veto power over any terminal expansions. That means when new-entrant airlines want to start service at such an airport, there are often no gates available at all—or there is only “remnant” space available at odd hours at gates leased by the signatory airlines, which they might make available to the newcomer, at two to three times as much as what the incumbent is paying under its lease! These barriers to entry are well known within aviation circles. In October 1999, the U.S. Department of Transportation (DOT) released an important report, “Airport Business Practices and Their Impact on Airline Competition,” explaining how all this works and concluding that, indeed, “Airport business practices play a critical role in shaping airline competition. Access at many of the nation’s airports is limited . . . because of long-established airport business practices.” What the report did not do was to contrast these business practices with those of corporatized and privatized airports around the world. Had DOT’s researchers done so, they would have found that an airport run as a for-profit business does not cede de facto control over its facilities to its largest customers. At most such airports the gates remain under the control of the airport company and are allocated hour by hour to individual airlines, as needed. (That is why at many European airports, and at the privately run Terminal 3 in Toronto, the airline signage at each gate is electronic, permitting it to be changed in moments from one airline’s name to another.) And that is how gates will be managed at the new International Arrivals Terminal at JFK in New York—a $1 billion project being developed and operated by a private consortium including the for-profit company that owns and operates Amsterdam’s Schiphol Airport. The IAT consortium is taking the entire risk of keeping the gates occupied because it wants the management flexibility to get the most value out of each and every gate. In short, the answer to today’s serious limitations on new airline entry at U.S. airports is outright privatization, in which existing airport owners (cities, counties, and states) sell or long-term lease these facilities to professional airport firms. Real airline competition is being impeded by the outmoded management approach of U.S. airports. Much of the world is moving to a new paradigm—the airport as a for-profit enterprise—that is far more consistent with a dynamic, competitive airline market. It is high time the United States did likewise.

### Airport Solvency – A2: Monopolies

#### Carrier competition checks monopoly pricing

Steven A. Morrison (Chair, Department of Economics, Northeastern University) and Clifford Winston (Senior Fellow Economic Studies @ Brookings) – May 2008, Delayed! U.S. Aviation Infrastructure Policy at a Crossroads, <http://www.brookings.edu/research/articles/2008/05/~/media/Research/Files/Articles/2008/5/aviation%20winston/Winston_aviation_chpt2.PDF>

In principle, privatization would make unrestricted airport competition a reality by giving airports the freedom and incentive to compete for passengers and carriers by efficiently producing a level of service that its users value. Skeptics may counter that privatization would enable some airports to become monopolies, which would charge excessive prices for and have little incentive to provide high-quality services. But the economic conditions under which an airport would have monopoly power are not clear. A fundamental constraint on any airport’s exercising monopoly power—even if it is the only airport serving an outlying area—is that the airport will still have to be efficiently integrated into a carrier’s entire network. Thus, if an airport sets monopoly charges, an airline may not find it optimal to include the airport in its spoke routes. Or in the process of determining the routes that it will serve, an airline may be able to play off monopoly (spoke) airports against each other to reduce

charges.48

### Airport Solvency – A2: Security

#### CP doesn’t affect screeners – public airports already have private security

Mike M. Ahlers, CNN – 2/7/12, Congress kick-starts program to privatize airport screeners, CNN, http://articles.cnn.com/2012-02-07/travel/travel\_montana-tsa-screeners\_1\_private-screeners-tsa-screening-tsa-chief-john-pistole/2?\_s=PM:TRAVEL

Currently, 16 airports, the largest being San Francisco International Airport, have private screeners under the Transportation Security Administration's Screening Partnership Program. The screeners are overseen by TSA supervisors, use the same X-ray and scanning equipment and wear similar uniforms. But they work for private companies. One year ago, Pistole announced he was freezing the program, saying he believed airport screening to be a federal responsibility, and saying privatization hurt TSA flexibility and added to administrative costs. Pistole said he would approve additional airports only if there was a "clear and substantial" advantage to the federal government. But the TSA checkpoints -- and the 50,000 jobs they represent -- were an irresistible battlefield for free-market Republicans and union-supporting Democrats. At a hearing Monday on the issue, Democrats lamented the provision in the FAA reauthorization, saying it signals a return to the days before the terror attacks of September 11, 2001, when private companies provided airport security. "Let us not forget the lessons of the past ... The 9/11 day of horror was partly on the watch of privatized screeners," said Rep. Sheila Jackson Lee, D-Texas. Republicans and an association for private security companies called that argument specious. Private screeners were adhering to standards set by the Federal Aviation Administration, they said. Republicans depicted the current system as inefficient, and said the bloat extends to the TSA oversight of privatized airports. "There are certain airports where contractors do screening and TSA is just there to oversee the screen(ing) process; there are upwards of 50 TSA employees on the payroll," said subcommittee chairman Rep. Mike Rogers of Alabama. "Having 50-plus TSA officials in a single airport where they are not responsible for conducting screening is just plain overkill and it's costing the taxpayer huge amounts of money," he said.

#### Private security works just as well as the TSA

Whit Richardson-Writer and Multimedia Journalist-February 12, 2012, “New law could make it easier for airports to privatize security screening”, Security Director News, <http://www.securitydirectornews.com/public-sector/new-law-could-make-it-easier-airports-privatize-security-screening>

WASHINGTON, D.C.—Lawmakers recently passed new legislation that could make it easier for airports to contract with private companies to provide security screening rather than rely on the Transportation Security Administration. Until now, airports that wanted to contract private companies to provide security screening services had to apply to the TSA under its Screening Partnership Program (SPP) and prove there would be "a clear and substantial advantage to transition to privatized screening." However, the FAA authorization bill, which the Senate approved on Feb. 6 and President Obama is expected to sign it into law soon, shifts the burden of proof from the airport to the TSA, which would now have to prove the advantage of privatization does not exist. TSA Administrator John Pistole testified last week before the House Homeland Security Subcommittee on Transportation Security. When asked what impact the new law would have on the SPP, Pistole said: "It's changing the burden, if you will, on the discretion I have in terms of making that decision, which is [based on] the taxpayers' best interest in terms of cost, but obviously the bottom line is who provides the best security," he said. "So if I'm required to accept something unless I can prove affirmatively that it does not meet that criteria, it obliviously changes the standard." Pistole said that privatized screening at airports that participate in the SPP have in the past cost between three percent and nine percent more than if the TSA had operated screening services at those airports. Rep. Sheila Jackson Lee (D-Texas), ranking member of the transportation security subcommittee, baited Pistole, asking him to agree that shifting the burden of proof to the TSA would make securing the country more difficult. Pistole deftly avoided the prompt with a non-committal answer: "Well, Congress has passed this law and the president intends to sign it, I believe, so I look forward to working with the committee to figure out the best way forward on this." Rep. Lee made it clear in her remarks that she thinks privatizing security at U.S. airports would make the country less safe. She asked Pistole to confirm that this change in the law could potentially mean all 450 airports in the country could seek to privatize security. When Pistole confirmed that "hypothetically" it could happen, Rep. Lee responded with: "So then my comment [is]: We are looking forward to returning to 9/11." Out of 450 airports in the United States with federal screening, currently 16 participate in the SPP, according to Pistole. In the past decade, only "30 or so" airports have applied to the TSA for SPP status, Pistole said. The SPP has expanded from five pilot airports to the current 16, but Pistole decided against expanding the SPP in January 2011. "At the time, I did not see any clear and substantial advantage to expanding the program, though I remained committed to maintaining contractor screening where it then existed," Pistole said in his testimony. "Now, as then, I am open to approving new applications where a clear and substantial benefit could be realized." Rep. Mike Rogers (R-Ala.), chairman of the House Homeland Security subcommittee on transportation security, said he was disappointed with Pistole's decision to not expand the SPP. "Limiting SPP's growth is the wrong approach in my opinion, especially since the TSA and GAO determined the performance of federal screeners and private screeners are the same," he said, adding that he believes the expansion of private screening at airports would allow the TSA to focus on management, oversight, training, contracting and procurement.

## Tax Credits CP

### HSR 1NC

#### CP Text: The United States federal government should extend the railroad track maintenance credit for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [The Aff] in a multi-year deal to be terminated once the project has been completed

#### Government tax credits incentivize HSR production – empirics

Foran, 10 – Writer for Progressive Railroading (Patience a virtue on the slow ride to HSR, <http://www.progressiverailroading.com/high_speed_rail/article/Context-mdash-by-Pat-Foran-June-2010--23542>)

States are beginning to get down to the difficult business of actually getting down to business and making higher-speed rail (HSR) a reality in the United States. One high-speed hurdle they'll need to clear: coming to terms with what the freight railroad hosts will and won't allow on their tracks or right of way. It isn't an insurmountable hurdle, but clearing it will require communication, attention to detail and patience, as Associate Editor Angela Cotey reports in this month's cover story. Of course, it'll also take money. Lots of it. But patience (or the lack thereof) could be nearly as big of a potential barrier to entry into the HSR realm. Despite all of the hoopla, HSR never was on a fast track. It got a jump start last year, thanks to the $8 billion in American Recovery and Reinvestment Act dollars set aside for high-speed and intercity passenger-rail projects, but the devil is in the myriad details. Liability, capacity and ROI issues always prompt Class Is to proceed with caution when determining whether to enter into agreements with passenger-rail operators, and these HSR ventures will be no different. Toss in the ever-changing winds of political will and/or clout, an anything-but-consensus public view on the necessity of HSR and an enormously uncertain economy, and you might as well buckle up and prepare for a slow ride. Norfolk Southern Corp. EVP and CIO Deb Butler summed it up succinctly, telling Cotey: "There's probably a bit of a disconnect between all of the money that's been talked about and actually getting high-speed rail started and built in many places. This is a very long process." We'll continue to track that process as it unfolds, primarily on HSRupdates.com, Progressive Railroading's subscription-based website devoted solely to high-speed rail. Tax-Credit Measure 'Ping-Ponged' Back to the Senate On May 28, the U.S. House of Representatives passed the Tax Extenders Act of 2009 (H.R. 4213), which includes a one-year (tax-year 2010) extension of the Section 45G railroad track maintenance credit that expired at 2009's end. But it only passed after one of the "most contentious and confused House legislative wrangling sessions in recent years," as Adam Nordstrom, a partner with short-line industry lobbying firm Chambers, Conlon & Hartwell L.L.C., put it in an email. Short-line lobbyists have been seeking a multi-year extension of the tax credit, but have been pursuing the one-year extension through the extenders bill to make Section 45G available to short lines in tax-year 2010. First enacted in 2005, Section 45G enables short lines to claim a tax credit of 50 cents for every dollar spent on infrastructure improvements, up to a cap of $3,500 per mile of owned or leased track. The House originally passed H.R. 4213 in December and the Senate amended the bill in March. Section 45G advocates had hoped the Senate would take up the measure before Memorial Day. Now, the Senate likely will consider the House-approved bill later this month and is likely to amend the bill once again, which would require yet another House vote — a procedure "accurately described as 'ping-pong,'" Nordstrom noted. In the meantime and amid the paddling, Section 45G proponents will keep on advocating. Among the fight's more eloquent advocates: Farmrail System Inc. CEO George Betke Jr., who shares his thoughts on the tax-credit situation this month (see Guest Comment).

#### Tax Credits are sufficient to incentivize the private to develop HSR

Cooper 12 – Staff writer for the New York Times (Michael, For High-Speed Rail, Support in the Past From G.O.P. Presidential Hopefuls ,<http://www.nytimes.com/2012/01/03/us/politics/for-high-speed-rail-support-in-the-past-from-gop-presidential-hopefuls.html>)

A spokesman for Mr. Paul, Jesse Benton, said in an e-mail that Mr. Paul “thinks high-speed rail is a very exciting idea and could be a very worthwhile project in many cases.” Mr. Benton said that Mr. Paul believed that development of high-speed rail should ideally be left to the private sector, but that he would favor providing federal tax credits and rolling back regulations to promote its development. He said the letter Mr. Paul signed with other members of the Texas delegation in 2009 — which sought federal money for studies that it said would help “attract the large number of high quality private and public sector investors that will be key to making this project a success” — was an effort to ensure that “an equitable portion of the money was spent in Texas so Texan taxpayers received some of their money back.” That letter was first reported by Newsweek in an article in October about fiscal conservatives seeking federal spending for their districts. But rail projects are still a tough sell with many conservatives these days, as Mr. Gingrich hinted in his 2009 remarks at the governors’ forum. “Let me just close with what I think is the central issue, that I’m prepared to debate both with liberals and conservatives, but probably I’m of somewhat greater value in debating it with conservatives,” he said, speaking of the need to change the federal financing process. “You can’t talk about American national security in the long run without a fundamental redevelopment of this country economically. It is not possible. And you can’t talk about a competitive American economy without a dramatically more robust and more modern infrastructure.”

### HSR Solvency 2NC

#### Tax credits and R&D tax credits boost university and private interest in the plan – key incentive

AHSRA, 10 – American High Speed Rail Alliance (Developing a high speed rail manufacturing base, <http://americanhsra.org/agenda/677-2/>)

In addition, a common sense step Congress could take to promote the cost-effective development of transportation services is the harmonization of conflicting provisions within the Buy America rules for the Federal Railroad Administration (FRA), the Federal Transit Administration (FTA), Amtrak, and American Recovery and Reinvestment Act (ARRA) funds to the extent this is feasible. These rules frequently create differing requirements for companies making similar equipment in the same factories – one aggressive yet reasonable harmonized Buy America standard across the USDOT would allow these companies to more cost-effectively produce the infrastructure and rolling stock materials demanded by federally supported rail agencies, and would allow the United States to achieve the national policy goal of creating a vibrant domestic rail manufacturing industry based upon a common Buy America criteria. Working with Rail Labor Rail labor is a critical component to the development of a high speed rail manufacturing base. High speed rail development means high paying jobs in manufacturing, construction, operations and maintenance. Our Advisory Board includes several of the largest transportation unions in the country. We are committed to working with our fellow members to address the potential for the rail industry to be a significant engine for job creation. Tax Credits The Alliance supports stimulating infrastructure development and technological advancement though tax incentives. The Alliance is developing a proposal that would create tax credits to support a high speed rail manufacturing base in the U.S. and a research and development tax credit for companies and universities to advance state-of-the-art technology in the U.S. and help develop the next generation of technologically advanced transportation professionals.

#### Privatizing high speed rail improves efficiency – public ownership prioritizes access over use

Emily Ekins, director of polling for the Reason Foundation, which publishes a monthly magazine, and leader of the Reason-Rupe public opinion research project, 1/25/12, “55 Percent of Americans Want Private Enterprise to Build High Speed Rail,” Reason Foundation, <http://reason.com/poll/2012/01/05/55-percent-of-american-want-private-ente>

With states bringing in lower tax revenues, strapped budgets, and increasing transportation usage, governments are looking to partner with private firms to provide transportation improvements and expansions. According to the recent Reason-Rupe poll, 55% of Americans favor these kinds of partnerships. In fact, a majority of all political groups favor government working with private companies to further transportation projects. Many governments are partnering with private companies to build and expand highways, airports and other infrastructure projects that government might not be able to afford otherwise. Do you favor or oppose these public-private partnerships? Which statement do you agree with more? Federal and state governments should spend taxpayer money to build and operate high-speed rail systems where they think they are needed; or, Private companies should build and operate high-speed rail systems where they think riders will pay to use them. When Americans are asked to choose between government and private business building high-speed rail, however, a majority of Americans (55 percent) want private enterprise to build this infrastructure. In contrast, 34 percent believe government should build high-speed rail. Partisan divisions do arise for this issue of high-speed rail: a plurality of Democrats and Occupy Wall Street supporters prefer government build with taxpayer money, however a majority of pure Independents, Tea Party Supporters and Republicans prefer private companies to build these railways. A partial driver of partisan division may be that if governments were to build high-speed railways, they would build where policymakers think they are needed; in contrast, private businesses would build railways where it is profitable to build—so where a substantial number of riders would pay to use them. In sum, deciding between public or private building of high-speed rail contrasts goals of efficiency and access, and political groups make trade-offs between efficiency and access differently. If this poll has accurately gauged attitudes toward government or private enterprise building and operating railway infrastructure, this casts doubt on how Amtrak is currently run. Currently, many Amtrak lines operate at a loss because policy makers often choose access to rail lines over efficiency in running the trains, even in areas where there is little demand for train use. Find full Reason-Rupe Q4 2011 poll results, question wording, and methodology here. The Reason-Rupe Q4 2011 poll collected a nationally representative sample of 1,200 respondents, aged 18 and older from all 50 states and the District of Columbia using live telephone interviews from December 1-13. Interviews were conducted on both landline and mobile phones. The margin of sampling error for this poll is +/- 3 percent.

#### Privatization empirically works for HSR’s – Italy proves

Gaia Pianigiani, writer for the New York Times, 4/28/12, “On High-Speed Rails, a New Challenger in Italy,” New York Times, <http://www.nytimes.com/2012/04/29/world/europe/on-high-speed-rails-a-new-challenger-in-italy.html>

It took over five years, a roughly $1.3 billion investment and a neck-and-neck race with Italy’s national rail lines to get Europe’s first private operator of high-speed, domestic trains on track. But the locomotives — dubbed Italo — finally started speeding around 186 miles per hour on Saturday, opening a new chapter in European rail travel and seeking to compete against state-run service with an emphasis on style and luxury. “My grandchild had never taken a train before,” said Miriam Fallerini, 67, sipping an espresso in first class, her 6-year-old grandson by her side. “I promised him yesterday, I am taking you not only on a train, but on the most beautiful train that there is in Italy.” The train company, Nuovo Trasporto Viaggiatori, is the first to compete with the state-run Trenitalia on high-speed domestic service. As passengers boarded in Rome on its first run to Milan from Naples, they were met by smiling hostesses and stewards in dark red livery and boarded sleek, modern trains with blue leather seats and white interiors. The company’s president is Luca Cordero di Montezemolo, the chairman of Ferrari. Other developers include the luxury fashion businessman Diego Della Valle, the French railway company, Italy’s largest retail bank and the country’s largest insurer. “We have brought an end to one of the longest monopolies in the history of our country,” said Mr. Cordero di Montezemolo during a press trip to Naples from Rome this month. “Finally, Italian travelers and tourists can choose.” By the end of the year, the company plans to have 25 trains connecting nine Italian cities, and its goal is a 20-to-25 percent market share by 2014, with eight million to nine million passengers a year, which would allow the company to break even. The battleground will be over high-end services, pricing and food. The Italo trains provide their 450 passengers with free Wi-Fi, satellite television, a 39-seat cinema carriage, leather seats manufactured by the luxury furniture maker Poltrona Frau, and assistance and welcome points in the main stations designed by the team of the Italian architect Stefano Boeri. A third of all tickets will be available at a lower cost, if booked early and for off-peak times. The trains do not rely on locomotive cars but have engines underneath each of the 11 carriages that are intended to increase capacity and safety. “The risk NTV is taking is certainly very high, amplified by Italy’s current economic crisis and the improvement of the Italian infrastructure that is still lagging behind,” said Oliviero Baccelli, vice director at the Center for Research on Regional Economics, Transport and Tourism at the Milan-based Bocconi University. “But high-speed in Italy has very, very significant development margins.” As of 2009, Italians took high-speed trains considerably less than French or German rail passengers, as only 22 percent of passengers used them in Italy, compared with nearly 27 percent in Germany and 60 percent in France. However, since then, high-speed trains started darting between Rome and Milan in only three hours, and Trenitalia’s market share increased to 55 percent from 32 percent on this route, while airline travel decreased to 32 percent from 52 percent. Italy is being seen as a test case for Europe. Since 2004, European legislation has liberalized international and domestic rail travel for freight and passengers, but there still is no obligation under European Union law to open domestic services to market competition as Italy did. And it might go further, as the Italian government has recently passed a law requiring local authorities to hold bids for train services. Trenitalia has also sought to compete in the high-end market, recently revamping some of its high-speed trains with leather interiors, a business carriage and first-class dining menus by the Umbrian chef Gianfranco Vissani. “Often, dirty bathrooms and prices aside, there is little to complain now about the service on Trenitalia, too,” said Elisa Rossetti, 34, who was planning to watch a movie in the cinema carriage with her husband and their 5-year-old daughter. “I just hope that the market principles apply and competition cuts ticket prices, not like it happened with cellphone companies, where it has not happened yet.” Some share Ms. Rossetti’s fears, but many on the Italo on Saturday were impressed. “You feel like you are traveling on an airline, a bit like the train from Boston to New York,” said Antonio Squillace, 56, an entrepreneur headed to Milan for a long weekend with his wife. “And just the very fact of having an alternative feels almost miraculous.”

### Waterways 1NC

#### CP Text: The United States federal government should…

#### The private sector can solve – it has the resources to do the project effectively

Arthur Smith, President of Management Analysis, Inc., a consulting firm serving the public sector, 2000, “PRIVATIZATION OF WATER TRANSPORTATION SYSTEMS,” National Council for Public Private Partnerships, <http://www.ncppp.org/councilinstitutes/smith_privatewatertranssys.pdf>

Privatization of water transportation systems, to include ports, navigation locks, inland waterways, and related infrastructure, is increasingly utilized to improve system performance. Private sector participation can provide needed capital investment, management expertise, and workforce flexibility. In developing or transitioning economies, it can also be an integral part of the conversion to a market-based, demand driven system. However, privatization is not a universal panacea for productivity and cost effectiveness concerns. To be successful, it must be appropriately planned and executed. The following discussion explores recent experience in privatization of ports and other water transportation systems.

### Waterways Solvency 2NC

#### Privatization of inland waterways has huge potential for the US.

Arthur Smith, President of Management Analysis, Inc., a consulting firm serving the public sector, 2000, “PRIVATIZATION OF WATER TRANSPORTATION SYSTEMS,” National Council for Public Private Partnerships, <http://www.ncppp.org/councilinstitutes/smith_privatewatertranssys.pdf>

Privatization, implemented in a competitive environment, can yield productivity improvements and economic impacts not obtainable through other management reforms. Although the level of privatization of water transportation systems has increased throughout the last decade, and particularly in the late 1990s, there is significant potential for further application. As shown by the channel dredging concession for the Rio Paran<, it is still possible to develop new and innovative approaches to old infrastructure problems. In addition, major areas of water transportation systems, such as ports in much of Africa or inland waterways in the United States remain virtually unexplored and offer great potential for future improvement.

### Waterways A2 Causes Pollution/Overfishing

#### Turn – public waterways destroy the environment – only privatization solves

Alan Germani, Associate editor of The Objective Standard, J. Brian Phillips, Property Rights Blogger, The Practicality of Private Waterways,” The Objective Standard, Volume 5, Number 1, Spring 2010

For centuries, few have questioned the idea that waterways—streams, rivers, lakes, and oceans—are or should be “public property.” The doctrine of “public trust,” with roots in both Roman and English common law, holds that these resources should not be privately owned but rather held in trust by government for use by all. The United States Supreme Court cited this doctrine in 1892, ruling that state governments properly hold title to waterways such as lakes and rivers, “a title held in trust for the people of the state that they may enjoy the navigation of the waters, carry on commerce over them, and have liberty of fishing therein freed from the obstruction or interference of private parties.”[1](http://www.theobjectivestandard.com/issues/2010-spring/private-waterways.asp" \l "_edn1) This “public ownership,” however, is increasingly thwarting the life-serving nature of waterways as sources of drinking water, fish, and recreation. Predictably, when a resource—whether a park, an alleyway, or a pond—is owned by “everyone,” its users have less incentive to protect or improve its long-term value than they would if it were owned by an individual or a corporation. Users of “public property” tend to use the resource for short-term gain, often causing the deterioration of its long-term value—the well-known “tragedy of the commons.” This phenomenon is perhaps nowhere clearer than in the case of waterways. “Public ownership” of waterways has led to, among other problems, harmful levels of pollution and depleted fish populations. Many waterways around the world have become so polluted that they are no longer fit for human use. In 2004, the Environmental Protection Agency reported that one-third of America’s lakes and nearly one-fourth of its rivers were under fish-consumption advisories due to polluted waters.[2](http://www.theobjectivestandard.com/issues/2010-spring/private-waterways.asp" \l "_edn2) In 2005, officials in China estimated that 75 percent of that nation’s lakes were contaminated with potentially toxic algal blooms caused by sewage and industrial waste.[3](http://www.theobjectivestandard.com/issues/2010-spring/private-waterways.asp" \l "_edn3) And the World Commission on Water has found that half the world’s rivers are either seriously polluted or running dry from irrigation and other human uses or both.[4](http://www.theobjectivestandard.com/issues/2010-spring/private-waterways.asp" \l "_edn4) By one estimate, the contaminated drinking water and poor sanitation that result from pollution and low water levels account for five to ten million deaths per year worldwide.[5](http://www.theobjectivestandard.com/issues/2010-spring/private-waterways.asp" \l "_edn5) In addition to containing harmful levels of pollution, many of the world’s waterways are being fished in a manner that is depleting fish populations and threatening with extinction fish species such as red snapper, white sturgeon, and bluefin tuna—species highly valuable to human life.[6](http://www.theobjectivestandard.com/issues/2010-spring/private-waterways.asp" \l "_edn6) By 2003, primarily due to fishing practices associated with public waterways, 27 percent of the world’s fisheries (zones where fish and other seafood is caught) had “collapsed”—the term used by scientists to denote fish populations that drop to 10 percent or less of their historical highs.[7](http://www.theobjectivestandard.com/issues/2010-spring/private-waterways.asp" \l "_edn7) In 2006, the journal Science published a study that offered a grim prediction: All of the world’s fisheries will collapse by 2048.[8](http://www.theobjectivestandard.com/issues/2010-spring/private-waterways.asp" \l "_edn8)Whether or not all of the world’s fisheries will collapse in a mere forty years, the data clearly show that current fishing practices are depleting supplies of many species of consumable fish. At best, at the current rate of fish depletion, many fishermen will lose their livelihoods and consumers will have fewer and fewer species from which to choose, species that will become more and more expensive. What solutions have been proposed? Federal and state governments have attempted to remedy these problems through regulation—violating rights and creating new problems in the process. For example, twenty-five states prohibit or severely restrict the use of laundry detergents containing phosphates, substances that harm aquatic life when present in water in high quantities.[9](http://www.theobjectivestandard.com/issues/2010-spring/private-waterways.asp" \l "_edn9) A growing number of state and local governments—including Westchester County, New York, and Annapolis, Maryland—are enacting similar regulations on phosphate-containing fertilizers.[10](http://www.theobjectivestandard.com/issues/2010-spring/private-waterways.asp" \l "_edn10) These laws violate the rights of detergent and fertilizer manufacturers by precluding them from creating the products they choose to create—and they violate the rights of consumers who want to buy such products rather than more-expensive, less-effective alternatives. Further, these rights-violating prohibitions have proven impractical in achieving their purpose: Despite many such regulations having been in effect for nearly forty years,[11](http://www.theobjectivestandard.com/issues/2010-spring/private-waterways.asp" \l "_edn11) an estimated two-thirds of America’s bays and estuaries still contain harmful amounts of phosphates.[12](http://www.theobjectivestandard.com/issues/2010-spring/private-waterways.asp" \l "_edn12) Regulations regarding sewage treatment have proven similarly impractical: Since 1972, the federal government has forced water utilities to spend billions of dollars upgrading water treatment facilities, and yet, during the past four years, record numbers of beaches have closed due to pollution from sewage.[13](http://www.theobjectivestandard.com/issues/2010-spring/private-waterways.asp" \l "_edn13) And, for what it is worth, the EPA predicts that by 2016 American rivers will be as polluted by sewage as they were in the 1970s.[14](http://www.theobjectivestandard.com/issues/2010-spring/private-waterways.asp" \l "_edn14) Government efforts to address depleted fish populations have proven similarly impractical. The history of the halibut industry in Alaska is an illuminating case in point. In the 1970s, the International Pacific Halibut Commission (IPHC)—a U.S.-backed intergovernmental regulatory agency—established a five-month fishing season in public waters off the Alaskan coast with the hope of maintaining halibut populations, which had become severely depleted. But forcibly limiting the time during which fishermen could operate did little to improve the fishery’s viability: Fishermen simply worked more vigorously during the season, and the halibut population remained at historically low levels. So, in the 1980s, the IPHC attempted to remedy the problem by reducing the five-month fishing season dramatically—to as few as two days.[15](http://www.theobjectivestandard.com/issues/2010-spring/private-waterways.asp" \l "_edn15) During these shortened windows of opportunity, fishermen took extreme risks to maximize their catches, only to be “rewarded” onshore with the plummeting prices of a glutted market. And, in the end, the huge catches brought in by fishermen on these days were still large enough to jeopardize the halibut population.[16](http://www.theobjectivestandard.com/issues/2010-spring/private-waterways.asp" \l "_edn16) So, in 1995, the IPHC dropped the idea of a short fishing season and instead introduced a “catch share program,” through which it limits each fisherman’s yearly catch to a percentage of what it deems to be a “safe” overall halibut harvest. But neither has this policy helped the situation; today, after more than two decades of shifting regulations, the usable halibut population in Alaskan waters is less than in 1985.[17](http://www.theobjectivestandard.com/issues/2010-spring/private-waterways.asp" \l "_edn17) Although some claim that still more government regulations are required to combat the ongoing problems of pollution and depleted fish populations, any such coercive measures are in principle doomed to failure because they attempt to treat problems in the waterways while ignoring their actual cause: “public ownership.” Government force may provide a disincentive for certain behaviors, but this disincentive does not motivate the users of waterways to maintain or enhance the life-serving value of these resources. As a result, America’s waterways remain largely and significantly polluted, and fish populations, even where they are stabilizing, remain at levels insufficient to meet the growing demand for seafood.

### A2: Perm Do CP

#### The perm is severance - Investment requires getting a return in profit or appreciation - The government can’t get a return on its investment if it doesn’t own the infrastructure

Dictionary.com 2012, http://dictionary.reference.com/browse/investment

in·vest·ment   [in-vest-muhnt] Show IPA

noun

1. the investing of money or capital in order to gain profitable returns, as interest, income, or appreciation in value.

2. a particular instance or mode of investing.

3. a thing invested in, as a business, a quantity of shares of stock, etc.

4. something that is invested; sum invested.

5. the act or fact of investing or state of being invested, as with a garment.

6. a devoting, using, or giving of time, talent, emotional energy, etc., as for a purpose or to achieve something: His investment in the project included more time than he cared to remember.

7. Biology . any covering, coating, outer layer, or integument, as of an animal or vegetable.

8. the act of investing with a quality, attribute, etc.

9. investiture with an office, dignity, or right.

10. a siege or blockade; the surrounding of a place with military forces or works, as in besieging.

11. Also called investment compound. Metallurgy . a refractory material applied in a plastic state to a pattern to make a mold.

12. Archaic . a garment or vestment.

#### Reject the argument – the neg could never win a CP if the aff could always sever the words that generate competition

#### Prefer our evidence – there is a clear line between public investment and “privatization” through tax breaks

Ellen Dannin - Professor of Law, Penn State Dickinson School of Law – Winter 2011, “Crumbling Infrastructure, Crumbling Democracy: Infrastructure Privatization Contracts and Their Effects on State and Local Governance”, Northwestern Journal of Law and Social Policy, vol 6 issue 1, Article 2, <http://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1061&context=njlsp>

We seem to have forgotten that federal, state, and local governments have long financed public works and other needs without turning to privatization. The two main options for financing infrastructure have long been taxes and the issuance of bonds, and that is still the case. As of 2008, more than 50,000 state and local entities had issued municipal securities and more than 2 million separate bond issues were outstanding.83 Indeed, according to the GAO: “A number of alternative financing mechanisms—such as enhanced private-sector participation, bonds, loans, and credit assistance—can be used to help state and local governments finance surface transportation. These financing mechanisms, where appropriate, could help meet growing and costly transportation demands.”84 In fact, although highway privatization receives a great deal of attention, public money continues to be far more important in providing transportation infrastructure. A 2009 study found that only ten percent of the $126.6 billion spent on transportation infrastructure in 2007 was provided by private funding.85 In recent years, however, the federal government promoted highway privatization by creating new financial instruments and creating tax breaks to private contractors to make privatization attractive. The two primary financial subsidies allow contractors to issue tax-free bonds and take highly accelerated depreciation and amortization of costs.

#### “Private investment” is distinct from federal investment – the government is not responsible for the debt

GAO – March 2004, “HIGHWAYS AND TRANSIT: Private Sector Sponsorship of and Investment in Major Projects Has Been Limited,” GAO-04-419, http://www.gao.gov/new.items/d04419.pdf

Private sector sponsorship and investment in major projects has resulted in advantages from the perspective of state and local governments—such as completing projects more quickly without using traditional funding sources—as well as some trade-offs, including political and financial costs. The privately sponsored toll road projects that we identified had all been on their respective federally required state transportation plans from 7 to 30 years and still had a fairly low priority for completion when the private sector undertook them. By eliciting private sector participation rather than using funding from their highway capital improvement programs as originally planned, state and local governments conserved their federal grants and state tax revenues for other projects. Moreover, the respective state governments were not responsible for the debt incurred by private consortia and thus did not expose the states to risks if toll revenues proved insufficient to meet debt service requirements. Active private sector sponsorship and investment involved trade-offs for these governments, however, as some states relinquished political control over their ability to set toll rates and to carry out infrastructure improvements on competing publicly owned roadways. On one of the five highway projects, SR 91 in California, this latter constraint proved to be too significant a trade-off to the county government, motivating it to purchase the road back from the private consortium. In addition, state and local governments have been responsible for some project-related costs on five of the six projects we identified, such as designing projects, acquiring rights of way, conducting environmental assessments, or establishing new public institutions or arrangements to accommodate the private consortia. Federal funding was used on three of the projects. In addition, the three projects financed with tax-exempt debt have resulted in foregone tax revenues to the federal government—and to a lesser extent the state governments. For example, we estimate that, in 2003, the federal government had foregone a total of between $25 million and $35 million in tax revenues. Finally, states can be liable for costs if private entities encounter financial difficulty, and might be liable for some or all of the cost of operating and maintaining the toll road if a consortium went out of business.

#### Tax incentives “influence” investment – not investment themselves

Peter F. Guerrero – Director, Physical Infrastructure Issues @ GAO – July 23, 2001, Testimony Before the Subcommittee on Transportation and Infrastructure, Committee on Environment and Public Works, U.S. Senate, “U.S. INFRASTRUCTURE Funding Trends and Federal Agencies’ Investment Estimates,” GAO, <http://www.gao.gov/new.items/d01986t.pdf>

While most spending on civilian infrastructure takes place at the state, local, or private-sector level, the federal government exerts an important influence on infrastructure investment and development in several ways. First, the federal government is directly responsible for acquiring and maintaining various federally-owned assets. These include, for example, federal office buildings, dams and flood control structures, and the nation’s air traffic control system. The Congress directly appropriates the funding for such infrastructure. Second, the federal government provides funding—such as grants, loans, or loan guarantees—for infrastructure that is owned and operated by others such as mass transit systems and municipal water supply systems. In these cases, federal funds cover a portion of the capital development and improvements required. For example, the Department of Transportation provides states, localities, and others with grants that partially fund the construction and improvement of urban and rural highways and bridges, including major maintenance of interstate highways; the states generally provide a 20-percent match for these funds and determine how to spend the money within broad federal guidelines. Third, the federal government influences infrastructure investment through tax incentives. For example, the interest on municipal bonds, which are primarily used for infrastructure purposes, is exempt from federal taxes. Finally, federal legislation and regulation influence both the need for and the way infrastructure projects are designed and built. For example, meeting safe drinking water standards may often require the construction or modification of local water systems.

## Sell-Off CP

### NIB 1NC

#### Text: The United States federal government should privatize a significant amount of transportation infrastructure through sale or concession.

#### Only privatization addresses inefficiencies through the profit incentive – an infrastructure bank will be too vulnerable to political pressures

Clifford Winston – Senior Fellow, Economic Studies @ Brookings – 9/29/10, The Private Sector Can Improve Infrastructure with Privatization not a Bank, Brookings, <http://www.brookings.edu/research/opinions/2010/09/29-infrastructure-privatization-winston>

The notion of an “infrastructure bank” seems to be gathering steam among the cognoscenti as an effective way to put our long-term economic recovery back on track. Creating an infrastructure bank would be a nice coup for the Obama administration because it would reinforce its strategy of massive spending to solve the nation’s economic ills while simultaneously enlisting the participation of Wall Street and the business community. Unfortunately, an infrastructure bank would be compromised by the same political pressures that our current transportation system faces, and it would also fail to address the most glaring problems with the nation’s infrastructure. The Administration could improve the nation’s infrastructure—and also improve its standing with Wall Street and the business community—by selling some roads and airports outright to the private sector. Privatizing infrastructure would also help cut the federal deficit by raising revenues and reducing expenditures. The bank’s funds would consist of private capital and general funds, which would allegedly be allocated by an appointed Board to projects that meet national economic objectives instead of local political objectives. Really? Why would state and local sponsors bring candidate projects to the bank unless they thought they could apply political pressure to get their projects approved? Would Florida stand by while California got funding for a large project and it got nothing? And is it plausible to believe that states and cities would support allocating public funds primarily on the basis of maximizing private investors’ returns? Do governments often think that way? Moreover, even if an infrastructure bank existed, it would not address the public sector’s inefficient pricing, investment, and production policies. Consider highways, airports, and urban transit. Motorists and truckers pay a gasoline tax but they are not charged for delaying other vehicles on the road; truckers are not charged for damaging pavement and stressing bridges; aircrafts pay a weight-based landing fee but they are not charged for delaying other planes that want to takeoff or land; and bus and rail transit users pay fares that only cover a modest fraction of operating costs and no capital costs—in fact, some, like federal employees, obtain subsidies to ride completely free. Prices that are set below costs send the wrong signals for investment by justifying expenditures to expand a crowded road when the problem would be fixed by simply charging peak-period tolls. The bank may try to force states and cities to consider pricing options but politicians have made it clear that they prefer to spend money on their constituents, not to charge them a user fee. The way we waste money on our transportation infrastructure is appalling. Road pavement is not built thickly enough to minimize the sum of maintenance and up-front capital costs. The cost of highway projects is inflated by Davis-Bacon regulations that require labor to be paid at the prevailing union wage rate in a metropolitan area, and by cost overruns that occur because the bidding process selects the firm that is the lowest-cost bidder even though those costs do not tend to end at the bid thanks to renegotiable (mutable-cost) clauses in the contract for underestimated project expenses. Boston’s Big Dig, which came in at a large multiple of the bid price, comes to mind. Airports are a nightmare because they take several years to add runways thanks to opposition from local residents, environmental groups, and regulatory hurdles such as EPA environmental impact standards. And building a new large airport from scratch is basically impossible for the same reasons. Only one has been built over the last 35 years. Mass transit—busses, subways and trains—run too many schedules that make little sense, which is why on average, most buses and subways fill roughly 20% of their seats—and routes don’t change even if population centers shift. At the same time, the cost of providing transit service is inflated by regulations such as “buy American” provisions that mandate that transit agencies first offer contracts to domestic producers instead of seeking the most efficient suppliers of capital equipment. Other perverse incentives include giving extra federal dollars to transit agencies to replace their capital stock prematurely rather than maintaining it efficiently. And it is basically impossible to lay- off or fire a transit employee because to do so could result in severance packages that approach $400,000 per worker. An infrastructure bank would do nothing to address those inefficiencies. And if an infrastructure bank is going to be funded by outside institutional investors, why not allow the private sector to have a greater stake in infrastructure performance by selling them ownership? Privatization of the system would have at least three positive effects. First, private operators would have the incentive to minimize the costs of providing transportation service and can begin the long process of ridding the system of the inefficiencies that have developed from decades of misguided policies. Second, private operators would introduce services and make investments that are responsive to travelers’ preferences. Third, private operators would develop new innovations and expedite implementation of current advances in technology, including on-board computers that can improve highway travel by giving drivers real-time road conditions, satellite-provided information to better inform transit riders and drivers of traffic conditions, and a satellite-based air traffic control system to reduce air travel time and carrier operating costs and improve safety. The technology is there. But it hasn’t been deployed in a timely fashion because government operators have no incentive to do so. The private sector does. The major and legitimate concern with privatization is that private firms would be able to set excessive prices and drastically cut service because they face little competition or that they might experience serious financial difficulties. Thus, experiments are needed to provide evidence on the intensity of various potential sources of competition, firms’ financial performance, and the evolution of capital markets to fund a privatized system. Congressional legislation for airports and highways has included funding and tax breaks to explore privatization, so the idea of experiments is not new (nor is the idea of private infrastructure in most parts of the world). Supporters of an infrastructure bank claim it would treat infrastructure like a long-term investment, not an expense. Yet, unlike privatization, a bank would do little to curb wasteful expenses. The case is not difficult to make: the country would clearly benefit from a policy that has great potential to spur innovation and growth and has the added bonus of budgetary relief. Privatization, instead of a bank, is the real long-term solution to the nation’s transportation infrastructure problems.

### Solvency 2NC

#### Privatization solves best – public management causes misallocation and inefficiency

Dr. Jean-Paul Rodrigue - Dept. of Global Studies & Geography , Hofstra University – 2009, “The Financing of Transportation Infrastructure,” In: The Geography of Transport Systems, <http://people.hofstra.edu/geotrans/eng/ch7en/appl7en/ch7a2en.html>

Facing the growing inability of governments to manage and fund transport infrastructure, the last decades has seen deregulation and more active private participation. Many factors have placed pressures on public officials to consider the privatization of transport infrastructure, including terminals:

Fiscal problems. The level of government expenses in a variety of social welfare practices is a growing burden on public finances, leaving limited options but divesture. Current fiscal trends clearly underline that all levels of governments have limited if any margin and that accumulated deficits have led to unsustainable debt levels. The matter becomes how public entities default on their commitments. Since transport infrastructures are assets of substantial value, they are commonly a target for privatization. This is also known as “monetization” where a government seeks a large lump sum by selling or leasing an infrastructure for budgetary relief.

High operating costs. Mainly due to managerial and labor costs issues, the operating costs of public transport infrastructure, including maintenance, tend to be higher than their private counterparts. Private interests tend to have a better control of technical and financial risks, are able to meet construction and operational guidelines as well as providing a higher quality of services to users. If publicly owned, any operating deficits must be covered by public funds, namely through cross-subsidies. Otherwise, users would be paying a higher cost than a privately managed system. This does not provide much incentives for publicly operated transport systems to improve their operating costs as inefficiencies are essentially subsidized by public funds. High operating costs are thus a significant incentive to privatize.

Cross-subsidies. Several transport infrastructures are subsidized by revenues from other streams since their operating costs cannot be compensated by existing revenue. For instance, public transport systems are subsidized in part by revenues coming from fuel taxes or tolls. Privatization can thus be a strategy to end cross-subsidizing by taping private capital markets instead of relying on public debt. The subsidies can either be reallocated to fund other projects (or pay existing debt) or removed altogether, thus reducing taxation levels.

Equalization. Since public investments are often a political process facing pressures from different constituents to receive their “fair share”, many investments come with “strings attached” in terms of budget allocation. An infrastructure investment in one region must often be compensated with a comparable investment in another region or project, even if this investment may not be necessary. This tends to significantly increase the general cost of public infrastructure investments, particularly if equalization creates non-revenue generating projects. Thus, privatization removes the equalization process for capital allocation as private enterprises are less bound to such a forced and often wasteful redistribution.

One of the core goals of privatization concerns the derived efficiency gains compared to the transaction costs of the process. Efficiency gains involve a higher output level with the same or fewer input units, implying a more productive use of the infrastructure. Transaction costs are the costs related to the exchange (from public to private ownership) and could involve various buyouts, such as compensations for existing public workers. For public infrastructure, they tend to be very high and involve delays due to the regulatory changes of the transaction.

3. Privatization and Financing Models

Once privatization is considered, an important issue concerns which form it will take. There are several options ranging from a complete sale of the infrastructure to a management contract where the public sector retains ownership and a share of the revenues. Three forms of privatization are particularly dominant:

Sale or concession agreement (lease) of existing facilities. Divesture is part of a political agenda which began with deregulation. As discussed before, budget relief is sought because of mismanagement; the public sector is essentially forced to sell or lease some of its infrastructures. For a sale, the infrastructure is transferred on a freehold basis with the requirement that it will be used for its initial purpose, unless another agreement was negotiated and in this case the outcome is an abandonment of the infrastructure. This is the case when an infrastructure is obsolete and it is more suitable to build a new one at another more suitable site. For a concession agreement, it commonly takes the form of a long term lease with the requirement that the concessionaire maintains, upgrade and build infrastructure and equipment.

Concessions for new projects. Tap new sources of capital outside conventional public funding. It can take place in the context of fiscal restraints or as a way to experiment with a more limited form of privatization since existing assets remain untouched. It also confers the advantage of getting the latest technical and managerial expertise for the infrastructure project.

Management contract. While ownership remains public, management is given to a private operator, commonly through a bidding process. This strategy has been particularly popular in the terminal operation business as many rail and maritime terminals are managed by private operators who do not own the facilities but have long term leases. The outcome commonly involves efficiency improvements.

Concessions are a simple and fair strategy involving a bidding process, which underlines the importance to have it take place in a transparent and open way. This is particularly relevant in the current context as retirement funds, sovereign wealth funds, investment banks and other financial institutions are increasingly involved in the funding of transportation infrastructure. A lack of transparency can be perceived negatively by the general public and can transform a simple transaction into a complex political process. Since some concessions are set over long time periods (50-75 years), they bring the issue of changing market conditions that may force a renegotiation of the contract. It is next to impossible to foresee long term market changes and traffic levels, so a provision for renegotiation should be provided. Again, this renegotiation can be subject to controversy and public debate, particularly if performed in an un-transparent manner.

#### Public infrastructure funding causes mismanagement and waste – privatization solves

Chris Edwards and Tad DeHaven - budget experts at the Cato Institute – 6/17/10, Privatize Transportation Spending, The Washington Times, http://www.cato.org/publications/commentary/privatize-transportation-spending

After the 2008 election, President Obama promised to "go through our federal budget — page by page, line by line — eliminating those programs we don't need." We haven't seen much of that from the president so far, but at the Cato Institute we are going page by page and finding whole agencies to abolish. If the president ever gets serious about eliminating programs, the $91 billion Department of Transportation would be a good place to start. The DOT should be radically chopped. America's mobile citizens would be better off for it. Rising federal control over transportation has resulted in the political misallocation of funds, bureaucratic mismanagement and costly one-size-fits-all regulations of the states. The solution is to devolve most of DOT's activities back to state governments and the private sector. We should follow the lead of other nations that have turned to the private sector to fund their highways, airports, air traffic control and other infrastructure. The first reform is to abolish federal highway aid to the states and related gasoline taxes. Highway aid is tilted toward states with powerful politicians, not necessarily to the states that are most in need. It also often goes to boondoggle projects like Alaska's "Bridge to Nowhere." Furthermore, federal highway aid comes with costly regulations like the Davis-Bacon labor rules, which raise state highway costs. For their part, the states should seek out private funding for their highways. Virginia is adding toll lanes on the Capitol Beltway that are partly privately financed, and Virginia is also home to the Dulles Greenway, a 14-mile private highway in operation since 1995. Ending federal subsidies would accelerate the trend toward such innovative projects. Another DOT reform is to end subsidies to urban transit systems. Federal aid favors light rail and subways, which are much more expensive than city buses. Rail systems are sexy, but they eat up funds that could be used for more flexible and efficient bus services. Ending federal aid would prompt local governments to make more cost-effective transit decisions. There is no reason why, for example, that cities couldn't reintroduce private-sector transit, which was the norm in U.S. cities before the 1960s. To government planners, intercity high-speed rail is even sexier than urban rail systems. The DOT is currently dishing out $8 billion for high-speed rail projects across the country, as authorized in the 2009 stimulus bill. Most people think that the French and Japanese fast trains are cool, but they don't realize that the price tag is enormous. For us to build a nationwide system of bullet-style trains would cost up to $1 trillion. The truth about high-speed trains is that even in densely-populated Japan and Europe, they are money losers, while carrying few passengers compared to cars, airlines and buses. The fantasy of high-speed rail in America should be killed before it becomes a huge financial drain on our already broke government. Through its ownership of Amtrak, the federal government also subsidizes slow trains. The government has dumped almost $40 billion into the company since it was created in 1971. Amtrak has a poor on-time record, its infrastructure is in bad shape, and it carries only a tiny fraction of intercity passengers. Politicians prevent Amtrak from making cost-effective decisions regarding its routes, workforce polices, capital investment and other aspects of business. Amtrak should be privatized to save taxpayer money and give the firm the flexibility it needs to operate efficiently.

#### <read more “privatization good” cards from below>

## Privatization Good (Generic / Other Affs)

### Privatization Good – Competitiveness / Econ

#### Privatization boosts competitiveness – empirical studies prove

Asieh Mansour and Hope Nadji – directors of research at RREEF – Sept 2006, US Infrastructure Privatization and Public Policy Issues, RREEF Real Estate Research, http://www.irei.com/uploads/marketresearch/69/marketResearchFile/Infr\_Priv\_Pub\_Policy\_Issues.pdf

Nevertheless, a broader view should be taken of employment impacts. There is considerable evidence that a better and more efficiently provided infrastructure generates economic activity and jobs. Much of the historical precedence of privatization efforts has been concentrated in the International Monetary Fund (IMF) programs starting in the 1990s. Since then, over 100 countries, across every continent, have had some experience with privatization of previously state owned enterprises. Privatization has also occurred across all sectors of infrastructure. An estimated 75,000 medium to large-sized firms have been divested around the world, along with hundreds of thousands of small business units. Total generated proceeds are estimated at $735 billion (Nellis, 2002). Across the globe, all countries have privatized a significant number of their publicly-owned firms (with the exception of Cuba and the Democratic People’s Republic of Korea). Even China, a long supporter of a planned economy, is accelerating the privatization of state-owned businesses and encouraging both foreign and private investors to buy major stakes in these enterprises. Much of the literature reviewed suggests that in most cases private ownership provides a higher level of output for a lower cost than public ownership. Privatization is generally one of the best ways to reform publicly-owned enterprises and reduce any distortions they create. Private firms do better in fully competitive markets. This advantage persists but is less pronounced in monopolistic markets. (Shirley and Walsh, 2000). Shirley and Walsh (2000) reviewed 52 empirical studies of infrastructure privatization. Of these 52 studies, 32 conclude that the performance of privatized firms is significantly superior to that of public firms. Among the 21 studies that examine the performance of a firm before and after privatization, 14 find that performance improves. This body of empirical literature indicates that private or privatized ownership is superior to public ownership in a variety of situations.

### Privatization Good – A2: Unemployment

#### Privatization only eliminates the unproductive jobs – best for job growth in the long-run

Asieh Mansour and Hope Nadji – directors of research at RREEF – Sept 2006, US Infrastructure Privatization and Public Policy Issues, RREEF Real Estate Research, http://www.irei.com/uploads/marketresearch/69/marketResearchFile/Infr\_Priv\_Pub\_Policy\_Issues.pdf

Other empirical studies on privatization have tried to assess the employment impact more specifically. Anecdotal evidence indicates that privatization has led to an immediate loss in jobs in the short run. But over the longer term, empirical studies show that the impact of privatization on employment is more ambiguous than that. Prior to privatization, publicly run enterprises maintained higher employment levels at the expense of efficiency. With privatization, labor gets reallocated and IMF data show that aggregate unemployment actually decreases in the long term following privatization. (Davis et al, 2000). These results, however, may be influenced by the massive privatization that occurred in Eastern Europe and the USSR. Other empirical studies have shown evidence of labor market inefficiencies in the public sector. These findings actually suggest that there exists an adverse selection bias that undermines the effectiveness of public sector labor force restructuring policies. This bias leads to the firing of the more productive and skilled workers in the public sector. These findings support the notion that privatization can lead to cost savings and workforce quality improvements through more rational and flexible labor market policies. Indeed, much of the body of empirical literature has shown that when public services are contracted out to private providers, a large number of lower skilled workers are replaced with a smaller number of highly skilled workers. Overall wages actually rise in this scenario. More recent empirical studies support the view that privatization has very high beneficial effects on profitability and efficiency (Eytan, 2003). The evidence of firm-level employment is mixed, however. The evidence does conclude unambiguously that for large firms, employment actually rises after privatization. Case studies on the privatization of public hospitals have shown highly beneficial results. Studies have shown that privatization of public hospitals combined with public regulation does have unique and inherent advantages over the pure public provision.

### Privatization Good – A2: No Investors

#### Plenty of interest in the private sector – there’s too much money and not enough opportunity

Robert W. Poole, Jr. – Searle Freedom Trust Transportation Fellow and Director of Transportation Policy @ Reason Foundation – April 2012, Annual Privatization Report 2011:

Surface Transportation, Reason Foundation, http://reason.org/files/transportation\_annual\_privatization\_report\_2011.pdf

During 2010 and the first half of 2011, infrastructure finance continued to recover from the credit market crunch of 2009. The amount of capital available in infrastructure equity investment funds reached a new all-time high, and the amount raised for such funds was nearly twice as much in 2010 compared with 2009. Pension funds expanded their participation in infrastructure finance, seeing a good match between infrastructure assets that provide reasonably steady long-term income flows and the funds’ long-term liabilities. A global survey by Terrapin of over 150 senior investors in late 2010 found a high level of interest in the infrastructure segment, both equity and debt. Sectors with the highest levels of interest included water (60%), highways (52%) and ports (50%), with rail (at 45%) and airports (36%) of somewhat less interest. The regions scored as “high priority” for infrastructure investment, in this survey, were Western Europe (50%), North America (45%), Asia (35%) and South America (33%). Those topping the list as “low priority” were Middle East (62% ranked it low priority), Russia (59%) and Africa (59%). “Deal flow” was among the investors’ greatest concerns—i.e., there is ample funding available but not enough good opportunities to invest it in infrastructure. In a Newsweek column (Feb. 20, 2011, “Sale of the Century”), Harvard historian Niall Ferguson suggested that in response to its massive national debt, “The U.S. needs to do exactly what it would if it were a severely indebted company: sell off assets to balance its books.” He cited $233 billion worth of non-defense property, plant and equipment identified by the U.S. Treasury’s Financial Management Service, the 600–700 million acres of federal land-holdings, and utilities such as the Tennessee Valley Authority and the various power marketing administrations. He also noted the long-term leases of the Indiana Toll Road and Chicago Skyway, and suggested that many more such highways could be privatized.

### Privatization Good – Highways

#### Adding infrastructure can’t solve – only privatization creates price mechanisms that reduce congestion

EDWARD L. GLAESER - economics professor at Harvard – 9/28/10, Right-Turn Signal: Privatizing Our Way Out of Traffic, NY Times, <http://economix.blogs.nytimes.com/2010/09/28/right-turn-signal-privatizing-our-way-out-of-traffic/>

Clifford Winston, a distinguished transportation economist at the Brookings Institution, has argued for many years that the American transportation system could use a major overhaul. I began reading his new book, “Last Exit: Privatization and Deregulation of the U.S. Transportation System,” on a flight to New York. After an hour circling over Nantucket, returning to Boston and missing my connecting flight, I found myself warming to Mr. Winston’s cry for privatization and pricing changes aimed at reducing flight delays. What a comfort it was to read that the Federal Aviation Administration “estimates that more than 50 percent of airline delays nationwide originate from the New York area airspace.” At this point, Mr. Winston is calling only for experiments, but if they are successful, he envisions “privatizing and deregulating the vast majority of the transportation system” and “reducing the government’s primary role in this sector to mitigating externalities, such as emissions, and to enforcing the antitrust laws.” His vision is breathtaking, and to make his ideas less overwhelming, Mr. Winston begins by reminding us that roads, rails and airports were not always a public affair. America’s early 19th century road network was built by turnpike entrepreneurs; airports and streetcar systems often began in private hands. More than a tenth of the people listed in Harvard Business School’s “Great American Business Leaders of the Twentieth Century” had something to do with transportation. Mr. Winston justifies his call for experimentation and reform with a series of scathing critiques of the status quo. Some of his complaints will ring true to both economists and consumers: “In-flight delays and earlier airport arrivals for security screening were estimated to cost passengers and airlines in the United States at least $40 billion in 2005,” and “poor highway design and road conditions are a major contributor to accidents and fatalities that cost the U.S. economy hundreds of billions.” Other criticisms are more nuanced: “Urban bus and rail systems tend to use standardized vehicles, instead of a mixed-vehicle fleet that could enable transit managers to adjust seat capacity to variations in passenger demand by time of day and route,” he writes. He also says that “given Amtrak’s limited ability to attract passengers on most routes, the loss in social welfare from a highly subsidized high-speed rail system is likely to be substantial.” And he concludes that “the F.A.A. could also reduce delays by expeditiously implementing technologies that have the capability of expanding navigable airspace around airports,” noting that “the NextGen satellite-based system could reduce air travel times and carrier operating costs.” What public interventions could significantly improve travel? Policies can be split into “physical science” fixes – the approach of the engineer – and “social science” solutions that try to change behaviors. Some problems require an engineering solution; it is hard to imagine almost a million New Yorkers drinking clean water in the 1850s without the Croton Aqueduct. In other cases, engineering just won’t work without economics. Gilles Duranton and Matthew Turner’s “Fundamental Law of Traffic Congestion: Evidence From the U.S.” states that vehicle-miles-traveled increases roughly one-for-one with miles of roads built. More highways mean more drivers, so we are never going to build our way out of traffic congestion. People will keep on driving until they are made to pay for that privilege. Privatization, in principle, offers the possibility of working on both the engineering and economics fronts. Private road operators or airports will charge higher fees during peak periods to cut down on congestion, and they have incentives to innovate technologically to attract customers and cut costs. Mr. Winston notes that capsule, or pod, hotels, “which enable fliers to nap between flights,” happen to be “available in private airports, but none is available in the United States.”

### FG Investment Fails – General

#### Federal infrastructure investment fails – pork barrel politics and blanket regulations undermine effectiveness

Chris Edwards - director of tax policy studies at Cato Institute – 11/16/11, Federal Infrastructure Investment, Cato, http://www.cato.org/publications/congressional-testimony/federal-infrastructure-investment

Problems with Federal Infrastructure Investment There are calls today for more federal spending on infrastructure, but advocates seem to overlook the downsides of past federal efforts. Certainly, there have been federal infrastructure successes, but there has also been a history of pork barrel politics and bureaucratic bungling in federal investment spending. A substantial portion of federal infrastructure spending has gone to low-value and dubious activities. I've examined spending by the two oldest federal infrastructure agencies — the Army Corps of Engineers and the Bureau of Reclamation.7 While both of those agencies constructed some impressive projects, they have also been known for proceeding with uneconomic boondoggles, fudging the analyses of proposed projects, and spending on activities that serve private interests rather than the general public interest. (I am referring to the Civil Works part of the Corps here). Federal infrastructure projects have often suffered from large cost overruns.8 Highway projects, energy projects, airport projects, and air traffic control projects have ended up costing far more than originally promised. Cost overruns can happen on both public and private infrastructure projects, but the problem is exacerbated when multiple levels of government are involved in a project because there is less accountability. Boston's Big Dig — which exploded in cost to five times the original estimate — is a classic example of mismanagement in a federal-state project.9 Perhaps the biggest problem with federal involvement in infrastructure is that when Washington makes mistakes it replicates those mistakes across the nation. Federal efforts to build massive public housing projects in dozens of cities during the 20th century had very negative economic and social effects. Or consider the distortions caused by current federal subsidies for urban light-rail systems. These subsidies bias cities across the country to opt for light rail, yet rail systems are generally less efficient and flexible than bus systems, and they saddle cities with higher operating and maintenance costs down the road.10 When the federal government subsidizes certain types of infrastructure, the states want to grab a share of the funding and they often don't worry about long-term efficiency. High-speed rail is a rare example where some states are rejecting the "free" dollars from Washington because the economics of high-speed rail seem to be so poor.11 The Obama administration is trying to impose its rail vision on the nation, but the escalating costs of California's system will hopefully warn other states not to go down that path.12 Even if federal officials were expert at choosing the best types of infrastructure to fund, politics usually intrudes on the efficient allocation of dollars. Passenger rail investment through Amtrak, for example, gets spread around to low-population areas where passenger rail makes no economic sense. Indeed, most of Amtrak's financial loses come from long-distance routes through rural areas that account for only a small fraction of all riders.13 Every lawmaker wants an Amtrak route through their state, and the result is that investment gets misallocated away from where it is really needed, such as the Northeast corridor. Another problem is that federal infrastructure spending comes with piles of regulations. Davis-Bacon rules and other federal regulations raise the cost of building infrastructure. Regulations also impose one-size-fits-all solutions on the states, even though the states have diverse needs. The former 55-mph speed limit, which used to be tied to federal highway funds, is a good example. Today, federal highway funds come with requirements for the states to spend money on activities such as bicycle paths, which state policymakers may think are extraneous.14

## Net Benefits

### Elections NB

#### Privatization is popular with the public

Asieh Mansour and Hope Nadji – directors of research at RREEF – Sept 2006, US Infrastructure Privatization and Public Policy Issues, RREEF Real Estate Research, http://www.irei.com/uploads/marketresearch/69/marketResearchFile/Infr\_Priv\_Pub\_Policy\_Issues.pdf

Of the above-mentioned factors, the ability to provide infrastructure without sizeable public funding and the ability to generate cash through a sale of an asset are the most appealing to government officials and politicians. Because voters are highly resistant to increased taxes and higher public debt at all levels of government, opportunities to shift costs from the public to the private sector are appealing.

### Elections NB – HSR

#### The public prefers privatized HSR – especially independents

Emily Ekins, director of polling for the Reason Foundation, which publishes a monthly magazine, and leader of the Reason-Rupe public opinion research project, 1/25/12, “55 Percent of Americans Want Private Enterprise to Build High Speed Rail,” Reason Foundation, <http://reason.com/poll/2012/01/05/55-percent-of-american-want-private-ente>

With states bringing in lower tax revenues, strapped budgets, and increasing transportation usage, governments are looking to partner with private firms to provide transportation improvements and expansions. According to the recent Reason-Rupe poll, 55% of Americans favor these kinds of partnerships. In fact, a majority of all political groups favor government working with private companies to further transportation projects. Many governments are partnering with private companies to build and expand highways, airports and other infrastructure projects that government might not be able to afford otherwise. Do you favor or oppose these public-private partnerships? Which statement do you agree with more? Federal and state governments should spend taxpayer money to build and operate high-speed rail systems where they think they are needed; or, Private companies should build and operate high-speed rail systems where they think riders will pay to use them. When Americans are asked to choose between government and private business building high-speed rail, however, a majority of Americans (55 percent) want private enterprise to build this infrastructure. In contrast, 34 percent believe government should build high-speed rail. Partisan divisions do arise for this issue of high-speed rail: a plurality of Democrats and Occupy Wall Street supporters prefer government build with taxpayer money, however a majority of pure Independents, Tea Party Supporters and Republicans prefer private companies to build these railways. A partial driver of partisan division may be that if governments were to build high-speed railways, they would build where policymakers think they are needed; in contrast, private businesses would build railways where it is profitable to build—so where a substantial number of riders would pay to use them. In sum, deciding between public or private building of high-speed rail contrasts goals of efficiency and access, and political groups make trade-offs between efficiency and access differently. If this poll has accurately gauged attitudes toward government or private enterprise building and operating railway infrastructure, this casts doubt on how Amtrak is currently run. Currently, many Amtrak lines operate at a loss because policy makers often choose access to rail lines over efficiency in running the trains, even in areas where there is little demand for train use. Find full Reason-Rupe Q4 2011 poll results, question wording, and methodology here. The Reason-Rupe Q4 2011 poll collected a nationally representative sample of 1,200 respondents, aged 18 and older from all 50 states and the District of Columbia using live telephone interviews from December 1-13. Interviews were conducted on both landline and mobile phones. The margin of sampling error for this poll is +/- 3 percent.

### Agenda NB

#### Privatization isn’t controversial

Asieh Mansour and Hope Nadji – directors of research at RREEF – Sept 2006, US Infrastructure Privatization and Public Policy Issues, RREEF Real Estate Research, http://www.irei.com/uploads/marketresearch/69/marketResearchFile/Infr\_Priv\_Pub\_Policy\_Issues.pdf

Interestingly, infrastructure privatization in the US is not a particularly partisan issue. For example, the Democratic mayor of Chicago has privatized a portion of the region’s transport infrastructure (the Chicago Skyway), while the Republican Governor of Indiana has privatized the Indiana Toll Road.

### Spending NB

#### Privatization costs no money – it reduces deficits

Robert W. Poole Jr., Freedom Trust Transportation Fellow and Director of Transportation Policy,2000, http://econlib.org/library/Enc/Privatization.html

The decision to privatize usually involves money. Governments sell state-owned enterprises to obtain proceeds either for short-term budget balancing or to pay down debt. They turn to the private sector to finance and develop a major bridge or seaport when their own resources are stretched too thin. And they outsource services in the hope of saving money in their operating budgets, either to balance those budgets or to spend more on other services (and occasionally to permit tax reductions).

### Spending NB – Airports

#### Privatizing airports and air traffic control costs no money – saves the government 6 billion a year

Chris Edwards, director of tax policies CATO, April 2011“A Plan to Cut Spending and Balance the Federal Budget” CATO institute. http://www.downsizinggovernment.org/balanced-budget-plan/

In recent decades, governments around the world have sold off state-owned assets to private investors.19 Airports, railroads, electric utilities, post offices, and other assets have been privatized. Privatization generally leads to reduced costs, higher-quality services, and increased innovation in formerly moribund government industries. There are many federal assets that should be privatized. Table 1 includes the privatization of Amtrak, the air traffic control system, and the Army Corps of Engineers. Such reforms would reduce federal budget deficits and help spur economic growth. Consider the nation's air traffic control system, which is run by the Federal Aviation Administration.20 The FAA has struggled to expand capacity and upgrade its technology, and its modernization efforts have often fallen behind schedule and gone over budget. A series of incidents in 2011 indicated that the agency has serious workforce management problems. The air traffic control system needs major improvements to meet rising travel demands, but the FAA may not be capable of meeting the challenge. The good news is that a number of countries have restructured their air traffic control systems and provide good models for U.S. reforms. Canada privatized its air traffic control system in 1996, setting up a private, nonprofit corporation, Nav Canada. The company is self-supporting from charges on aviation users. The Canadian system has received high marks for sound finances, solid management, and investment in new technologies.21 Aside from those advantages, a privatized system in the United States would save about $6 billion a year in general fund taxpayer costs.

# Aff

### Privatization Fails – General

#### “Privatization” contracts contain non-compete agreements that cost the government more money and undermine free-market competition

Ellen Dannin - Professor of Law, Penn State Dickinson School of Law – Winter 2011, “Crumbling Infrastructure, Crumbling Democracy: Infrastructure Privatization Contracts and Their Effects on State and Local Governance”, Northwestern Journal of Law and Social Policy, vol 6 issue 1, Article 2, <http://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1061&context=njlsp>

It is no surprise that infrastructure privatization contracts are not widely read. They are specialized, complex legal documents that tend to run over 100 pages, not including attached documents that are referred to in the contract.36 In general, the terms that have received the most public attention have been the amount of up-front money paid by the private contractor and the contractor’s rights to impose or raise tolls or other user fees.37 Missing from public discussion and scrutiny have been the contract terms that make government parties to infrastructure privatization contracts the insurer of the private contractor’s financial success. The three most commonly found provisions that can require governments to reimburse private contractors for lost anticipated revenue are (1) compensation events; (2) noncompetition provisions; and (3) “adverse action” or “stabilization” clauses. Failing to have a national conversation about these terms and their effects has left the public ignorant as to how these contract terms shift power over government policy and actions to private contractors. The effects of these overlooked terms will be felt long after the contracts end. These provisions are commonly found across different types of infrastructure contracts, and their order and a large percentage of their wording tends to be the same. For example, just the table of contents for the Northwest Parkway and the Pennsylvania Turnpike contracts are at least 70% identical and Article 14 in the contracts for the Colorado Northwest Parkway, Pennsylvania Turnpike, and Chicago Parking Meters all concern “adverse actions.” Given the prevalence of these terms in existing contracts, it seems likely that they will be found in many privatization contracts and, as a result, state, county, and city power to govern will be shifted to private contractors. A. Compensation Events A private contractor is only interested in a deal if it concludes that the investment is likely to make more money compared to other available investments. It is curious, then, that the private sector has become interested in infrastructure privatization in the United States. A 1996 study of fourteen urban toll roads by J. P. Morgan Securities found that only two of the projects had revenues that exceeded projections during the first four years of operation, and ten projects’ “revenues fell short by 20 percent to 75 percent.”38 The Congressional Budget Office concluded that the “study may prompt potential lenders and equity investors to take greater care in scrutinizing projections of traffic and revenues and to require government funding or financial guarantees to reduce the risk of investing, especially at the earliest and riskiest stages of the project.”39 Despite these findings and recommendations, problems with faulty traffic and revenue predictions have continued.40 Given those results, it is surprising that private contractors continue to be interested in infrastructure privatization. Toll road revenues can not be guaranteed as long as revenue projections must be based on uncertain predictions as to the many factors that can affect driving.41 Yet, despite the uncertainty, private contractors continue to be interested in multi-decade deals when contracts with shorter terms would lessen the problems of forecasting revenues. However, shorter contracts could mean losing the benefit of federal tax provisions that allow contractors to take advantage of the ability to take highly accelerated depreciation of the infrastructure. Those provisions are only available if the contract term is so long it exceeds the useful life of the infrastructure and effectively makes the private contractor the owner. In other words, infrastructure privatization contractors have opted for a mix of ways to generate revenue other than charging tolls or fees. Their revenues include government funding through the tax system and revenue guarantees under the contract.42 For example, in 2008, the State of Indiana reimbursed the private Indiana Toll Road operator $447,000 for waiving tolls of people evacuated during severe flooding.43 Had the road not been privatized, the state would have waived the tolls and simply collected less revenue. The contract, however, put the contractor in a much better financial situation than the state, because it did not lose toll revenues. In effect, these reimbursement terms make government the contractor’s insurer and guarantor. The terms may even create financial disincentives to government’s taking life-saving action. That is, a state or local government that is so short of money that it must “sell” valuable public infrastructure has more to consider in a disaster than just saving lives. If it needs to ask how much protection it can afford, it may, on the margins, be tempted to decide against taking actions that will require reimbursing the contractor. Indeed, the contractual guarantees can put infrastructure contractors in a better revenue position than its government partner had it continued to control the infrastructure. For example, in November 2010, Chicago store owners along Touhy Avenue found parking meters being installed where none had ever been. Their ward’s alderman explained that the parking meter privatization contract required that there be “no net loss in parking spots for Chicago Parking Meters LLC. ‘They’re guaranteed X number of spots so if you remove them from one place, you have to replace them in another.’”44 The city, of course, had no such meter or revenue replacement guarantee. Much of infrastructure privatization contracts concerns contractor revenue guarantees. From the point of view of the government partner, they operate as a form of penalty for government’s taking actions in the public interest. While money certainly matters, it is equally important to consider the effects these terms are likely to have. First, although the documents take the form of contracts, they are not simple bilateral contracts for a one-shot deal. Both types of agreements are an exchange of money for providing a product or service at a specific time. However, infrastructure privatization contracts concern more than the delivery of a physical product; they control the operation of and care for vital and expensive infrastructure for many decades.45 That infrastructure was paid for with public money and is part of a link in a larger system intended to promote the well being of the public, not to be a direct source of private profits. Second, under these contracts, the damage calculations are anything but simple. Rather, they are based on multi-decade revenue predictions, whose accuracy cannot be verified. Both problems are the result of opting to lock in terms governing the relationships for the life of a long-term contract, rather than using a flexible method for dealing with uncertain events into the distant future. The value of the contract thus depends on accurately predicting and accounting for income, expenses, goals, quality of commitment to the relationship, others’ needs and temptations, the economy, acts of nature, and how to deal with problems that arise in any of these areas. From the contractor’s point of view, it also depends on assurance that the government party will pay, and will do so with as little cost of getting that payment as possible. A good example of the challenges just described can be found in Section 3.7(a)(1) on “Rights of the [Pennsylvania] Commonwealth to Access and Perform Work on the Turnpike” in the proposed Pennsylvania Turnpike contract. The Commonwealth retains rights “to inspect the Turnpike or determine whether or not the Concessionaire is in compliance with its obligations under this Agreement or applicable Law pursuant to Section 8.3.”46 Another provision allows the Commonwealth to enter the Turnpike if the private contractor has defaulted, so that the Commonwealth can “make any necessary repairs to the Turnpike, perform any work therein and take any reasonable actions in connection therewith, including remediation of Hazardous Substances, pursuant to Section 16.1 (b)(iii).”47 In other words, as the lessor, Pennsylvania needed to retain rights to enter the highway after it was privatized in order to ensure that the private contractor has kept its side of the bargain. The contracts treat the government more as a private landlord. There is a difference, however, in limiting the right of a landlord to enter a tenant’s property and limiting the government from entering a privatized highway to deal with events such as emergencies. The Commonwealth’s right to enter is heavily constrained by limits and exceptions that can become a “Compensation Event” requiring the government to pay “Concession Compensation” to the contractor. It is helpful to read some short excerpts as background for understanding the effects these terms can have: “Concession Compensation” means, with respect to a Compensation Event, compensation payable by the Commonwealth to the Concessionaire in order to restore the Concessionaire to the same after-Tax economic position that the Concessionaire would have been in if such Compensation Event had not occurred . . . .48 “Compensation Event” means (i) any applicable entry on the Turnpike by the Commonwealth pursuant to Section 3.7(a)(v) through Section 3.7(a)(ix), provided that the Concessionaire’s use of the Turnpike as a highway is materially impaired resulting in Losses or reduced Turnpike Revenues, (ii) the Concessionaire’s compliance with or the implementation of a Required Modification pursuant to Section 5.2, (iii) the Concessionaire’s compliance with or the implementation of any modified or changed Operating Standard (as contemplated by Section 6.3(b)), (iv) the termination of an agreement with a Vendor as contemplated in Section 7.2(d), (v) the occurrence of an Adverse Action as contemplated in Article 14, (vi) the circumstances described in each of Section 2.5(i), Section 4.1(a), Section 4.2, Section 5.2 and Section 15.2(d), (vii) any breach of the covenant set forth in Section 3.10(b) or (viii) the occurrence of a Commonwealth Default as contemplated in Article 16.49 These clauses are not easy reading even for attorneys. They must be interpreted by referring to many other parts of the contract, which, in turn, require referring to other sections. Many of the terms have special meanings that require referring to the contract’s lengthy definition section. Other difficulties arise from terms such as “material” and “breach.” They are legal terms of art, and they are also highly subjective concepts. Thus, contract terms that are included to provide the contractor with certainty that it will receive its anticipated revenue create new uncertainties for the government and the public. In these days of serial contracting,50 it may be difficult for a state to directly control the actions of those who perform duties in the name of the public or on behalf of the private contractor. For example, it has long been common to hire general and subcontractors to handle construction, repairs, and other specialized tasks. But what happens 48 [ when a state or local government that has privatized a road has also contracted out its services for dealing with an emergency? How can the state or local government ensure that entry onto the highway by contractors hired to do a specific job does not cause a compensation event? How can the government ensure that its private emergency contractor gives notice reasonable under the circumstances? The possibilities for a complex chain of litigation are obvious. It is, therefore, no surprise that Mayer Brown, a law firm with an international privatization practice, promotes both its transactional and litigation experience in this area.51 “Compensation events” arise from what, before privatization, were simple acts whose sole purpose was the upkeep of the infrastructure or public safety needs, such as inspecting the quality of the roadbed or responding to emergencies. Chicagoans learned about compensation events when CBS reported that the city’s parking meter contract required reimbursement for events like repairing streets. Public records showed that in the first quarter of 2009, the city was liable to the parking meter contractor for more than $106,000 in lost income during the slow months for street repair and street closings for festivals, parades, and holidays, as well as repairs and maintenance. At that rate, it is not unreasonable to predict that Chicago will owe roughly $500,000 a year to the private contractor.52 However, in some areas where parking rates are higher or where paid parking hours are longer, reimbursements could be much higher.53 A lawyer suing the city over the parking meter deal estimated that it could cost “$559,057 a year, or about $8,000 a space” to reimburse the company if the 68 “most valuable spaces in the city . . . were out for a year.”54 Thus, while the city would receive less revenue when parking meters are out of service due to repairs, the contractor’s revenues continue. ¶27 Moreover, infrastructure privatization contracts mean that even basic maintenance can create situations under which a government entity owes compensation to private contractors. Had the legislature approved it, the proposed Pennsylvania Turnpike contract would have required the Commonwealth to pay the private contractor if entry onto the Turnpike by the Commonwealth was not at a reasonable time or if the Commonwealth had failed to give reasonable prior notice. Indeed, even though the contract says that the Commonwealth can enter the Turnpike to respond to emergencies, those rights are limited by conditions that can require compensation. For example, § 3.7(a)(iii) allows access by emergency crews, but only if the Commonwealth reasonably believes that an emergency exists, that the situation is defined in the contract as one permitting entry, and the method of entry complies with other parts of the contract, including giving notice that is “practicable under the circumstances.” Consider the worst case scenario of a national emergency. When no infrastructure privatization contracts are involved, emergency responders can focus solely on how best to cope with the situation. When a highway is privatized, emergency responders must parse contract language and negotiate that access be given even to people who have no transponder or money to pay the toll. ¶28 Clashes between the private sector and public welfare are not hypothetical concerns. For example, in 2006, the Indiana Toll Road contractor installed sand-filled barrels in Toll Road turn-arounds to prevent drivers from using them.55 However, those turn-arounds were created to get emergency crews to accidents as quickly as possible. State officials and emergency services were not consulted or even informed of the decision to block the turn-arounds, and it was months before the contractor agreed to remove the barrels.56 These problems could have been avoided had the contractor met its contractual obligation to prepare an emergency response plan for the Toll Road. Thus, privatizing the road left the public with less protection and with its needs for safety not being taken into consideration, despite the requirements of the Toll Road lease.57 ¶29 Contract provisions also create conditions that pit profits against public safety. For example, § 3.7 of the Pennsylvania Turnpike contract permits entry onto the road for specific purposes, such as ensuring compliance with safety requirements or in the case of emergencies. However, the contract terms mean that performing those public safety functions may impose extra costs on the government. It must read the contract carefully, adjust the way it performs its functions to avoid incurring an obligation to compensate the private contractor, and budget for Concession Compensation. ¶30 Fear of litigation and of the cost of litigation increases when it is difficult to determine rights. Infrastructure privatization contracts contain exceptions upon exceptions, complex language, and subjective standards that require that government alter and limit the way it acts. Thus, when faced with a claim for compensation for an unreasonable entry by a contractor with deep experience administering these contracts, the government, which lacks expertise in this area, may feel forced to settle rather than incur the cost of litigating and losing. However, if settlements are reached without evidence that proves an obligation to pay and that specific revenues have been lost, the government may have overpaid. ¶31 Indeed, the occurrence of events, such as the flooding that required using the Indiana Toll Road for evacuation, is predictable and should not impose costs on the government. Businesses have deep experience in protecting themselves from devastating losses caused by weather or other disasters. One way is to factor these events into the cost of the contract as part of doing due diligence. In addition, prudent people and institutions purchase insurance to cover these sorts of contingencies. Privatization contractors should do the same rather than making the government their insurer. It may even be that the contractor has done its due diligence and included these events in its assessment of costs and benefits. If so, the contractor is paid twice, and the public’s financial benefit from the contract is decreased. ¶32 But far more serious is the effect of concession compensation on the protections the public expects from government. Consider the effect on the right of fire, police, and medical crews to enter a road to deal with emergencies when there is no contract and no charge for entry.58 Consider the effect on them when that right of entry is lost unless the Commonwealth uses “its reasonable efforts to minimize (i) the duration and scope of any such declaration and (ii) the adverse impact that any such declaration may have on the Turnpike Operations.”59 State, county, and city attorneys will have been briefed on their obligations. They, in turn, must instruct police, emergency, and fire departments that, when there is an accident on the Turnpike, emergency responders must consider more than just getting to the scene as quickly as possible to render aid. Rather, they will be instructed that they must, in every instance, make “reasonable efforts” to minimize the impact of their efforts on Turnpike tolls and to document how their actions have minimized any negative effects. The result will be hesitation and new obligations that can slow and impede emergency responses. Equally likely is that there will be no instruction, and eventually, when a compensation claim is made, the public will learn that it costs more money to respond to emergencies and to provide for the public welfare. B. Noncompetition Agreements: Hidden Costs of Infrastructure Privatization ¶33 Destroying competition would seem to undermine the basic argument for private operation: being able to choose goods and services from among competitors in the free market spurs better performance and drives down costs. Indeed, it is choice and competition that provide accountability in the private sector.60 Noncompetition provisions, however, forbid competition and do away with choice. As a result, they eliminate these important spurs to better performance and lower cost. Despite this, a 2004 U.S. Department of Transportation report said that the powers of a state’s lead agency responsible for promoting public-private partnerships “should include the power . . . to establish a geographic noncompete zone.”61 ¶34 Although noncompete provisions are commonly found in infrastructure privatization agreements, they are not limited to privatized roads. Denver’s E-470 was built by a consortium of local governments, and their agreement required lowering speed limits on nearby Tower Road from 55 to 40 m.p.h. and installing stop lights on 96th, 104th, and 112th Avenues.62 Indeed, noncompetition provisions are included in infrastructure privatization contracts in the United States and abroad, and actions to discourage drivers from using alternate roads are regularly taken in order to make the privatized road the only option. ¶35 Another common method of eliminating competition is “traffic calming.” In Sydney, Australia, for example, a community liaison group member testified that the narrowing of lanes on adjacent, free roads came as a shock to area residents: ‘Suddenly overnight, like mushrooms, concrete barriers are built,’ Suzanne O’Connor testified. ‘They were very keen on traffic calming, which apparently is jargon for funneling. So there was a lot of jargon, a lot of English being abused, again I think . . . in an attempt to keep the implications hidden.’63 If conditions on potential competing roads or other infrastructure are sufficiently unpleasant, the effect of a noncompete provision can be achieved, even if none is included in the contract. ¶36 An example of another anti-competitive measure whose effects are similar to traffic calming is a contract provision that allowed a private contractor to build express toll lanes in the median of California SR-91, but forbade the government from performing repairs and upkeep on the parallel public, nontolled lanes: Despite the successful implementation of the SR-91 Express Lanes project, the PPP arrangement ran into problems several years later as concerns grew about the contractual restrictions on capacity improvements in the absolute protection zone and changes in the ownership of the private consortium. Several lawsuits were filed against Caltrans and the private contractor as a result of the noncompete restriction, and Caltrans ultimately was forced to make improvements to the tollfree lanes on SR91. In 2002, as a result of the lawsuits and growing public opposition, the California legislature passed Assembly Bill 1010 (AB 1010) which authorized OCTA [Orange County Transportation Authority] to buy out the private franchise, eliminated the absolute protection zone, and required the facility to become toll-free at the end of the 35-year term. AB 1010 prohibits OCTA from transferring the franchise and prohibits Caltrans from entering new franchise agreements without legislative approval.64

#### Privatization fails – no guarantee its cheaper or more efficient

Lisa Schweitzer – associate professor in the School of Policy, Planning and Development at USC – 7/13/11, For sale: U.S. infrastructure?, LA Times, http://articles.latimes.com/2011/jul/13/opinion/la-oe-schweitzer-infrastructure-20110713

Maybe Mica is right. But rushing to privatize state-owned assets can lead to terrible infrastructure deals that let private companies walk away with prime assets and leave taxpayers with no guarantee of better services or lower fees. Unlike the Greeks, who must sell to receive bailout funds, we still have a say in our infrastructure future. But the time for planning ahead and striking strong deals is dwindling, along with our infrastructure funds. Many European countries and cities have privatized infrastructure and city services. You want to use the highway — you pay. You want to stroll through a "public" garden — you pay. You can avoid higher taxes, but if you want the services, you pay the private company that holds the franchise. It is a system that works fine for those with cash to spend. Scaling down public ownership of transportation networks also means carefully selecting which parts of the system to sell or lease out. Private companies usually desire assets associated with the most demand for services, such as the Northeast Corridor. But if we sell off or lease these assets to get private companies to build a high-speed rail system there, we may also be giving up the only part of a high-speed rail network likely to generate enough cash in the long term to keep a national system running without taxpayer help. So far, privately run transportation projects show mixed outcomes. For every successful privatization story of service improvement and mounting profits — Britain's airport privatization, say — there's a disaster story of poor service and taxpayers left holding the bailout bag: think the Chunnel or Chicago's privatized parking woes. Privatized transportation projects carry risks for both sides.

#### Transportation infrastructure is already being sold off to the private sector – lack of competition causes monopolies that undermine efficiency gains

Renee Shur, writer for Occasional Planet, January 27, 2012, “Starving the infrastructure beast: Privatization vs. the American Jobs Act”, Occasional Planet, <http://www.occasionalplanet.org/2012/01/27/starving-the-infrastructure-beast-privatization-vs-the-american-jobs-act/>

In this round of the battle, the beast being starved is America’s infrastructure. And make no mistake about it, the profits generated by bridges, roads, airports, shipping ports, utilities, water supply, and public parking are up for sale to the highest bidders. First embraced by Margaret Thatcher in the 1980s, the strategy of putting cash-strapped public assets up for sale or long-term lease led to large-scale privatization in Britain, with other European countries following suit. Not surprisingly, investment bankers in the U.S. took note. Fast forward to 2012, and many of the largest investment firms in the U.S. and abroad now have special departments dedicated solely to identifying and securing privatization of public assets through outright purchase or long-term leasing. More than thirty of the most highly capitalized funds across the globe—including our at-home giants, Goldman-Sachs, Morgan-Stanley, the Carlyle Group, and Citicorp—together wield a whopping $500 billion in assets that are out there trolling for infrastructure profits. And why not? Infrastructure investment is monopolistic and extremely low risk as competition is limited. The result is a captive customer base with no alternative but to pay up on ever-higher tolls and charges. Older Americans may remember a time when utilities, such as electric generation and water supply, were owned by local municipalities. In twenty-first-century America, these same utilities are overwhelmingly privately owned. As bridges, toll roads, water systems, shipping ports, airports, and utilities across the U.S. age and are increasingly in need of a significant infusion of capital for repair and updating, they are being sold or leased to the private sector. Many of these transfers span 75 to 100 years, thereby decreasing public influence and oversight for the long term and raising questions of pricing and adequate delivery of services when and if leases are sold.

### Privatization Fails – Economy

#### Public capital creates better economic returns than private investment

DEPARTMENT OF THE TREASURY WITH THE COUNCIL OF ECONOMIC ADVISERS, 3/23/12, “A NEW ECONOMIC ANALYSIS OF INFRASTRUCTURE INVESTMENT,” <http://www.treasury.gov/resource-center/economic-policy/Documents/20120323InfrastructureReport.pdf>

Many studies have found evidence of large private sector productivity gains from public infrastructure investments, in many cases with higher returns than private capital investment. Research has shown that well-designed infrastructure investments can raise economic growth, productivity, and land values, while also providing significant positive spillovers to areas such as economic development, energy efficiency, public health, and manufacturing.

### Privatization Fails – Airports

#### Airport privatization was tried and failed in the US – Midway proves

David Grossman-Travel Writer and Guest editor for USA Today-5/23/2011, “U.S. airports eye privatization, seek to remove caps on fees”, USA Today, <http://travel.usatoday.com/flights/post/2011/05/airport-privatization/171259/1>

Airlines, as you might expect, are opposed to any fees that raise their costs or increase the price of an airline ticket, which could adversely impact their revenue. Airlines may also be concerned about losing their landing rights or being forced to compete with other airlines for space at the airport in a completely deregulated environment. There are also concerns about the solvency of some airports and their ability to manage their own finances, as well as apprehension that infrastructure improvements or safety could lapse if airports are responsible for these expenses. The FAA and Congress established the Privatization Pilot Program in 1997, to allow up to five airports to explore privatization. Currently, four airports have been approved for this program, the largest of which are Chicago Midway and San Juan International Airport, but Midway's privatization efforts have been bogged down for lack of funding. It is unlikely additional privatization of U.S. airports might be happening any time soon, but support for the concept may gain momentum if privatization appears to be working well in other countries.

#### Airport privatization will fail in the US – international examples aren’t applicable here

Evan Futterman AND-President of Airport Consulting Ginger Evans-Aviation Direction manger-09, “Filling a Future Funding Gap?”, Publication of the Airport Consultants Council, http://www.acconline.org/documents/AC\_Wint09-10\_vF.pdf

Still, not all privatization efforts are successful, as demonstrated by the experience in Indianapolis. The Indianapolis Airports Authority issued a lease to BAA USA to privately operate Indianapolis International Airport. In just over 10 years, the lease was terminated and operations reverted back to the Authority since the arrangement was not generating enough revenue. Neither BAA USA nor the Airports Authority received the benefits they had anticipated.

FAA Privatization Program —

Mixed Results

Meanwhile, in 1997 the FAA established a pilot program to approve a limited number of airport privatizations. The program was created by Congress to explore privatization as a means of generating access to various sources of private capital for airport improvement and development. The pilot program authorizes the FAA to permit up to five public airport sponsors to sell or lease an airport and to exempt the sponsor from certain federal requirements that could otherwise make privatization impractical. Private companies may own, manage, lease and develop public airports. In return, the owner or lease holder would be exempt from repayment of federal grants, return of property acquired with federal assistance, and from the obligation to use proceeds from the airport’s sale or lease exclusively for airport purposes.

The pilot program met with limited success for varying reasons.

Chicago Midway International Airport, Chicago IL > In 2006 a preliminary application was submitted. The winning bidder was unable to obtain financing. The solicitation was cancelled.

Niagara Falls International Airports, Niagara Falls, NY > In 2001 a preliminary application was submitted, then withdrawn.

Rafael Hernandez Airport, Aguadilla, PR > In 2001 a preliminary application was submitted, then withdrawn.

Stewart International Airport, Newburgh, NY > In 2000 an application was accepted, but the airport was subsequently acquired by PANYNC.

The pilot program has been less than successful due to a number of limitations documented by a 2004 FAA report: • Local governments are reluctant to give up control of their airport; • Airlines have traditionally opposed privatization based on a perception that the loss of governmental control would raise costs; • The public sector has access to tax exempt and other low cost financing options that may not be available to the private sector; and • Other than Midway, these sample airports were underutilized and the owner was looking to supplement funding for their capital needs. Nevertheless, the FAA pilot program remains in effect for complete airport privatizations, and, as the economy grows, more applications could be expected. In fact, FAA recently gave approval to the Louis Armstrong International Airport to solicit bids from entities for a long-term lease arrangement to operate the airport. A handful of key factors have curtailed the need for privatization here in the United States, including access to capital to fund airport development projects and the availability of experienced, competent entities to operate complex and sophisticated enterprises like airports. In the U.S., wholesale privatization has not taken hold primarily because most airports are operated by governmental units or by authorities with good bond ratings. As mentioned earlier, these entities can issue tax-free bonds — the cheapest capital that can be obtained. Also, with so many major dmestic airports, there is a bounty of talented career airport professionals who can efficiently operate U.S. airports. Internationally, many governmental units operating airports cannot issue tax-free bonds or have limited bonding capacity. They must turn to private markets for access to capital. Many countries do not have national funding programs like our AIP program to help with funding. Further, with very few major airports in many countries, the availability of the diverse skill sets required to operate major airports may be limited. As such, privatization is more prevalent and has met with more success globally (see sidebar).

### Privatization Fails – HSR

#### Privatizing HSR dooms the project – companies will only build in high-traffic areas

Lisa Schweitzer – associate professor in the School of Policy, Planning and Development at USC – 7/13/11, For sale: U.S. infrastructure?, LA Times, http://articles.latimes.com/2011/jul/13/opinion/la-oe-schweitzer-infrastructure-20110713

Scaling down public ownership of transportation networks also means carefully selecting which parts of the system to sell or lease out. Private companies usually desire assets associated with the most demand for services, such as the Northeast Corridor. But if we sell off or lease these assets to get private companies to build a high-speed rail system there, we may also be giving up the only part of a high-speed rail network likely to generate enough cash in the long term to keep a national system running without taxpayer help.

#### There is no such thing as a private high speed rail – numerous empirics prove the government always ends up paying.

Tony Dutzik, senior policy analyst at the Frontier Group, a transportation think tank, et. Al. Summer 2011, “High-Speed Rail: Public, Private or Both? Assessing the Prospects, Promise and Pitfalls of Public-Private Partnerships,” U.S. Public Interest Research Group and Froteir Group, <http://www.frontiergroup.org/sites/default/files/reports/High-Speed-Rail-vUS.pdf>

Government officials and the media sometimes believe that privatization enables the public sector to get something for nothing—brand-new infrastructure paid for entirely through private-sector investment. In the case of high-speed rail, there has been no such thing as a fully privately funded modern high-speed rail line anywhere in the world. Recent high-speed rail lines built or begun in Europe have typically required government entities to pay more than half the costs of the project. For instance: The Netherlands’ HSL-Zuid line —which links Amsterdam and Rotterdam in the Netherlands to Belgium—relied on the public sector for 86 percent of its budget. The Perpignan-Figueres high-speed rail connection between France and Spain benefited from a public investment of 57 percent of project costs. The initial segment of Portugal’s high-speed rail network is projected to be built with 55 percent of its budget coming from public sources. The new Tours-Bordeaux high-speed rail line in France will be built with 50 percent public investment from France and the European Union. Even projects that were originally intended to be fully privately financed—such as Great Britain’s High Speed 1 line and Taiwan’s high-speed rail system—eventually benefited from heavy government investments in the form of loan guarantees and the purchase of partial or full ownership of the companies that built the lines. As American policy-makers consider how to finance future high-speed rail investments, they must remember that PPPs do not provide a “free lunch.” The capital-intensive nature of high-speed rail development—coupled with the difficulty of projecting future ridership—means that private investors are unlikely to take on the full financial responsibility of building a high-speed rail line. Public investment in high-speed rail has been necessary everywhere it has been built. Often, however, that public investment can be justified by the myriad long-term public benefits—economic, environmental, energy security-related and more—that accrue from high-speed rail construction.

#### Privatization drives up costs and costs the government more in bailout money – Taiwan proves

Tony Dutzik, senior policy analyst at the Frontier Group, a transportation think tank, et. Al. Summer 2011, “High-Speed Rail: Public, Private or Both? Assessing the Prospects, Promise and Pitfalls of Public-Private Partnerships,” U.S. Public Interest Research Group and Froteir Group, <http://www.frontiergroup.org/sites/default/files/reports/High-Speed-Rail-vUS.pdf>

By many measures, Taiwan’s high-speed rail line, which links the island nation from north to south, has been a success. Between 2006, the year prior to the launch of highspeed rail, and 2009, the number of passenger-miles traveled by train in Taiwan had increased by 56 percent, while the number of passengers on domestic air service had dropped by 53 percent. 36 By 2009, high ridership on its densely populated routes allowed the company that built the line to start turning an operating profit. 37 Taiwanese taxpayers, however, are paying a higher price for that success than had been anticipated. Once promised that private capital would pay the entire cost of constructing the line, Taiwan taxpayers have instead been asked to pick up a significant part of the tab. In 1998, the Taiwan High Speed Rail Corporation (THSRC) was awarded a 35-year concession to build and operate Taiwan High Speed Rail (THSR), partially based on THSRC’s promise to build the Evaluating the Experience Abroad22 High-Speed Rail: Public, Private or Both? system without government capital. But the company began to run into difficulty after the Asian financial crisis in the late 1990s, when it was forced to take out loans with high interest rates in order to pay for the project. 38 Like a homeowner saddled with an adjustable rate mortgage, the high-interest debt soon became financially unsustainable, with more than three-fifths of the company’s net income used to pay off these loans. 39 As late as 2009, the company was still paying a high 8 percent interest rate on some of its loans. 40 In addition, the company was forced, as a result of its status as a concessionaire, to depreciate the value of its assets much faster than it would have under traditional forms of ownership, adding to the financial woes that caused the company to post annual losses that totaled $2.18 billion by 2009. 41 Because of the ongoing financial losses, “THSRC shareholders signaled reluctance to invest further in the project, which has led to difficulty for THSRC in securing financing from banks as well,” according to a report by the Utah Foundation. 42 A lack of financing led to problems with finishing the project, and when the network opened to the public in 2007, several key stations were incomplete. In order to keep the system operating, the government refinanced THSRC’s loans and contributed hundreds of millions of dollars to the network, even though the original build-operate-transfer plan stipulated that the THSRC build the system without any government capital. The government has opted not to take over the company, expressing no interest in growing its current 40 percent share or investing money beyond the bailout. 43 However, to help “persuade creditors to issue loans to the THRSC at interest rates that will allow it to remain solvent,” the THSRC has elected a new chairwoman, backed by the government, allowing “the government more of a supervisory role in the company.” 44 The Taiwan example illustrates several important challenges of PPPs. First, it demonstrates the dangers of overreliance on private capital. Like many homeowners saddled with high-interest debt during the subprime mortgage crisis, the THSRC was ultimately unable to restore itself to financial health, even when high-speed rail service began to turn an operating profit, due to its earlier legacy of high-interest bank borrowing. Financing the project publicly from the very start may have proven to be cheaper and more stable, reducing the crushing debt load the THSRC faced—and possibly reducing the burden of the bailout on the government of Taiwan, which ultimately refinanced the company’s debts anyway. Second, the Taiwan example demonstrates the dangers of “lock-in.” The Taiwanese government could have allowed the THSRC to go bankrupt and operation of the high-speed rail line to cease when the company ran into financial trouble. Doing so, however, would have resulted in the abandonment of a critical public asset, leaving the government with little choice but to prop up the failed business plan of a private operator with public funds.

### Privatization Fails – Waterways

#### Inland waterways should not be privatized – it kills jobs and endangers national security.

Ray Lahood, former Republican Illinois Representative and current Secretary of Transportation, and Lane Evans, current Democratic Illinois Representative, 2008, “Stop the Privatization of America's Locks and Dams,” International Brotherhood of Electrical Workers, <http://www.ibew.org/IBEW/departments/government/locks_dams.htm>

The locks and dams that populate America's 12,000 miles of inland and intracoastal waterways are critical to our nation's transportation infrastructure. They facilitate the voyage of commercial barges, foreign flagged vessels, pleasure boats, and even U.S. military crafts, ensuring that these vessels arrive safely at their destination. These locks and dams are operated and maintained by skilled federal employees, who, each day, exercise their discretion on behalf of the United States government. It is their job to protect the safety, security, and private property of American citizens, as they ensure compliance with U.S. laws and regulations. Now, plans are underway to privatize the operation and maintenance of these infrastructures through the Office of Management and Budget's Circular A-76 process. By ousting reliable and experienced federal workers in favor of private contractors, this plan would endanger private property and our national security. We appreciate the bipartisan action taken last year by the Energy and Water Appropriations Subcommittee in reaction to this plan, which stripped funding for a privatization review of the operation, maintenance, and repair of the locks and dams from the FY06 bill. This money was instead redirected towards addressing a significant maintenance backlog. We urge the Subcommittee to once again reject funding for a privatization review in the FY07 bill. However, further action is needed. Because of this we intend to introduce "Federal Locks and Lock and Dam Facilities Act of 2006" during the coming week. This narrowly tailored bill reclassifies the jobs performed by lock and dam maintenance and operations employees as "inherently governmental" under the Federal Activities Inventory Reform Act of 1998, the law that requires agencies to determine which work to give to contractors, blocking these jobs from privatization.

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### Perm do Both – “Sell Infrastructure”

#### Perm solves – we have to improve infrastructure before we can sell it off

Lisa Schweitzer – associate professor in the School of Policy, Planning and Development at USC – 7/13/11, For sale: U.S. infrastructure?, LA Times, http://articles.latimes.com/2011/jul/13/opinion/la-oe-schweitzer-infrastructure-20110713

So long as Americans refuse to even index gas taxes to inflation, let alone raise the tax outright, we won't be spending enough to maintain our transportation infrastructure, which means that its value will continue to fall. That will make it difficult to attract private investment or get a fair price for state-owned assets if the government opts to privatize its transportation assets. Too many more years of disinvestment and we will have to make gun-to-the-head decisions like Greece's, shock ourselves with big tax increases later, or both.

#### Perm solves best – private building frees up federal dollars for other projects – avoids the spending DA

GAO – March 2004, “HIGHWAYS AND TRANSIT: Private Sector Sponsorship of and Investment in Major Projects Has Been Limited,” GAO-04-419, http://www.gao.gov/new.items/d04419.pdf

Private sector sponsorship and investment in major projects has resulted in advantages from the perspective of state and local governments—such as completing projects more quickly without using traditional funding sources—as well as some trade-offs, including political and financial costs. The privately sponsored toll road projects that we identified had all been on their respective federally required state transportation plans from 7 to 30 years and still had a fairly low priority for completion when the private sector undertook them. By eliciting private sector participation rather than using funding from their highway capital improvement programs as originally planned, state and local governments conserved their federal grants and state tax revenues for other projects. Moreover, the respective state governments were not responsible for the debt incurred by private consortia and thus did not expose the states to risks if toll revenues proved insufficient to meet debt service requirements. Active private sector sponsorship and investment involved trade-offs for these governments, however, as some states relinquished political control over their ability to set toll rates and to carry out infrastructure improvements on competing publicly owned roadways. On one of the five highway projects, SR 91 in California, this latter constraint proved to be too significant a trade-off to the county government, motivating it to purchase the road back from the private consortium. In addition, state and local governments have been responsible for some project-related costs on five of the six projects we identified, such as designing projects, acquiring rights of way, conducting environmental assessments, or establishing new public institutions or arrangements to accommodate the private consortia. Federal funding was used on three of the projects. In addition, the three projects financed with tax-exempt debt have resulted in foregone tax revenues to the federal government—and to a lesser extent the state governments. For example, we estimate that, in 2003, the federal government had foregone a total of between $25 million and $35 million in tax revenues. Finally, states can be liable for costs if private entities encounter financial difficulty, and might be liable for some or all of the cost of operating and maintaining the toll road if a consortium went out of business.

### Perm do CP – Grant/ Tax Credit/ Loan CP

#### “Investment” does not mean ownership – USFG can invest through bonds, tax credits, and other incentives

Patricia A. Dalton – Managing Director Physical Infrastructure Issues @ GAO – May 8 2008, PHYSICAL INFRASTRUCTURE: Challenges and Investment Options for the Nation's Infrastructure, Testimony before the Committee on the Budget and the Committee on Transportation and Infrastructure, U.S. House of Representatives, GAO-08-763T, <http://www.gao.gov/new.items/d08763t.pdf>

To increase the nation’s long-term productivity and growth, the federal government invests in various activities and sectors, including infrastructure.6 While providing long-term benefits to the nation as a whole, much of this spending does not result in federal ownership of the infrastructure assets. For the most part, the federal government supports infrastructure investments through federal subsidies to other levels of government or the private sector. To address concerns about the state of the nation’s infrastructure, Members of Congress have introduced several bills that are intended to increase investment in the nation’s infrastructure by, for example, issuing bonds and providing tax credits for infrastructure investments. (See table 2.)

Federal government infrastructure investment includes direct spending, loans, and tax credits

Donna Cooper - Senior Fellow with the Economic Policy Team at the Center for American Progress - February 2012, “Meeting the Infrastructure Imperative An Affordable Plan to Put Americans Back to Work Rebuilding Our Nation’s Infrastructure,” Center for American Progress, http://www.americanprogress.org/issues/2012/02/pdf/infrastructure.pdf

The federal investment in infrastructure is the sum total of appropriations of grants, the federal credit subsidies of loans, and estimated lost revenues from tax expenditures intended to stimulate infrastructure investment. Across all federal programs and vehicles, the government invested just more than $92 billion in infrastructure improvements in 2010.

True in the context of “increase”

Donna Cooper - Senior Fellow with the Economic Policy Team at the Center for American Progress - February 2012, “Meeting the Infrastructure Imperative An Affordable Plan to Put Americans Back to Work Rebuilding Our Nation’s Infrastructure,” Center for American Progress, http://www.americanprogress.org/issues/2012/02/pdf/infrastructure.pdf

Our plan recommends that current federal requirements for state matching funds prescribed by the federal transportation and water infrastructure programs accompany new federal investments.9 If this is the case, then the federal government will need to increase its direct spending on infrastructure by $48 billion a year, which will trigger $11 billion in new state matching investments. On top of direct federal expenditures, this plan proposes approximately $10 billion in new federal loan authority annually. (The cost of the credit subsidies to support these loans is included in the proposed $48 billion increase in federal investment.) This increase is federal investment represents a 52 percent increase over the approximately $92 billion in FY 2010 federal appropriations for capital infrastructure investments distributed as grants, credit subsidies, and tax expenditures for infrastructure. Although strenuous efforts must be taken to balance the federal budget, we believe they should be done in a manner that permits this increase to be achieved. Based on the 2010 budget, doing so would increase federal spending by less than 1.3 percent compared to the FY 2010 federal budget.10 (see Figure 1)

### Links to Politics (Elections) – Generic

#### Voters hate privatization – it increases prices

Asieh Mansour and Hope Nadji – directors of research at RREEF – Sept 2006, US Infrastructure Privatization and Public Policy Issues, RREEF Real Estate Research, http://www.irei.com/uploads/marketresearch/69/marketResearchFile/Infr\_Priv\_Pub\_Policy\_Issues.pdf

A third issue raised by opponents is the likelihood of price increases to the user. The objection is that a private entity will increase prices to generate an attractive return on investment. In fact, a well structured privatization should create efficiencies that allow for a profit margin within the original pricing structure. The contractual agreement should provide an allowable cost structure for the private operator. However, this assumes that the original pricing structure covered the costs of capital and maintenance. Often public agencies have been under-charging, fearful of the political response to increases in user fees, so the fees have been set artificially low and the true cost of operations has not been recouped. In such cases where charges will need to be increased to allow for prudent repair and maintenance, the benefits of this decision need to effectively communicated to the local constituencies. Highways, bridges, public transport, dams, water and wastewater systems and airports are central to the economic success of regions and localities. This is the link between the citizens’ well-being and their support of necessary infrastructure investment. Given that governments at all levels are highly reluctant to raise taxes and therefore have been disinclined to fund long term investment needs, private investment in infrastructure can be a logical solution. Pension funds can be a source of funds for long-term infrastructure capital and maintenance that are unpopular to fund out of tax revenue. However, politicians with an eye to the next election are also hesitant to enter into public-private partnerships that could create additional costs for users, who are also voters. Public acceptance for tolls that pay for additional capacity or allow motorists, in essence, to buy their way out of congestion appears to be rising as it is offered as an option rather than a mandate.

#### Non-compete agreements prevent improvement of public roads – that angers the public

GAO – March 2004, “HIGHWAYS AND TRANSIT: Private Sector Sponsorship of and Investment in Major Projects Has Been Limited,” GAO-04-419, http://www.gao.gov/new.items/d04419.pdf

The private sector encounters many challenges to becoming more actively involved in highway and transit projects because of limited opportunities and barriers to financial success. Currently 23 states permit private participation while 20 of these allow it for highways. Where state and local governments have elicited such participation, it has occurred on mostly lower priority projects, such as toll roads built in anticipation of future development. State and local governments traditionally build and finance highway projects through their capital improvement programs including using federal funds that reimburse about 80 percent of the costs. While these governments could open higher priority projects to private sector partners, they might be wary of doing so since political costs such as the limited ability to improve competing publicly owned roads would likely be greater. While legislative proposals could encourage greater private participation, private sponsorship seem best able to advance a small number of projects—but seems unlikely to stimulate significant increases in funding for highways and transit.

### Links to Politics (Agenda) – Generic

#### Privatizing transportation infrastructure causes fights in Congress

Sean Kilcarr – Fleet Owner (online newsletter for managers of commercial-trucking fleets) – 6/22/11, Congress battling over infrastructure privatization, <http://fleetowner.com/management/news/congress-battling-infrastructure-privatization-0622>

Two competing bills being drafted by Senators Dick Durbin (D-IL) and Mark Kirk (R-IL) are clashing over the issue of privatizing transportation infrastructure – with many in the trucking industry remaining opposed to such efforts. Sen. Kirk’s bill – dubbed the Lincoln Legacy Infrastructure Development Act – seeks to “mobilize,” in his words, over $100 billion in private investment funds to build new roads, airports and railroads by using public-private partnerships without new federal borrowing. According to the National Surface Transportation Policy and Revenue Study commission, noted Sen. Kirk, current highway, bridge, public transit, freight and passenger rail funding needs are approximately $225 billion per year through 2055, while current spending is less than $90 billion per year. That’s why he said private investment would be required to rectify this critical shortfall in infrastructure funding without increasing taxes “Our roads, rail, transit and airports are facing unprecedented funding shortfalls,” Sen. Kirk said during a speech at the Union League Club transportation summit this week in Chicago. “We should not further burden working families with higher gas taxes. Instead, we should look to our own economic history to find a solution.” However, Sen. Durbin’s bill – the Protecting Taxpayers in Transportation Asset Transfers Act – would tack on increased transparency and public involvement before any major transportation projects can be leased or sold in such a public-private partnership arrangement. “The federal government provides states and local governments billions of dollars to build, maintain and improve transportation projects around the country,” said Sen. Durbin. “The last transportation bill alone provided states with an average of $48 billion per year for upgrades to roads, bridges and mass transit systems. Any deal to sell or lease these assets should be closely examined and include a return on the federal taxpayer investment.” The American Trucking Associations (ATA) has long opposed any effort to privatize transportation infrastructure, especially highways, as the group believes such efforts would increase costs for users across the board without necessarily offering widespread improvements. “Schemes such as the privatization and tolling of existing highway infrastructure will result in Americans paying a significantly higher price to access our highway system while receiving less in the form of safe, efficient, and reliable roadways,” said Gov. Bill Graves, ATA president & CEO, in a speech two years ago on the same issue. ATA spokesman Sean McNally said the group still holds to that position. “We believed that then and we believe it now,” he told Fleet Owner. Truckstop operators are also concerned about efforts to commercialize highway rest stops, a key tenet of Sen. Kirk’s bill, which specifically would allow such commercialization to provide “additional resources to states with budget shortfalls.” “At first glance, commercialization of rest stops would seem an easy way for states to generate revenues,” Brad Stotler, director of government affairs for the National Association of Truck Stop Operators (NATSO), told Fleet Owner. “But we believe it would cause significant harm to the businesses at the highway exits, in terms of reduced sales and indirectly reducing truck parking as well.” A study NATSO conducted last year entitled "Rest Area Commercialization and Truck Parking Capacity" found that truck parking capacity is substantially greater on the stretches of the interstate highway where commercial rest areas are prohibited. Principally, the study found that in general sections of highway in states operating commercial rest areas have two fewer parking spaces per mile.

### Links to Politics (Agenda) – Aviation

#### Strong political resistance to aviation privatization

Steven A. Morrison (Chair, Department of Economics, Northeastern University) and Clifford Winston (Senior Fellow Economic Studies @ Brookings) – May 2008, Delayed! U.S. Aviation Infrastructure Policy at a Crossroads, <http://www.brookings.edu/research/articles/2008/05/~/media/Research/Files/Articles/2008/5/aviation%20winston/Winston_aviation_chpt2.PDF>

Building the Case for Privatization Given the vast and growing inefficiencies in the aviation infrastructure, our view is that policymakers should question the wisdom of allowing public sector airport authorities and a federal air traffic control system to continue to provide aviation services, especially when there is little indication that the efficiency of air travel will significantly improve in this institutional environment. Accordingly, we believe policymakers should explore whether privatizing airports and air traffic control could enhance the efficiency of the air transportation system. Political resistance to such dramatic institutional change is great. As noted, the very interests that oppose efficient pricing of air traffic control fear that it will lead to privatization. Thus, political support for privatization must be built carefully and strengthened by favorable experimental evidence of its economic effects. Here we briefly outline the conceptual case for privatizing airports and air traffic control, its likely economic effects, and important considerations in designing experiments to provide evidence of

these effects.