# Delegation Does and Does Not link to politics

## \*\*\*Delegating to States\*\*\*

### Unpopular

#### ( ) Delegation transportation to States is politically unpopular

Freemark ‘12

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Despite the limited nature of the MAP-21 legislation, there were nonetheless some significant changes to federal transportation law contained within. Most intriguingly, the bill puts into question the future of private sector involvement in the transportation field. What MAP-21 does not do is either cut funding for sustainable transportation dramatically (as would have the still-born House Republican proposal, H.R. 7) or devolve transportation funding and decision-making entirely to the states, a revision whose primary consequence would be putting more highway-crazed State Departments of Transportation in charge. It was, in other words, not a good policy. Thankfully, two amendments to MAP-21 that would have done so failed by huge margins in the Senate (Senator Jim DeMint (R-SC)’s by 30 to 67; Senator Rob Portmans (R-OH)’s by 30 to 68), suggesting that there is little support on either side of the aisle for moving all transportation policy to the states.

(Note: MAP-21 is Senate Bill 1813, also known as MAP-21, “Moving Ahead for Progress in the 21st Century“)

#### ( ) Cplans that delegate to States drain Presidential capital.

Dilger ‘10

Robert Jay Dilger – Senior Specialist in American National Government for the Congressional Research Service – Federalism Issues in Surface Transportation Policy: Past and Present – January 5, 2010http://www.policyarchive.org/handle/10207/bitstreams/18824\_Previous\_Version\_2010-01-05.pdf

Externally, interest groups representing both the private and public sectors have historically been united in their advocacy of additional federal funding, but have been divided over how program funds should be allocated, both among states and among transportation modes. Congress has tended to arbitrate the differences among these varied interests by balancing the need to promote the national interest with the recognition that, for the most part, state and local government officials have proven over time to be relatively capable administrators of surface transportation programs. As a result, Congress has rejected efforts to devolve programmatic authority to states. Instead, it has adopted policies that have expanded state programmatic flexibility while, at the same time, promote the national interest by requiring state and local governments to adhere to federal guidelines for managing the project development process and monitoring highway and bridge conditions, highway safety programs, traffic congestion mitigation programs, transit facility and equipment maintenance programs, as well as intermodal transportation facilities and systems.

#### ( ) Delegating funds to states for HSR is unpopular

#### AP '11

(9/12/11, "Obama Jobs Plan: Federal Aid For States Splits Democrats, Republicans", David A. Lieb, Associated Press staff writer, www.huffingtonpost.com/2011/09/12/obama-jobs-plan-federal-aid-states\_n\_958103.html//aspomer)

JEFFERSON CITY, Mo. -- President Barack Obama's latest jobs plan calls for $130 billion in aid to state and local governments, providing either a welcome infusion of cash for those struggling with budget gaps, government layoffs and crumbling roads or merely a temporary patch for budget holes that are likely to remain long after the federal money runs out. The perspective of governors and state lawmakers varies but often follows political affiliation, with Democrats generally praising Obama's plan and Republicans remaining skeptical. "It's a no-brainer: Congress should pass the bill. Now," said California Gov. Jerry Brown, a Democrat, whose state would receive some $13 billion for construction projects and teaching and public safety jobs at a time when it has the nation's second highest unemployment rate. Many Republican lawmakers and governors are less enthusiastic about accepting the federal money, especially if it locks in costs they will have to account for once the aid runs out. "If we're given the flexibility to spend it as we see fit and not as they see fit, I could see some benefit," particularly for long-delayed infrastructure projects, said Missouri House Budget Committee Chairman Ryan Silvey, a Republican. "I'm not a big fan of using one-time money for ongoing expenses. I think that's what the state should be getting away from, not getting deeper into." Obama's plan has to clear a politically divided Congress, which could scuttle it entirely or enact bits and pieces of it. As envisioned by Obama, state and local governments would receive $50 billion for transportation projects, $35 billion for school, police and fire department payrolls, $30 billion to modernize public schools and community colleges, and $15 billion to refurbish vacant and foreclosed homes or businesses. It would mark the second, sizable infusion of federal cash to states in less than three years, coming just as they are burning through the last of the billions of dollars they received under the 2009 stimulus act. In many cases, states used the original stimulus money to fill in for declining tax revenue and lessen or delay spending cuts for public schools, health care programs and other services. But those budget holes remain in many states as high unemployment persists and government tax revenue remains lackluster. With another round of money, "the federal government may be able to play a critical role in helping states close their budget gaps," said David Adkins, executive director of the Council of State Governments. But he said the prospects for receiving the money appear "very, very slim" given the focus on reducing government spending among Republicans in Congress. He said state government leaders are more interested in long-term stable federal funding for transportation projects and education programs. In New Mexico, Democratic state Sen. John Arthur Smith said provisions of the Obama proposal, such as infrastructure financing for highways and aid to schools, should provide a short-term economic boost for the state. But he worries that it could create a future financial squeeze if state government needs to replace the federal money when the program ends. He said state spending had to be cut this year to help close a $200 million budget gap created when federal stimulus money ran out. "I'm one of those who would rather confront the enemy at hand right now," Smith said. "I don't think we're elected to push the issue down the road." State budget officials have only estimates of how much they would receive under the Obama proposal, which was announced Thursday to a joint session of Congress. They are waiting to learn exactly how those dollars would be disbursed and what strings, if any, would be attached. Some Republican governors already have established a precedent of rejecting portions of the federal stimulus money. Wisconsin Gov. Scott Walker rejected $810 million in federal funding for a high-speed rail line between Madison and Milwaukee, and Ohio Gov. John Kasich turned down $400 million for a rail project to connect Cincinnati, Cleveland and Columbus. Florida Gov. Gov. Rick Scott canceled a $2 billion federal grant for a high-speed train between Orlando and Tampa, citing concern that state government would be locked into years of operating subsidies.

#### ( ) Delegation unpopular – bipartisan support for government spending on transportation

#### O'toole '12

(Randal O'Toole, CATO, 2/17/12, "Fixing the House Transportation Bill", www.downsizinggovernment.org/fixing-house-transportation-bill// aspomer)

Second, transportation is big-time pork. The House Transportation and Infrastructure Committee is the largest committee in Congressional history because everyone wants a share of that pork. Fiscal conservatives’ [dreams](http://www.redstate.com/dhorowitz3/2012/01/19/devolve-transportation-spending-to-states/) of devolving federal transportation spending to the states run into the roadblock made up of members of Congress from both parties who don’t want to give up the thrill of passing out dollars to their constituents.

#### ( ) The president delegates – it’s political and links

Bulman-Pozen, 12 – Attorney-Adviser, Office of Legal Counsel, Department of Justice. J.D., Yale Law School (Jessica, April 2012, “FEDERALISM AS A SAFEGUARD OF THE SEPARATION OF POWERS”, P. 467-468, Columbia Law Review, <http://www.columbialawreview.org/assets/pdfs/112/3/Bulman-Pozen.pdf>, KOCHMAN)

As many have noted, what is most remarkable about the rise of executive power in the administrative state from a traditional separation of powers perspective is that the other two branches have largely empowered the executive.25 For instance, Congress did not object to President Nixon’s Reorganization Plan 2, which created the powerful Office of Management and Budget, and it codified President Carter’s requested civil service reforms, which “resulted in a tremendous boost for presidential power.”26 More generally, **Congress has continued to delegate broadly even as presidential control over administration has increased**. At the same time, courts have invalidated Congress’s attempts to counterbalance broad delegations, such as the legislative veto.27 And the judiciary has curtailed its own review of administrative action. Most notably, **the Supreme Court** in Chevron **assigned to the executive branch the authority to determine the meaning of ambiguously worded statutes, suggesting it was desirable for agencies to pursue the President’s regulatory agenda in interpreting such statutes**.28 The Court has also limited judicial review of agency action by imposing strict limits on standing.29

Congressional and judicial decisions to empower the executive thus highlight a deeper concern about the separation of powers: **The branches are not engaged in sustained, vigorous competition**. A second key narrative of recent separation of powers scholarship provides an explanation for the rise of executive power that follows from this lack of interbranch competition. As Daryl Levinson and Richard Pildes have described in particular detail, **political competition has come to be channeled not through the legislative and executive branches as such, but rather through political parties**.30 The degree and kind of interbranch competition thus depends significantly on whether party control of the House, Senate, and presidency is divided or unified, and on the relative cohesiveness and polarization of political parties.

The “separation of parties, not powers” thesis helps explain why the rise of executive power is not principally a story of an imperial presidency wresting control of administration, but rather one of Congress empowering the executive. Simply put, while Congress has many tools to check the executive—appropriations riders, advice and consent, oversight hearings, and investigations, to name a few—it often is not motivated to deploy them.31 Indeed, because party politics shape legislators’ incentives, legislators frequently accomplish their own policy goals by conferring substantial authority on the executive branch.32 **While in a sense, delegation thus enhances both congressional and executive power, it is the executive who is empowered to act unilaterally. Moreover, broad delegations remain in place even when future Congresses would wish to revoke them, enabling Presidents to achieve their policy ends through the administrative apparatus in times of divided government**.33

### Popular – Delegation does not link to politics

#### Delegation is not controversial – GOP support

#### AP '12

(4/18/12, "House Passes Transportation Extension Bill Including Keystone XL Pipeline Provision", www.huffingtonpost.com/2012/04/18/house-transportation-bill-keystone-xl-pipeline\_n\_1435720.html//aspomer)

WASHINGTON — The House on Wednesday approved a Republican bill aimed at keeping alive prospects for enacting an overhaul of federal transportation programs and continuing the flow of highway and transit aid to states. The bill would also allow the Keystone XL pipeline to proceed. The pipeline, which would transport oil produced from Canadian tar sands to Port Arthur, Texas, was previously blocked by President Barack Obama. The White House has threatened to veto the GOP bill, which it says bypasses longstanding practices for the approval of cross-border pipelines. The veto statement noted that a final pipeline route has yet to be decided. The bill, passed by a 293 to 127 vote, technically extends the government's authority to spend money from the federal Highway Trust Fund through Sept. 30. That authority now is due to expire on June 30. But the real intent of the measure is to provide a parliamentary rationale for formal negotiations with the Senate on a more comprehensive transportation plan. Both parties have made passage of a transportation bill their top job-creation priority for the year. House Republican leaders decided on the strategy after repeatedly trying and failing to garner enough votes to pass their own, long-term transportation plan. That effort ran into opposition from tea-party conservatives, who say transportation programs should be paid for entirely by user fees such as federal gas and diesel taxes, even though revenue from those taxes isn't enough to cover current transportation spending. Conservatives also would like to see the federal role in transportation dramatically reduced, with states picking up those responsibilities. However, moderate Republicans from suburban districts don't want transportation spending cut and complained about the bill's treatment of transit programs.

**Delegation checks the president – popular with congress**

**Bulman-Pozen, 12** – Attorney-Adviser, Office of Legal Counsel, Department of Justice. J.D., Yale Law School (Jessica, April 2012, “FEDERALISM AS A SAFEGUARD OF THE SEPARATION OF POWERS”, P. 473, Columbia Law Review, <http://www.columbialawreview.org/assets/pdfs/112/3/Bulman-Pozen.pdf>, KOCHMAN)

This account of how cooperative federalism may serve separation of powers values is intriguing but quite limited. First, Congress rarely delegates authority exclusively to the states. Instead, cooperative federalism programs involve varying and complicated combinations of state and federal authority. Second, while in theory **Congress could threaten to replace the federal executive with the states**, a variety of practical problems make it difficult for Congress to credibly so threaten. Underlying the account of exclusive delegation, moreover, is the premise that **Congress will be worried about executive branch infidelity or overreaching**, but this often does not aptly describe congressional motivation. Focusing on a deliberate choice by Congress to empower the states instead of the federal executive, or to threaten to do so, thus only begins to describe how cooperative federalism may safeguard the separation of powers

### **1NC election link to run in-conjunction with States/Delegation for Obama Good**

#### Delegation Popular, plan is not. Federal funding of Transportation infrastructure unpopular with the public – fear of waste and don’t see the upside.

Orski ‘12

Ken Orski is editor and publisher of Innovation NewsBriefs, an influential and widely read transportation newsletter, now in its 20th year of publication. Orski has worked professionally in the field of transportation for close to 40 years. He served as Associate Administrator of the Urban Mass Transportation Administration under President Nixon and President Ford. He is a magna cum laude graduate of Harvard College and holds a J.D. degree from Harvard Law School. NewGeography – 02/05/2012 – http://www.newgeography.com/content/002662-why-pleas-increase-infrastructure-funding-fall-deaf-ears

Finding the resources to keep transportation infrastructure in good order is a more difficult challenge. Unlike traditional utilities, roads and bridges have no rate payers to fall back on. Politicians and the public seem to attach a low priority to fixing aging transportation infrastructure and this translates into a lack of support for raising fuel taxes or imposing tolls. Investment in infrastructure did not even make the top ten list of public priorities in the latest Pew Research Center survey of domestic concerns. Calls by two congressionally mandated commissions to vastly increase transportation infrastructure spending have gone ignored. So have repeated pleas by advocacy groups such as Building America’s Future, the U.S. Chamber of Commerce and the University of Virginia’s Miller Center. Nor has the need to increase federal spending on infrastructure come up in the numerous policy debates held by the Republican presidential candidates. Even President Obama seems to have lost his former fervor for this issue. In his last State-of-the-Union message he made only a perfunctory reference to "rebuilding roads and bridges." High-speed rail and an infrastructure bank, two of the President’s past favorites, were not even mentioned. Why pleas to increase infrastructure funding fall on deaf ears There are various theories why appeals to increase infrastructure spending do not resonate with the public. One widely held view is that people simply do not trust the federal government to spend their tax dollars wisely. As proof, evidence is cited that a great majority of state and local transportation ballot measures do get passed, because voters know precisely where their tax money is going. No doubt there is much truth to that. Indeed, thanks to local funding initiatives and the use of tolling, state transportation agencies are becoming increasingly more self-reliant and less dependent on federal funding Another explanation, and one that I find highly plausible, has been offered by Charles Lane, editorial writer for the Washington Post. Wrote Lane in an October 31, 2011 Washington Post column, "How come my family and I traveled thousands of miles on both the east and west coast last summer without actually seeing any crumbling roads or airports? On the whole, the highways and byways were clean, safe and did not remind me of the Third World countries. ... Should I believe the pundits or my own eyes?" asked Lane ("The U.S. infrastructure argument that crumbles upon examination"). Along with Lane, I think the American public is skeptical about alarmist claims of "crumbling infrastructure" because they see no evidence of it around them. State DOTs and transit authorities take great pride in maintaining their systems in good condition and, by and large, they succeed in doing a good job of it. Potholes are rare, transit buses and trains seldom break down, and collapsing bridges, happily, are few and far between.

## \*\*Delegating to the Free Market\*\*

### Delegating to the Free Market = links to politics

#### ( ) Cplans that delegate to the market drain Presidential capital.

Dilger ‘10

Robert Jay Dilger – Senior Specialist in American National Government for the Congressional Research Service – Federalism Issues in Surface Transportation Policy: Past and Present – January 5, 2010http://www.policyarchive.org/handle/10207/bitstreams/18824\_Previous\_Version\_2010-01-05.pdf

Presidents, perhaps reflecting their role in representing the national interest as a whole and, perhaps, at least in part, because several Presidents had formerly served as governors, have tended to be more supportive of program consolidation and devolution of programmatic authority in surface transportation policy than Congress. This has been especially the case when the President’s ideology favored smaller government. Typically, presidential efforts to consolidate surface transportation programs have faced strong opposition from private sector interest groups worried that program consolidation will result in less funding for the consolidated programs over time, and from Members worried that consolidation could lead to less funding for specific programs that are important to them.

## \*\*\*Delegating to Foreign Countries\*\*\*

### Unpopular

#### Congress hates delegating authority to other countries

#### Rademaker 08

(HEARING OF THE INTERNATIONAL ORGANIZATIONS, HUMAN RIGHTS, AND OVERSIGHT SUBCOMMITTEE OF THE HOUSE COMMITTEE ON FOREIGN AFFAIRS; SUBJECT: "WAR POWERS FOR THE 21ST CENTURY: THE EXECUTIVE BRANCH PERSPECTIVE", 4/24/08, STEPHEN G. RADEMAKER, VICE PRESIDENT, BGR INTERNATIONAL//aspomer))

I don't believe that is true however, and I think that would be a very dangerous doctrine. I don't think the Congress would want to ever delegate its authority really to anyone much less an international organization that -- within which the United States is one of many voices. In this connection I would note that I recall in the early 1990s legislation was introduced in the Senate -- I don't recall of course, not a House bill, but there was a bill introduced in the Senate that would have provided that UN authorization would automatically provide legal authority to the **president** to commit U.S. forces.