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# 1NC Text

The fifty state governments and territories in the United States should \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

# Solvency – Generic

**States have the capability to form important transportation policy**

Neha **Bhatt**, Smart Growth America, Colin **Peppard**, Natural Resources Defense Council, **and** Stephanie **Potts**, Smart Growth America, 12/14/**10**, NRDC: an international nonprofit environmental organization, and Smart Growth America: only national organization dedicated to researching, advocating for and leading coalitions to bring smart growth practices to more communities nationwide, “Getting Back on Track: Aligning State Transportation Policy with Climate Change Goals” <http://smartgrowthamerica.org/documents/getting-back-on-track.pdf>

State transportation policy has the potential to significantly reduce greenhouse gas (GHG) emissions while also effectively meeting the nation’s wide-ranging mobility needs. Few studies have specifically sought to evaluate how states’ transportation policies impact GHG emissions. This report seeks to build on the work of Moving Cooler, a 2009 report by Cambridge Systematics, which quantified the carbon reduction benefits of various transportation strategies. The analysis here evaluates how well state-level transportation decisions are aligned with efforts to reduce GHG emissions by examining a selection of key transportation policies currently in place in the 50 states. The findings suggest that there is tremendous potential for states to make progress on reducing transportation-related carbon emissions. The report’s recommendations suggest ways states can improve their climate performance while meeting their mobility needs.

Greenhouse Gases From Transportation Are a Growing Problem

Presidents Barack Obama, George W. Bush, Bill Clinton, and George H.W. Bush have each called for reductions in GHG emissions, yet nationwide emission rates have steadily increased, rising 27 percent between 1990 and 2007. Nearly half of the net increase has been due to increasing emissions from the transportation sector, which today accounts for 32 percent of the country’s total carbon emissions according to the U.S. Energy Information Administration. Without bringing down transportation emissions, it will be impossible to achieve the reductions scientists have deemed necessary to avoid the worst effects of climate change. Between 1977 and 2001, driving in the United States measured in vehicle miles traveled (VMT), grew by 151 percent. Average trip lengths, trips per capita and the proportion of drivers traveling alone also increased, all of which have contributed to rising emission rates. Innovations leading to more efficient vehicles and new, cleaner fuels could mean large reductions in GHG emissions, but the projected 50 percent increase in VMT between 2005 and 2030 would undermine much of the savings these technologies would earn. Without changes to the transportation sector, it will be impossible to achieve the emissions reductions necessary to avoid the worst effects of climate change.

State Transportation Policies Do Not Manage Carbon Emissions, and Often Make Them Worse

States are in a unique position to bring down transportation-related GHG emissions, given their primary role in setting statewide transportation policy and directing large amounts of transportation funding. This report seeks to better understand the patterns and impacts of current state transportation policies and investment decisions in all 50 states.

# Solvency – Generic

**States play the key role in determining transportation policy**

Neha **Bhatt**, Smart Growth America, Colin **Peppard**, Natural Resources Defense Council, **and** Stephanie **Potts**, Smart Growth America, 12/14/**10**, NRDC: an international nonprofit environmental organization, and Smart Growth America: only national organization dedicated to researching, advocating for and leading coalitions to bring smart growth practices to more communities nationwide, “Getting Back on Track: Aligning State Transportation Policy with Climate Change Goals” <http://smartgrowthamerica.org/documents/getting-back-on-track.pdf>

Federal, state, and local governments all play a role making transportation policy and investment decisions. The federal government distributes funding to states, subject to federal planning requirements, through various transportation programs. Municipalities make decisions on the regional and local scale, customizing transportation networks to meet their specific community, economic, and geographically needs. However, **states have a variety of unique roles and responsibilities that place them at the nexus** of this joint responsibility. **States play the lead role** in establishing and administering overarching goals, standards, and policies for their regions and municipalities. States receive tens of billions of dollars in annual federal transportation grants. Combined with revenue from state fuel taxes, states oversee and distribute a greater amount of transportation funds than any other level government. States determine how these funds will be allocated geographically and prioritize infrastructure options, modes, and facilities, which in turn trigger different local infrastructure decisions and land development patterns. Each state has an executive agency or department that has responsibility for transportation planning, programs (including maintenance, safety, and environmental review), project implementation and construction, and in some cases operations, for multiple modes of transportation. The state departments of transportation (DOT) also collaborate with other transportation authorities, including tolling authorities, transit agencies, ports, and local governments (including specially designated districts), each of which are responsible for different portions of the transportation network. State transportation departments often have the lead responsibility for major infrastructure planning decisions, as well as the task of overseeing the design, review, and construction of a project, and ensuring compliance with any applicable federal standards or policies. **These powers and responsibilities position states as the dominant players in the transportation policy** and investment decision-making process, determining the trajectory of the transportation system, land development, and transportation-related GHG emissions.

# Solvency – Generic

**States can do infrastructure and investment policies independent of federal action – past successful state actions prove**

Neha **Bhatt**, Smart Growth America, Colin **Peppard**, Natural Resources Defense Council, **and** Stephanie **Potts**, Smart Growth America, 12/14/**10**, NRDC: an international nonprofit environmental organization, and Smart Growth America: only national organization dedicated to researching, advocating for and leading coalitions to bring smart growth practices to more communities nationwide, “Getting Back on Track: Aligning State Transportation Policy with Climate Change Goals” <http://smartgrowthamerica.org/documents/getting-back-on-track.pdf>

This report evaluates each state based on 17 policy and spending criteria that have been shown by expert analysis to achieve transportation sector GHG reductions. **States can also implement these criteria independent of local or federal action and each criterion has successfully been adopted in one or more state**s. The selected evaluation criteria fall into three categories:

-Infrastructure Policies—These are policies that result in specific changes to transportation infrastructure projects and associated land use patterns, or that change the way people use infrastructure through pricing and other incentives. This category evaluates a state’s overall policy framework, including how it uses innovative policy tools to improve transportation system efficiency while reducing its climate impact.

-Investments Decisions—This category of evaluation criteria tests the degree to which states support their overall policy intentions with corresponding investment decisions. Do states direct their transportation dollars in ways that support and promote low-carbon transportation? The investment criteria look at such things as whether a state takes advantage of the programmatic flexibility of federal funds, uses state funds to invest in cleaner transportation projects, and maintains its existing assets in a state of good repair. These criteria are used to evaluate the state’s overall performance in implementation and support of lower carbon transportation policies.

-Touchstone Policies—These policies show the depth of a state’s intention to reduce transportation sector emissions. Examples of touchstone policies include establishing a statewide VMT reduction target or adopting stringent carbon emission standards for vehicles. Having these policies on their own may not directly reduce GHG emissions or affect infrastructure decisions, but they are important indicators of the level of recognition by a state that transportation policies affect GHG emissions, and the commitment of the state to reducing emissions from transportation.

# Solvency – Generic – Investment

**Empirics prove that states can solve by themselves**

Robert **Puentes**, senior fellow with the Brookings Institution’s Metropolitan Policy Program where he also directs the Program's Metropolitan Infrastructure Initiative, **3/14**/12, “Web Chat: Investing in Transportation Infrastructure” http://www.brookings.edu/up-front/posts/2012/03/14-transportation-chat

12:49 Comment From Bob: In the current environment, can any other forms of revenue besides the gas tax be considered? Can it even be raised and tied to inflation?

12:52 Robert Puentes: The gas tax is the workhorse of the federal funding bucket. It is hard to replace and even harder to raise—given the current political climate and consternation about gas prices. Things like customs duties should be explored, vehicle miles travelled charges, tolling, public/partnerships, all should be on the table. But there’s no easy fix.

12:53 Robert Puentes: Bill passes 74-22. Yippee.

12:55 Robert Puentes: Interesting to note that outside of Washington the discussion is different. Maryland is looking at raising gas taxes. Chicago has put in place an Infrastructure Trust. Virginia is taking advantage of public/private partnerships. Los Angeles passed a referendum for transportation projects in the middle of the recession. So look outside of Washington for leadership on this issue.

# Solvency – Generic – Investment

**States have a lot of flexibility in terms of how to invest their transportation funding**

Neha **Bhatt**, Smart Growth America, Colin **Peppard**, Natural Resources Defense Council, **and** Stephanie **Potts**, Smart Growth America, 12/14/**10**, NRDC: an international nonprofit environmental organization, and Smart Growth America: only national organization dedicated to researching, advocating for and leading coalitions to bring smart growth practices to more communities nationwide, “Getting Back on Track: Aligning State Transportation Policy with Climate Change Goals” <http://smartgrowthamerica.org/documents/getting-back-on-track.pdf>

While sound policies are critical to directing state transportation policy, state investment decisions offer critical insight about where the true priorities lie. Investment decisions must back well-intentioned policies if they are to be effective. In 1991, Congress provided programmatic funding flexibility to increase state options for building multimodal systems. For example states have a large degree of flexibility in how to spend federal transportation dollars, particularly dollars received through the Surface Transportation Program. These funds can be spent on a variety of projects including roads, bicycle and pedestrian infrastructure, and they can also be “flexed” to support transit projects. In addition to federal funds, states also spend sizable state generated funds on transportation. The criteria within the investment category look at how states are choosing to make these substantial investments, and whether they are reinforcing state and federal climate and mobility goals or undermining them.

# Solvency – Generic – Investment

**States have been successfully using a plethora of investment tools for over a decade to fund transportation infrastructure**

Robert **Puentes**, senior fellow with the Brookings Institution’s Metropolitan Policy Program where he also directs the Program's Metropolitan Infrastructure Initiative **5/22**/12, “New Federalism Already Forming” http://transportation.nationaljournal.com/2012/05/not-waiting-for-the-feds.php

But the initial question is also right in that, in the absence of Congressional action, states and localities are stepping in to finance the kind of major investments necessary to support the next economy.

Increasingly, public infrastructure investment is taking place through innovative finance tools, revolving loan funds, trusts, and so-called ‘banks.’ Most of these offer direct loans at low interest rates to public and private entities, while some also offer grants, loan guarantees, bonds, and other financial instruments. According to forthcoming Brookings research, since 1995 thirty-three states have used infrastructure banks and funds to invest nearly $7 billion in over 900 different projects. These projects range from local road maintenance and highway construction to emergency relief for damaged infrastructure. The structure of the banks and projects in which they invest reflect the diversity of needs and resources across the U.S.

# Solvency – Generic – Transportation – Better Than Federal Gov

**The states should be in charge of transportation policy – they are much better at it than the federal government**

Gabriel **Roth**, civil engineer and transport economist and a Research Fellow at the Independent Institute and following a Rees Jeffreys Fellowship at the UK Road Research Laboratory and research at the Department of Applied Economics (University of Cambridge) on the economics of car parking he worked for 20 years in five continents as a transportation economist for the World Bank and served for three years as President of The Services Group - a consulting firm specializing in market-oriented approaches to economic development, **5/21**/12, “Phase out federal transport financing!” http://transportation.nationaljournal.com/2012/05/not-waiting-for-the-feds.php#2211529

The principle of “subsidiarity” postulates that government decisions should occur at the lowest practicable level, for example locally rather than nationally. This principle suggests that it is indeed time to relieve the federal government of the burden of financing transportation infrastructure, and of the onus of having to raise the required fees or taxes, and return these responsibilities to the states. The following reasons come to mind:

1. The purpose of federal financing — completion of the Interstate Highway System — has been virtually achieved, and it is difficult to identify other advantages from federal financing.

2. The disadvantages of federal financing — increased costs and intrusive regulation — are evident and substantial.

3. Congress, unable to increase the taxes dedicated to roads, seeks to use general funds to finance some of the transportation expenditures it considers necessary, thus abandoning the US traditional “user pays” principle for roads.

4. Congress keeps deferring long-term road legislation and substituting short-term-extensions of previous (2005) legislation, thus hindering long-term planning of transportation projects.

5. New methods to pay for road use — such as mileage-based user fees to replace fuel taxes — are more likely to succeed as a result of innovations sought by different states, than if imposed by a federal government seeking a “one size fits all” solution.

Reliance on general funds has the critical disadvantage that allocations to transportation from general revenues have to compete against other legitimate claims such as defense. On the other hand, when funding is by user fees, expenditures on infrastructure are determined by users’ willingness to pay.

# Solvency – Generic – A2: Not Enough Funding

**Virginia proves that states can have effective transportation policies with less funding**

Neha **Bhatt**, Smart Growth America, Colin **Peppard**, Natural Resources Defense Council, **and** Stephanie **Potts**, Smart Growth America, 12/14/**10**, NRDC: an international nonprofit environmental organization, and Smart Growth America: only national organization dedicated to researching, advocating for and leading coalitions to bring smart growth practices to more communities nationwide, “Getting Back on Track: Aligning State Transportation Policy with Climate Change Goals” <http://smartgrowthamerica.org/documents/getting-back-on-track.pdf>

Over the past several years, Viginia has experienced significant political challenges to funding badly needed transportation improvements.

As a result, state transportation officials have learned to do more with less, refocusing attention and funding on maintaining an extensive system of high-quality state roads, as well as state-funded regional transit. Funding for new capacity on any mode was approved sparingly, while numerous cost-saving measures were also implemented. These changes have occurred in years outside of our data range, and therefore do not show up in this analysis.

This included a new street connectivity regulation requiring that all new neighborhoods connect, or provide provisions to connect, to surrounding streets. The change aims to reduce the impact of cul-de-sac street design, which creates pressure to construct additional inefficient roads, turning lanes, and streetlights, driving up construction and maintenance costs, as well as the cost of emergency and municipal services. The policy will also result in better connected local street networks, which are one of the cornerstones of walkable neighborhood design.

In the case of Virginia, saving moneys through a priority on maintenance yielded benefits to taxpayers, motorists, and pedestrians.

# Solvency – High Speed Rail/Cooperation

**Empirics prove states can come together to invest in high speed rails**

**NPR**, **9/4**/09, “Midwestern States All Aboard High-Speed-Rail Push” http://www.npr.org/templates/story/story.php?storyId=112561131

Of the regions vying for grants from the $8 billion set aside by the Obama administration for the development of high-speed rail, the plan centered in the president's hometown seems to be one of the front-runners — but it's not just because of Chicago's clout in the White House these days.

The proposed high-speed "Chicago hub network" is an ambitious plan that would link Chicago with 11 other metropolitan areas.

Advocates say the development of high-speed rail in the region makes sense because of the concentration of people there who could be served by it.

"We've got a third of the population of the U.S. living within 500 miles of Chicago," says Rick Harnish, executive director of the Midwest High Speed Rail Association, a nonprofit high-speed-rail advocacy group. Harnish and others say high-speed rail works best and is most competitive as a travel option for distances of 500 miles or fewer.

Regional Collaboration

The governors of eight states — Ohio, Michigan, Illinois, Indiana, Wisconsin, Minnesota, Missouri and Iowa — have signed an agreement to work together to bring high-speed rail to the region.

"We're talking about fast trains," said Illinois' Democratic Gov. Patrick Quinn at a high-speed-rail summit he hosted for Midwestern governors and transportation officials in July. "Things that can get people from Chicago to St. Louis, Chicago to Detroit, Chicago to Milwaukee, Chicago to Minneapolis, Chicago to Cleveland, Chicago to Iowa City — faster than you can drive a car."

# Solvency – High Speed Rail

**States won’t do it if federal government gives the funding**

**Building America’s Future Educational Fund**, bipartisan coalition of elected officials dedicated to bringing about a new era of U.S. investment in infrastructure, founded by former Governer Rendell of Pennsylvania and former Government Schwarzenegger of California and Mayor Bloomberg of New York and has a diverse membership of state and local elected officials from across the nation, 20**11**, “Building America’s Future - Falling Apart and Falling Behind” <https://docs.google.com/viewer?a=v&q=cache:GmWS-sY8hEkJ:www.bafuture.org/sites/default/files/Report_0.pdf+&hl=en&gl=us&pid=bl&srcid=ADGEESgstzwvkXiHGjZpHO3Cuugda_oUJi_DcDIhG0CCwNi4VIEjkaRzgKHb7iFFNYWZhJQLJ3uq_XnuwNWmg9zhlAn4bjlBs37X2rJUusywV0olTy6J9A8KeEdOT0hA5NlAgSsDAR6z&sig=AHIEtbT3X5uDAJH3zzsxr_c-9YmPASrZ-A>

Comparatively speaking, the U.S. is practically sitting the high-speed rail competition out. The Obama Administration has announced a vision of a nation-wide highspeed rail network. But $10 billion in initial funding pales in comparison with our competitors’ investments. And spreading that $10 billion around 36 states runs the risk of achieving nothing at all. As we watch states change course after the 2010 election and decline some of the high-speed rail funds they had been awarded, we must concede that President Obama is not all right on this issue, and the new governors are not all wrong.

# Solvency – High Speed Rail

**States will play a major role in developing high speed rails**

**NCSL**, “National Conference of State Legislatures,” 20**11**, “2011-2012 Policies for the Jurisdiction of the Transportation Committee” http://www.ncsl.org/state-federal-committees.aspx?tabs=854,15,699#Nations\_Rail\_System

Successful evolution of an intercity passenger rail network throughout the United States, including dedicated high-speed corridors, will require cooperation among all levels of government. States will play a significant role in developing the high-speed and intercity passenger rail system, including developing state rail plans, providing funding and financing, conducting studies and analyses, securing rights-of-way, materials testing, construction, acquisition, inspections and determining where the train system interfaces with state transportation facilities.

# Solvency – High Speed Rail

**The states should be the ones involved in developing high speed rails**

**NCSL**, “National Conference of State Legislatures,” 20**11**, “2011-2012 Policies for the Jurisdiction of the Transportation Committee” http://www.ncsl.org/state-federal-committees.aspx?tabs=854,15,699#Nations\_Rail\_System

High-Speed Rail -- NCSL urges the federal government to support the states in meeting their expanded role in high-speed and intercity passenger rail and to facilitate interstate coordination as well as relationships among diverse stakeholders. NCSL also urges the federal government to support and facilitate the efficient integration of the high-speed rail network with local transportation systems to ensure the success of both. NCSL further recognizes that railroads over whose rights-of-way many high-speed rail authorities will operate have a legitimate concern over increased exposure to liability as a result of high-speed rail operations. This liability issue must be addressed by Congress in the context of high-speed rail legislation. NCSL requests that state legislators be included in ongoing cooperative agreements to explore solutions to this problem. The long-term goal in certain corridors should be track that is dedicated to high-speed service exclusively, in accordance with the U.S. Department of Transportation’s definition of high-speed rail. The federal government should facilitate the steps to reach that goal over time

# Solvency – High Speed Rail

**States have already successful improved rail systems – and can do more with the funding they have**

Petra **Todorovich,** Director of America 2050, a national urban planning initiative to develop an infrastructure and growth strategy for the United States and has written articles on transportation and infrastructure policy and is a frequent speaker on the topics of transportation policy and directed Regional Plan Association's Region's Core program and coordinated the Civic Alliance to Rebuild Downtown New York, a network of organizations that came together shortly after 9/11 to promote the rebuilding of the World Trade Center site and is also an Assistant Visiting Professor at the Pratt Institute Graduate Center for Planning and the Environment and a member of the Board of Advisors of the Eno Transportation Foundation and received a B.A. from Vassar College and a Masters in City and Regional Planning from the Bloustein School of Planning and Public Policy at Rutgers University, Daniel **Schned**, an Associate Planner for America 2050 and is a Part-Time Lecturer at the Edward J. Bloustein School of Planning & Public Policy at Rutgers University and received his Bachelor of Arts from Macalester College and his Masters in City and Regional Planning and Certificate in Geospatial Information Science (GIS) from Rutgers University, **and** Robert **Lane**, 2011, “High-Speed Rail International Lessons for U.S. Policy Makers” Policy Focus Report – Lincoln Institute of Land Policy, <https://www.lincolninst.edu/pubs/dl/1948_1268_High-Speed%20Rail%20PFR_Webster.pdf>

In the absence of consistent federal support for passenger rail, states including California, North Carolina, Pennsylvania, and Washington have established dedicated funding streams to improve conventional passenger rail corridors operated by Amtrak. Other states, such as Illinois, Maine, and Vermont, have directed state general funds or ﬂexible federal funds to subsidize and supplement their passenger rail service (U.S. GAO 2010).

 These state investments have led to the purchase of new rail cars in Washington, track upgrades for and re-electriﬁcation of the Keystone Corridor in Pennsylvania, and more frequent, reliable service and higher ridership on all state-sponsored lines. State funding for rail has come from various sources, including portions of state gas and diesel taxes, ﬂexible funding from the federal Congestion Mitigation and Air Quality Improvement Program, state rental car taxes, and proceeds from specially branded Cash Train scratch lottery tickets in Washington state.

# Solvency – Rural Roads

**Solvency – rural roads – state investment leads to federal investment**

Russell **Nichols**, a GOVERNING staff writer and is a former city reporter for the Boston Globe and has written stories on business, education, health, arts and religion for numerous publications including the Los Angeles Times and Sacramento Magazine, **and** Ryan **Holeywell**, covers the federal government, municipal distress and transportation issues for GOVERNING and his previous work has been published by the Washington Post and USA Today and he has appeared on CNN and public radio to discuss his articles, June 20**11**, “Six Ideas for Fixing the Nation's Infrastructure Problems”, http://www.governing.com/topics/transportation-infrastructure/six-ideas-for-fixing-the-nations-infrastructure-problems.html

But rural states shouldn’t just wait idly for federal funds to trickle down, says Sean Slone, transportation policy analyst for the Council of State Governments. Transportation officials, he says, should use their limited dollars to widen and upgrade two-lane roads and relieve congestion by investing in roadway redesign and technologies that improve traffic flow. “By improving roads in, around and through rural communities, states and localities can better serve the freight, agricultural and energy sectors and make them an even more vital link in the nation’s supply chain,” he says. “That will, in turn, put rural states higher on the priority list for future federal investment.”

# Solvency – Devolve Federal Power

**States need to be given more power – especially with federal funding problems – and some of these policies are happening now**

Russell **Nichols**, a GOVERNING staff writer and is a former city reporter for the Boston Globe and has written stories on business, education, health, arts and religion for numerous publications including the Los Angeles Times and Sacramento Magazine, **and** Ryan **Holeywell**, covers the federal government, municipal distress and transportation issues for GOVERNING and his previous work has been published by the Washington Post and USA Today and he has appeared on CNN and public radio to discuss his articles, June 20**11**, “Six Ideas for Fixing the Nation's Infrastructure Problems”, http://www.governing.com/topics/transportation-infrastructure/six-ideas-for-fixing-the-nations-infrastructure-problems.html

States pay for about two-thirds of surface transportation spending. With less money available from the feds, their portion may need to grow -- an increasingly familiar storyline in all areas of funding right now. Given that dynamic, states and localities are asking for more flexibility on how they can spend federal dollars and are endorsing plans that would allow the federal government to leverage the limited funds that are available.

One idea that has received bipartisan support is a plan known as America Fast Forward. It’s a proposal to expand a federal program of the Transportation Infrastructure Finance and Innovation Act (TIFIA) that provides low-interest loans for transportation projects. The proposal’s biggest cheerleader is Los Angeles Mayor Antonio Villaraigosa. In 2008, Angelinos approved a sales-tax hike for a set of highway and transit projects; but rather than funneling that revenue into new projects outright, Villaraigosa’s goal is to use the money to pay debt on a federal transportation loan. An upfront loan would allow the city to complete its projects rapidly while using the proceeds of its 30-year sales-tax hike to pay it back over time. Currently TIFIA isn’t big enough to accommodate such large-scale plans, which is why Los Angeles has backed a national push to expand the program from $122 million annually to $375 million, and to raise its cap from 33 percent of project costs to 49 percent. “It’s an idea that’s different from a grant program,” says L.A. Deputy Mayor for Transportation Jaime de la Vega. “We’re coming to the table with money and saying we need a partnership. It’s not a handout.”

State leaders are also backing a plan to reduce the number of federal highway programs from 55 to five, in an effort to gain greater flexibility in how the dollars are spent. That would help clear up what some people see as troublesome inconsistencies in how funds are meted out. For example, federal aid can be used for preventive maintenance of highways, but routine maintenance is considered a state responsibility. Rhode Island Transportation Director Michael Lewis recently testified before Congress that his state has to take on debt just to get the required match to receive transportation funds, when that money could have been used to perform maintenance. “Now is not the time to tie our hands and limit the use of transportation dollars and assets,” Lewis told Congress.

Other options that would grant more power to states have been gaining traction in D.C., including creating an infrastructure bank, expanding public-private partnerships and allowing tolling on interstate highways (an idea LaHood has said he’s open to). However, flexibility can be a double-edged sword, cautions Leslie Wollack, program director for infrastructure and sustainability at the National League of Cities. “If flexibility means a state doesn’t want to spend any [of its own] money on transportation enhancement or transit or to collaborate on what’s going on at the local level, then we see that as a problem.”

# Solvency – Devolve Federal Power

**The federal government should give states more power over their transportation policies**

**NCSL**, “National Conference of State Legislatures,” 20**11**, “2011-2012 Policies for the Jurisdiction of the Transportation Committee” http://www.ncsl.org/state-federal-committees.aspx?tabs=854,15,699#Nations\_Rail\_System

Recent federal reauthorizations have recognized the unique contributions of each transportation mode to the productivity of the states and the nation, and to the ability of this nation to compete globally in the emerging and existing international economies. These laws contemplate an integrated transportation system for the movement of both goods and people, with increased emphasis on adopting technologies that improve productivity. NCSL urges Congress to provide states enhanced programming flexibility to meet a multitude of national goals. States should have maximum flexibility in deciding how to generate and leverage transportation revenues and how to use state and federal dollars. The ability of states to maintain flexibility in decision making and comply with environmental and other mandates is dependent upon regulatory flexibility as well as adequate and reliable funding.

# Solvency – Devolve Federal Power – Railroads

**Federal government should give states more power over railroad companies**

**NCSL**, “National Conference of State Legislatures,” 20**11**, “2011-2012 Policies for the Jurisdiction of the Transportation Committee” http://www.ncsl.org/state-federal-committees.aspx?tabs=854,15,699#Nations\_Rail\_System

The increasing mix of freight, commuter and intercity passenger rail on shared tracks and rights-of-way demands that concerns over liability and costs be rationally reviewed within the context of federal legislation. Fair and equitable standards for assessing costs, risks and priority usage are a necessary component of furthering the nation's rail network for passengers and freight.

Passenger rail progress should be complementary to—not in conflict with—freight rail development. Freight railroads should be fully compensated for the use of their property by passenger trains.

States should retain the ability to enact laws that govern railroad issues. NCSL encourages Congress to repeal provisions in federal law that exempt railroad companies from certain local and state laws.

Financing and Tax Issues

NCSL supports efforts by Congress to provide investment tax credits for railroad infrastructure investments that expand capacity for the movement of both passengers and freight. Without private sector rail investment in infrastructure to accommodate increasing demand for goods movement, freight increases will necessarily be diverted to highways, further congesting and damaging America's already challenged highway infrastructure. Anticipated future revenues will be inadequate to allow the railroads to privately finance all capacity improvements required even to maintain their current market share of freight traffic.

NCSL also urges the federal government to continue to support state flexibility in financing rail service in states. NCSL favors a range of options including grants, guaranteed loans, tax exempt bonds, public-private partnerships and targeted federal investment. The present state volume cap on bond financing with exemption from federal taxation imposes an artificial restraint on the use of such bonds for rail projects and should be eliminated.

NCSL further urges the federal government to allow states flexibility to use a portion of their allocation from the Highway Trust Fund to finance rail projects and service.

NCSL urges the federal government to continue the tax credit for short line and regional railroads as an important incentive for upgrading and modernizing inadequate track and bridge structures. This support is critical to aid states in maintaining essential branchline services that otherwise would be eliminated.

NCSL also urges the federal government to fund railroad infrastructure modernization grant programs such as “Capital Grants for Class II and Class III Railroads” program at 49 USC §22301 and the “Capital Grants for Rail Line Relocation” program at 49 USC §20154.

Federal laws that preempt the role of state courts by giving federal courts jurisdiction to establish the valuation of property for state and local tax purposes, or that give selected classes of state and local taxpayers procedural and substantive privileges unavailable to most taxpayers, **offend principles both of federalism and equity.**

# Solvency – Loan Guarantees

**States can give loan guarantees – which also generate revenue for them**

Ted K. **Bradshaw**, associate professor of development theory at UC-Davis, 200**2**, “The Contribution of Small Business Loan Guarantees to Economic Development”, <http://www.uk.sagepub.com/chaston/Chaston%20Web%20readings%20chapters%201-12/Chapter%204%20-%2041%20Bradshaw.pdf>

Investing in the SLGP generated revenues for the state in a number of ways, providing a significant economic development benefit. The size of these revenues is not exact because data must be estimated to gauge some of the impacts. For example, although aggregate payroll is known, it is not known how this payroll was distributed among individual employees and how much of the payroll went to newly hired workers. Also, the profitability of the small businesses is not disclosed due to the confidential nature of these data. Nonetheless, some reasonable assumptions can be made about the revenue that the state could expect to gain from businesses such as those that received loan guarantees. The SLGP generated jobs and sales that contributed sales tax, business tax, personal income tax on payroll, and other payroll taxes. 7 These estimated tax revenues 8 are summarized in Table 3. First, loan money gets spent for taxable goods. The loan program guaranteed $193 million in loans between 1990 and 1996 that led to equipment, supply, and other taxable purchases as well as many nontaxable services and materials. Interviews with firms and loan officers helped to estimate that about a quarter of the loan funds, $50 million, was spent on taxable purchases, which generated $2.5 million in state sales tax revenues (5% tax rate) and $1.45 million in local sales tax (2.9% tax rate). Second, firms selling items to retail customers (many businesses in addition to retail stores) also generate sales tax on their increased sales volumes. Based on data reported on the EBR, total sales to customers by firms receiving loan guarantees generated approximately $80 million in sales taxes. To be conservative, I estimated that only 25% of the tax receipts, about $20 million, was due to growth attributable to loans because retail firms grew more slowly than the average for firms getting loan guarantees. Of that amount, $12.5 million went to the state and $7.5 million went to local governments. Tax on multiplier-induced sales is not included in these estimates. Although some of this tax would have been collected by existing retail stores even without SLGP-induced growth, at minimum, consumer preferences were met. Third, the firms receiving loans were also able to generate some profit, which would be subject to business taxes. The amount of profit is, of course, not available, but I was able to estimate that a proportion of sales was taxable profits by using approaches developed by Sheffrin and Dresch (1995). Based on data provided by the firms and extrapolated to firms lacking data, sales by all businesses receiving loan guarantees were about $4 billion, of which an estimated $1.6 billion was growth associated with the loan guarantee. A common small-business rule of thumb used in projecting revenue for state governments is that taxable profits are 5% of sales. These profits were taxed at the 9% rate for corporate taxes ($800 minimum for corporations). Thus, while having an active loan, businesses paid an estimated $5.5 million in additional business taxes based on the growth associated with receiving a loan. Finally, the firms receiving SLGP guarantees increased their employment by 7,000 employees. (This estimate includes expected growth in businesses for which no EBR was available.) The increased employment is expected to increase payroll (based on payroll data for the 4,600 employees for whom data were available) in the neighborhood of at least $375 million more than what it would have been without the loan program. Although much of this income might be earned by lowincome employees, an estimated 25% of the increased payroll would be subject to state income tax, which would average 4% at the low bracket. Thus, employees whose payroll came from the SLGPstimulated increase in employment conservatively paid at least $3.6 million in state income tax on their earnings. In addition, employers must pay employment taxes of 3.4% on the first $7,000 of employee earnings, which produced $1.4 million for the state. In total, Table 3 shows that the firms receiving loan guarantees from 1990 to 1996 are estimated to have contributed (or will be expected to contribute while they have an outstanding loan) $25.5 million in tax directly to the state and $9 million in local sales tax. 10 The tax payments may be compared to what the state spent on the program during this period, which was $13 million in support of the program, plus interest on the $32 million trust fund ($9.2 million) that covered loan losses ($3.7 million). Annual tax revenues were nearly double annual appropriations, and interest on the trust fund exceeded losses ($9.2 million interest was earned while losses totaled only $3.7 million, with the difference being spent by the corporations for operations). If one takes into account local revenues, the SLGP produced half again as much as it cost, although that never was an SLGP goal. The fact that estimated revenues exceeded expenditures needs to be put in the context of other economic development programs. On a per-job basis, the state’s annual expenditure from 1990 to 1996 of about $13 million plus interest on the trust fund generated an estimated 7,000 new jobs at an average cost to the state of about $3,000 per job. 11 In comparison, the rural Urban Development Action Grant (UDAG) program spent $5,546 per job, whereas other federal job creation activities cost upward of $13,000 to $19,000 per job (Howland & Miller, 1990). In a study of Small Cities Economic Development-subsidized loans in Minnesota, Dewar and Hagenlocker (1996) estimated that the program cost from $3,000 to $10,000 per job. Expensive incentive programs such as the BMW assembly plant in South Carolina cost $68,000 per job, and the Mercedes Benz plant recruited by Alabama in 1993 reportedly cost the state $150,000 to $200,000 in incentives for every job (see Schweke, Rist, & Dabson, 1994).

# Solvency – State Infrastructure Banks

**State infrastructure banks solve better than federal policy**

Anastasia **Christman**, Senior Policy Analyst at the National Employment Law Project, **and** Christine **Riordan**, Policy Analyst at the National Employment Law Project, December 20**11**, “State Infrastructure Banks: Old Idea Yields New Opportunities for Job Creation”, <http://nelp.3cdn.net/fadb21502631e6cb79_vom6b8ccu.pdf>

Yet, federal funding streams through the National Surface Transportation Act or the Federal Highway Trust Fund send money to the states without requirements to consider the infrastructure needs of cities and metropolitan areas. As a 2008 policy brief from the National Conference of Mayors noted, “[O]f the more than $42 billion annually flowing to states for surface transportation investment, only six percent of available funds are directed to decision-makers in the nation’s metropolitan areas.” 10 Unfortunately, traditional sources of state funding aren’t doing the job. Through 2010, nineteen U.S. states cut transportation funding, 11 and in 2011 another six states followed suit. 12 To truly address the infrastructure shortcomings that affect our communities most acutely, we need state-level solutions that include input from local lawmakers and local constituents. Even in the absence of an NIB, two-thirds of state legislatures have already embraced the concept of the infrastructure bank. Since the 1990s, various federal bills have authorized states to create their own state infrastructure banks (SIBs) to finance priority projects. In this brief, we will elaborate on the different types of SIBs that exist today, share some interesting projects that have been funded with SIBs, and posit some best practices that advocates in any state could be urging lawmakers to adopt. An SIB, if designed with enough flexibility in applicable projects and with opportunities for local advocates and lawmakers to weigh in on priorities, can be an effective tool for repairing the ill effects of decades of neglect to our communities’ transportation networks, water systems and power grids.

# Solvency – State Infrastructure Banks – A2: No Funding

**They can be self-sustaining**

Anastasia **Christman**, Senior Policy Analyst at the National Employment Law Project, **and** Christine **Riordan**, Policy Analyst at the National Employment Law Project, December 20**11**, “State Infrastructure Banks: Old Idea Yields New Opportunities for Job Creation”, <http://nelp.3cdn.net/fadb21502631e6cb79_vom6b8ccu.pdf>

Many states recognize they must increase funding for their departments of transportation. As lawmakers and their constituents engage in this dialogue, advocates should urge that some of the revenues be used to fund an SIB. Managed properly, an SIB can attract private capital to infrastructure projects, and the revolving loan structure can, with prudent choices in spending, make the SIB self-sustaining. Several states are considering an increase in their gasoline taxes. “Essentially, our needs cannot be met without new dedicated taxes and fees,” noted the head of the Northern Virginia Transportation Alliance. 62 The Virginia gas tax hasn’t been raised since 1987. Nearby, Maryland lawmakers will consider a 15-cent gas tax increase during their 2012 session and have proposed creating a “lockbox” to ensure the money remains dedicated to transportation improvements. 63 In Michigan, lawmakers have proposed repealing the state gas tax entirely, and replacing it with an increase in the sales tax with the extra revenues going to the Michigan Transportation Fund. 64 Other states have rejected this option. In North Carolina, state law pegs the gas tax to the cost of wholesale fuel prices, allowing it rise and fall with gasoline prices. However, the state’s House of Representatives recently voted to block an increase scheduled for January 2012. North Carolina Department of Transportation officials estimate the resulting cut in revenues will mean canceling plans for repaving 400 miles of highways and replacing 72 bridges, costing an estimated 2,800 jobs. 65 Similarly, in Iowa, the governor has rejected a gasoline tax increase recommended by a specially appointed citizens’ panel. 66 Iowa’s gas tax hasn’t been raised since 1989. Increasing the gasoline tax is controversial, and advocates need to make sure that the revenue is used responsibly and equitably. Often, consumers in urban areas pay more in tax receipts than they receive in allocations, effectively subsidizing suburban sprawl. One solution is to ensure that gasoline taxes may also be used to pay for improvements to public transit, congestion relief and air-quality improvement projects that can bring benefits—and jobs—into dense urban areas. Furthermore, gasoline taxes can hit low-income workers with few transportation choices particularly hard. When Minnesota passed its gasoline tax increase in 2008, the legislature included a tax credit for those in the lowest tax brackets to help offset the increased costs. 67 Drafting legislation that allows today’s gasoline taxes to be used to develop mass transit systems is a smart tactic that can help all workers access jobs today and prepares for a future when increasing fuel-efficiency and evolving technologies that allow for alternative work patterns will limit revenues from a gasoline tax. States are also assessing the possibility of increasing vehicle registration fees. Michigan’s governor has proposed a fee of up to $40 per car to finance local road projects. 68 Texas legislators have proposed increasing their fees by about $50. 69 Advocates need to ensure that vehicle fees are tied to the value of the vehicle; an across-the-board increase would be regressive, forcing drivers of economy cars to pay the same amount as owners of luxury vehicles. Furthermore, advocates in Minnesota believe that their voter-passed sales tax on vehicle sales contains too many exemptions to capture the full revenue opportunities of this strategy. The Minnesota Transportation Alliance has estimated that over $100 million annually is lost to these loopholes. 70 Finally, lawmakers should consider new options if we are going to avert widespread collapse of our infrastructure, keep our economies competitive and create quality jobs. While general sales taxes ask even those without cars to finance road improvements, residents of several states and cities have agreed to pay more at the cash register to preserve transportation systems. 71 Half-a-dozen counties in Minnesota have acted on provisions in that state’s 2008 transportation bill allowing them to levy a sales tax dedicated to transportation improvements. While the legislation did not require voter approval of these taxes, in 2004, voters in Maricopa County, Arizona, approved a similar sales tax increase of a half-cent over 20 years to fund regional transportation efforts there. In late 2008, at the height of the Great Recession, Los Angeles voters approved Measure R, agreeing to a half-cent sales tax that is projected to raise between $34 billion to $40 billion over the next 30 years to fund traffic relief and transportation upgrades. 72 It is important to note, however, that in the ongoing sluggish economy, sales taxes may not raise anticipated revenues. The Arizona tax did not result in as much revenue as forecast in 2010, but it did raise $299 million that will go into the construction of freeways, improving existing freeways and arterial streets, and expanding public transit systems. 73 In the current budget climate, pushing for new spending is challenging. However, funding infrastructure improvements is critical: improving transportation networks can cut traffic congestion, enhance productivity for local businesses, put people to work, and prepare our communities for a reinvigorated 21st century economy. State infrastructure banks can be an important tool in this process. They can supply the initial capital to get projects moving quickly, attract private funding, and use repayments from old projects to fund new ones. However, advocates need to be actively engaged to ensure that SIBs use taxpayer money responsibly to finance projects that will truly improve our communities and create quality jobs. Whether one lives in a state that already has an SIB or is working with lawmakers seeking to start a new SIB, it is important to keep some key criteria in mind.

# Solvency/A2: Theory – Uniformity

**Empirics prove that states work together all the time on transportation policies**

Nick **Crow**, The Journal-Standard, **6/16**/12, “High-speed rail in 2014?” <http://www.journalstandard.com/news/x465803678/High-speed-rail-in-2014>

Local leaders from the Freeport area hope that recent discussions at a meeting of the Tri-State Alliance will help to make transportation projects in the region become a reality.

The Tri-State Alliance states that their mission is to “convene the region’s leaders to address issues that affect commerce so that the quality of life is improved for the region of Northern Illinois, Northeastern Iowa, and Southwestern Wisconsin.” The Tri-State Alliance meets yearly and hosts representatives from: Beloit, Belvidere, Dubuque, Freeport, Galena, Janesville, Platteville, Rochelle, and Rockford.

“It’s great to have the Tri-State Alliance alive and well and have all the participants involved,” said Executive Director of the Freeport Area Chamber of Commerce Kim Grimes. “It’s a pleasure to get the group together once a year. Having the communities work together enhances our ability for growth in the tri-state area. It’s important for this group to get together.”

Passenger Rail

During the Tri-State Alliance meeting, George Weber, Deputy Director of the Division of Public and Intermodal Transportation for the Illinois Department of Transportation (IDOT), stated that passenger rail service between Chicago and Dubuque is set to begin in 2014.

# Solvency/A2: Theory – Uniformity

**Cooperation and join action is real world**

Darren A. **Prum**, Assistant Professor at Florida State University, **and** Sarah L. Catz, Center for Urban Infrastructure at University of California – Irvine, 20**11**, “Greenhouse Gas Emission Targets And Mass Transit: Can The Government Successfully Accomplish Both Without A Conflict?”, Santa Clara L. Rev. 935

Aside from each states' individual approaches, many states have decided to pursue the reduction of greenhouse gases in conjunction with other jurisdictions. Through this strategy, these states can increase efficiency because more uniform regulatory settings occur and duplicative efforts are removed. n147 One of the earliest programs to try this approach was the Regional Greenhouse Gas Initiative (RGGI) formed by several states in the Northeast. n148 The plan began with a Memorandum of Understanding, which was signed by seven governors in December 2005 with the goal of reversing global warming. n149 Following the RGGI approach, several Western states formed the Western Climate Initiative in February 2007, n150 and several states in the Midwest created the [\*962] Midwestern Regional Greenhouse Gas Reduction Accord in November 2007. n151 Interestingly, the State of Florida initially planned to implement its own program, but may instead join another association or foster one within the Southeastern region. n152 In reviewing these initiatives, their main emphasis includes the creation of programs to lower carbon dioxide emissions from the existing production of electricity, to expand the generation of power from renewable sources, to collect data on renewable energy credits, and to conduct research and develop guidelines for carbon sequestration. n153 The RGGI approaches its mission through a "cap-and-trade" type of program aimed solely at electrical generation. n154 The other initiatives, however, augment the "cap-and-trade" by including industrial combustion and processing sources along with fuels used by residential, industrial, and commercial buildings, as well as in transportation. n155

# Solvency/A2: Theory – Uniformity – Climate Change

**States have empirically successfully acted together on climate change policies – and have provided a model for the federal government**

Alan **Greenblatt**, a news writer for npr.org and a former staff writer for Governing magazine, July/August 20**10**, “Is the president exploiting the states’ fiscal woes to push his policies?” http://www.ncsl.org/magazine/federalism-in-the-age-of-obama.aspx

As Terrill suggests, taking ownership of an issue has become a familiar role for state lawmakers. That dynamic is just as evident when it comes to climate change.

The U.S. Senate has frequently served as the undertaker for global warming bills over the past decade. Its most recent effort suffered a near-death experience when the sole Republican co-sponsor pulled his support a couple of days before the bill’s scheduled introduction in April.

Its remaining sponsors are forging ahead, and climate change may yet be revived in this Congress (although even its supporters are not optimistic at this point). It’s clear, however, that the Senate will not support a cap-and-trade regimen as ambitious as the one passed by the House last year—or the cap-and-trade programs already in place in the Northeast or being planned among other regional consortiums of states.

“**States have done an incredible job of working together**,” says California Senator Fran Pavley. “While Washington has been on hold, states have made many efforts to reduce energy use.”

**And even when Washington has acted, states have often provided the model.** That’s true of the vehicle gas mileage standards Obama imposed this spring, which were largely based on Pavley’s pioneering 2002 law regulating greenhouse gas emissions from cars. And it’s certainly true of Obama’s primary legislative accomplishment, the health care law that was patterned in large degree on earlier efforts in Massachusetts and other states.

# A2: Perm Do Both

**1. Still links to the net benefit – the permutation includes federal government action, which still violates the principles of federalism AND/OR messes up the federal government budget.**

**2. Federal policy cause states to abandon their own policies**

**Adler**, Professor of Law and Co-Director, Center for Business Law and Regulation, Case Western Reserve University School of Law, **07** (Jonathan H., “WHEN IS TWO A CROWD? THE IMPACT OF FEDERAL ACTION ON STATE ENVIRONMENTAL REGULATION”, 31 Harv. Envtl. L. Rev. 67, Lexis)

Just as federal attention to a given environmental concern may increase the demand for state-level action, the adoption of a given federal standard may send a signal that discourages the adoption or maintenance of more  [\*95]  protective state regulations. Specifically, the adoption of a given regulatory standard by a federal agency sends a signal that the standard is worthwhile. [n118](http://www.lexisnexis.com/us/lnacademic/frame.do?tokenKey=rsh-20.511255.98477628967&target=results_DocumentContent&reloadEntirePage=true&rand=1214593074266&returnToKey=20_T4054175409&parent=docview#n118) Among other reasons for this effect is that federal policy-makers, particularly federal agencies, are presumed to have substantial technical expertise. Thus, their actions may convince state policy-makers (or their constituents) that additional safeguards are "unnecessary" or that the benefits of more stringent regulatory protections are not worth their costs. The magnitude of this effect is likely to correspond with the magnitude of the difference between the relevant federal and state standards. In this way, federal standards can discourage state policy-makers from adopting and maintaining more stringent measures of their own, even where such measures could be justified. As a practical matter, the federal "floor" may become a "ceiling" as well. This effect is not merely hypothetical. There are numerous examples of state legislation designed to prevent state environmental agencies from adopting regulatory standards that are more stringent than federal rules. [n119](http://www.lexisnexis.com/us/lnacademic/frame.do?tokenKey=rsh-20.511255.98477628967&target=results_DocumentContent&reloadEntirePage=true&rand=1214593074266&returnToKey=20_T4054175409&parent=docview#n119) Between 1987 and 1995, nearly twenty states adopted at least one statute limiting the ability of state agencies to adopt regulatory controls more stringent than relevant federal standards. [n120](http://www.lexisnexis.com/us/lnacademic/frame.do?tokenKey=rsh-20.511255.98477628967&target=results_DocumentContent&reloadEntirePage=true&rand=1214593074266&returnToKey=20_T4054175409&parent=docview#n120) Some states focus on a given environmental concern, while others have general prohibitions against the adoption of any environmental rules more stringent than applicable federal standards. [n121](http://www.lexisnexis.com/us/lnacademic/frame.do?tokenKey=rsh-20.511255.98477628967&target=results_DocumentContent&reloadEntirePage=true&rand=1214593074266&returnToKey=20_T4054175409&parent=docview#n121) New Mexico and Colorado, for example, have statutes prohibiting the promulgation of air pollution controls more stringent than those required by federal law. [n122](http://www.lexisnexis.com/us/lnacademic/frame.do?tokenKey=rsh-20.511255.98477628967&target=results_DocumentContent&reloadEntirePage=true&rand=1214593074266&returnToKey=20_T4054175409&parent=docview#n122) Virginia law bars state regulatory authorities from requiring greater amounts of water treatment than mandated under the federal Clean Water Act ("CWA"). [n123](http://www.lexisnexis.com/us/lnacademic/frame.do?tokenKey=rsh-20.511255.98477628967&target=results_DocumentContent&reloadEntirePage=true&rand=1214593074266&returnToKey=20_T4054175409&parent=docview#n123) Other states have general prohibitions against agency promulgation of environmental rules more stringent than federal law. [n124](http://www.lexisnexis.com/us/lnacademic/frame.do?tokenKey=rsh-20.511255.98477628967&target=results_DocumentContent&reloadEntirePage=true&rand=1214593074266&returnToKey=20_T4054175409&parent=docview#n124)

**3. Joint action leads to inefficient policies**

Alice M. **Rivlin**, Senior Fellow of Economic Studies at the Brookings Institution and recently served as a member of the President’s Debt Commission and was founding director of CBO served as OMB director and was Federal Reserve Vice Chair, **6/12**/12, “Rethinking Federalism for More Effective Governance” http://publius.oxfordjournals.org/content/early/2012/06/12/publius.pjs028.full?keytype=ref&ijkey=j9keOPmOHj0c2xV

A bolder approach would be for the federal government to cede some major functions to the states and concentrate on carrying out its remaining national responsibilities more effectively. The case for dividing the governmental job rests partly on efficiency—lowering the administrative cost of federal state overlap and interaction. It also rests on the perception that the United States is an extremely diverse country and that many governmental services should be tailored to local conditions. Whether the service is education or housing or transportation, residents of inner city Philadelphia have different needs than those of rural Kansas or coastal Alaska. Governments closer to the scene are better able to assess the needs of citizens and design programs to meet them. It is easier for citizens at the state and local level to be actively involved in what their government does and call officials to account for their performance.

# A2: Federal Pre-Emption

**Federal law can only preempt state law if there is a direct conflict**

Michael S. **Greve**, Adjunct Professor at Boston University and got his Ph.D. in government at Cornell University, **and** Richard A. **Epstein**, Professor of Law at the University of Chicago, June 20**07**, “Federal Preemption: Principles and Politics,” American Enterprise Institute, No. 25, http://www.aei.org/outlook/26296 AD 07/08/09

The inexorable expansion of the commerce power during the New Deal period brought that era to a close. "Dual" federalism and exclusive federal and state powers gave way to concurrent powers, in which the federal government, under the Supremacy Clause,[3] may decide whether to rule the roost alone or to share power with the states. So long as Congress makes its intentions clear, it may displace the states, either in whole or part, for any reason (except in some marginal cases). Modern preemption doctrine--the preemption doctrine of the New Deal--is a self-conscious attempt to counter the centralizing effects of a boundless Commerce Clause. Federal law preempts state law when the two are in actual conflict; that much follows straightforwardly from the Supremacy Clause. Likewise, federal law displaces state law when Congress has expressly provided for preemption. That, too, rests squarely on the Supremacy Clause. Beyond these two cases, however, courts will not "imply" federal preemption unless that is the intended result. The intent of Congress is the touchstone of post-New Deal preemption doctrine. Moreover, especially in areas of "historic" state powers (such as health and safety regulation), courts apply a "presumption against preemption": preemption must be clearly intended before courts will give the nod to Congress.

# A2: Federal Pre-Emption

**Obama has ensured that federal preemption is very limited now**

Robert A. **Schapiro**, Professor of Law and Emory Law & Author of Polyphonic Federalism: Toward the Protection of Fundamental Rights, 6/10/**09**, “Springtime for Federalism.” American Constitution Society, http://www.acslaw.org/node/13556 AD 07/08/09

It has been a good spring for federalism. In recent years, the doctrine of preemption has stood as a prime enemy of federalism and an obstacle to state efforts to promote health, safety and environmental protection. For that reason, President Barack Obama's May 20 memorandum limiting federal assertions of preemption comes as welcome news. That memo, along with an important Supreme Court decision in March, signals a turn away from an aggressive policy of administrative agency preemption and recognition of the value of concurrent state and federal regulatory initiatives. The basic principle of preemption, that state laws cannot interfere with the operation of the federal government, is an important and uncontroversial feature of our constitutional system. However, over the past 25 years, preemption has become a weapon to defeat state regulations aimed at improving health and safety, as well as state tort suits seeking to compensate victims of malfeasance. Back in 1992, the United States Supreme Court issued a fractured opinion in the Cipollone case, holding that federal regulation of cigarette labeling preempted some state tort actions against tobacco companies. In the succeeding years, the Supreme Court has found that law suits relating to seat belts, medical devices and other products must be tossed out because of federal regulation in the area. Some assertions of preemption have succeeded. Others have failed. The judicial doctrine has not been clear. In this confusing area, the position of the President and his administration has proved significant. The administration of President George W. Bush frequently urged courts to find state suits preempted based on the theory that they posed obstacles to agency regulations. Courts would often listen. In addition to filing legal briefs, federal agencies added preemption provisions to regulatory preambles. This practice wrote the preemptive language into the Federal Register, without the need for the more formal review process normally associated with the promulgation of regulations. Commentators labeled the practice, "silent tort reform," as it had the effect of barring various state law personal injury actions without the need for explicit congressional legislation. The new memorandum from the Obama administration should spell the end to this kind of stealth preemption. The memo declares that regulatory preambles should not include preemptive statements, unless the underlying regulation contains a preemption provision. The memo further urges caution in promulgating regulations with preemptive language. Finally, the memo orders a review of preemptive statements issued by agencies within the past 10 years. Preemption will remain an essential component of our federal system, but the memo seeks to ensure that preemption provisions reflect a transparent and participatory administrative process.

# A2: States Can’t Do Interstate

**Interstate spillovers should not automatically become a federal issue.**

Adler, Jonathan H., Jonathan H. Adler is Associate Professor of Law and Associate Director of the Center for Business Law and Regulation, Case Western Reserve University School of Law, "Jurisdictional Mismatch in Environmental Federalism" (July 2005). Case Research Paper Series in Legal Studies 05-18 Available at SSRN: [http://ssrn.com/abstract=770305](http://ssrn.com/abstract%3D770305)

While interstate spillovers are a real concern, a caveat is in order. Most transboundary pollution problems remain rather localized in scope. Ozone-forming emissions in southeastern Pennsylvania certainly affect air quality in parts of New Jersey, but they do not affect Fort Lauderdale, Florida. Sulfur dioxide emissions from coal-fired utilities in Ohio may increase pollution in upstate New York and Vermont, but they do not harm Tacoma, Washington. Such regional problems do not inherently justify national regulation. In such cases, regional solutions, such as the creation of regional entities or congressionally authorized interstate compacts, may be in order. The same is true in the context of water pollution, where pollution may permeate a regional watershed without affecting the nation as a whole. Adopting uniform national regulations in such contexts can produce the same type of jurisdictional mismatch that occurs when local problems are nationalized.

# A2: States Can’t Do Interstate

**Interstate product regulations don’t need to be in federal hands.**

Adler, Jonathan H., Jonathan H. Adler is Associate Professor of Law and Associate Director of the Center for Business Law and Regulation, Case Western Reserve University School of Law, "Jurisdictional Mismatch in Environmental Federalism" (July 2005). Case Research Paper Series in Legal Studies 05-18 Available at SSRN: [http://ssrn.com/abstract=770305](http://ssrn.com/abstract%3D770305)

While this argument has some force, it is likely that it has been oversold. If anything, the costs of meeting a multiplicity of product standards has declined over time. In the 1970s it was certainly the case that varied state tailpipe emission standards would have increased the cost of automobiles nationwide. At the time it would have been difficult for a single factory in Detroit to turn out vehicles matching the preferences and requirements of each state. Today, however, in an era of just-in-time inventory and customized manufacturing, it is not clear that these premises apply. Product customization is increasingly common in many major industries, including automobile manufacture. Consumers regularly order products, such as home computers, tailor made to their specifications. If products can be produced for individual consumers, production to meet a dozen or more different state standards cannot be much of a problem. Tailoring products to meet state standards does not necessarily require manufacturing items from scratch. The emergence of electronic emission controls, for example, could allow manufacturers to tailor vehicle emissions to the particular demands of specific regional markets. Given these technological advances and resulting changes in product markets, state-specific product standards may not necessarily allow one state to externalize the costs of its environmental preferences on another.

# A2: Race to the Bottom

**No race to the bottom.**

Jonathan H Adler, Associate Professor of Law and Associate Director of the Center for Business Law and Regulation, Case Western Reserve University School of Law, "Jurisdictional Mismatch in Environmental Federalism" (July 2005). Case Research Paper Series in Legal Studies 05-18 Available at SSRN: [http://ssrn.com/abstract=770305](http://ssrn.com/abstract%3D770305)

One immediate problem with the race to the bottom theory is its static view of the tradeoff between economic development and environmental protection. Insofar as it is possible to reduce the costs of environmental regulation without sacrificing existing levels of environmental protection, government efforts to create a more business-friendly regulatory climate need not produce suboptimal levels of environmental protection. At the same time, business interests often have their own reasons for supporting greater levels of environmental protection, including the effect of *environmental conditions on labor supply*. States are not only competing for industry, but for workers and taxpayers as well. Moreover, as incomes rise, so does the demand for environmental protection, so states that fail to maintain high levels of environmental protection risk driving away residents to other states. Additional problems with the race-to-the-bottom theory have been identified by Professor Richard Revesz. First, there is no reason to assume that interjurisdictional competition in environmental policy is any less likely to produce optimal results or otherwise less reliable, than in other contexts. While it is plausible that interjurisdctional competition could produce suboptimal results due to game theoretic interactions, there is no a priori reason to assume that the result would be state standards that are suboptimally lax, rather than suboptimally stringent. Assuming that there is a race to the “bottom,” and state standards are insufficiently stringent, federal regulation might not solve the problem. Environmental regulation is not the only, or even the most common, context in which states compete for business investment. If a federal standard prevents competition in environmental standards, states will compete in other areas. Indeed, if the race-to-the-bottom argument can justify federal environmental standards*, it could justify the federalization of just about everything.* Another problem with the race to the bottom theory, as noted by economist William Fischel, is the dominant role of homeowners in local politics, which can often produce a “Not in My Back Yard” (NIMBY) reaction to proposed changes in land use. *Homeowners tend to be very risk averse* about local changes or developments that have the potential to depress land values, and this risk aversion “pervades all local political decisions.” Even those homeowners who are not particularly concerned about the environmental effects of proposed developments or industrial activities are likely to recognize that prospective buyers might. As a result, Fischel goes so far as to argue that local governments are “the least likely candidates for a ‘race to the bottom’ of the environmental ladder” and that “local governments are, if anything, inclined to accept too little garden-variety industry” and other environmentally harmful land-uses. Theory aside, empirical evidence of a race to the bottom in environmental policy is conspicuously lacking. While there are some studies finding that the stringency of environmental regulation can affect industry siting decisions, and survey data indicating that such effects may influence state-level environmental policy decisions, the available empirical evidence cannot sustain the claim that interjurisdictional competition produces suboptimally lax environmental regulation. The fact that many states adopted federal regulation in advance of the federal government, and that in some cases *those states with the most to lose from regulation were the first to act*, would strongly suggest otherwise. Further evidence suggests that, at least in some environmental contexts, any “race” among jurisdictions is “to the top,” as states seem more likely to increase their environmental efforts in response to neighboring jurisdictions’ actions than to relax regulation. In short, despite its prominence in environmental policy discussions, the “race-to-the-bottom” theory is not a particularly strong basis upon which to rest the case for federal intervention.

# A2: Race to the Bottom

**No Race to the Bottom**

Richard L. Revesz, Professor of Law, New York University School of Law, 12/97, “THE LAW AND ECONOMICS OF FEDERALISM: The Race to the Bottom and Federal Environmental Regulation: A Response to Critics”

Second, I analyze the leading economic model of the effects of interstate competition on the choice of environmental standards, which shows that interjurisdictional competition leads to the maximization of social welfare, rather than to a race to the bottom. In this model, Wallace Oates and Robert Schwab posit jurisdictions that compete for mobile capital through the [\*539] choice of taxes and environmental standards. n17 A higher capital stock benefits residents in the form of higher wages, but hurts them as a result of the foregone tax revenues and lower environmental quality needed to attract the capital.Each jurisdiction makes two policy decisions: it sets a tax rate on capital and establishes an environmental standard. Professors Oates and Schwab show that competitive jurisdictions will set a net tax rate on capital of zero (the rate that exactly covers the cost of public services provided to the capital, such as police and fire protection). In turn, competitive jurisdictions will set an environmental standard that is defined by equating the willingness to pay for an additional unit of environmental quality with the corresponding change in wages. Professors Oates and Schwab show that these choices of tax rates and environmental standards are socially optimal. Third, I acknowledge that, in particular instances, game-theoretic interactions among the states could lead to underregulation absent federal intervention. In such cases, federal minimum standards would be desirable. But it is equally plausible that in other instances the reverse would be true: that game-theoretic interactions among the states would lead to overregulation absent federal intervention. n19 In such cases, federal regulation would be desirable as well, but in such cases federal maximum standards would be called for. Accordingly, there is no compelling race-to-the-bottom justification for across-the-board federal **minimum** standards**, which are the cornerstone of federal environmental law.** For example, if an industry exhibits increasing returns to scale rather than constant returns to scale (an important assumption in the Oates and Schwab model), depending on the levels of firm-specific costs, plant-specific costs, and transportation costs, interstate competition can produce either suboptimally lax or suboptimally stringent levels of pollution. Similarly, if a firm has market power enabling it to affect prices, it will be able to extract a suboptimally lax standard, but if a state has market power the reverse would be true. [\*540]

# A2: Race to the Bottom

**Federal legislation does not solve race to bottom**

Richard L. Revesz, Professor of Law, New York University School of Law, 12/97, “THE LAW AND ECONOMICS OF FEDERALISM: The Race to the Bottom and Federal Environmental Regulation: A Response to Critics”

 Fourth, I argue that even if states systematically enacted suboptimally lax environmental standards, federal environmental regulation would not necessarily improve the situation. If states cannot compete over environmental regulation because it has been federalized, they will compete along other regulatory dimensions, leading to suboptimally lax standards in other areas**, or along the fiscal dimension, leading to the underprovision of public goods**. Thus, the reduction in social welfare implicit in race-to-the-bottom arguments would not be eliminated merely by federalizing environmental regulation: the federalization of all regulatory and fiscal decisions would be necessary **to solve the problem.**

# A2: Race to the Bottom

No race to the bottom - interstate competition spurs higher environmental standards and interest groups limit federal solvency

Henry N. **Butler and** Jonathan R. **Macey**, Distinguished Teaching Professor of Law and Economics at University of Kansas Law and Business, J. DuPratt White Professor of Law, Cornell University School of Law, **96**, “CONSTRUCTING A NEW FEDERALISM: JURISDICTIONAL COMPETENCE AND COMPETITION: ENVIRONMENTAL REGULATION: Externalities and the Matching Principle: The Case for Reallocating Environmental Regulatory Authority

A leading rationale for federal domination of environmental regulation is to prevent states from competing for economic growth opportunities by lowering their environmental standards in a so-called "race to the bottom." n36 The notion is that all states compete for economic growth by lowering environmental standards below the level they would select if they acted **[\*43]** collectively at the national level. n37 What is individually rational for individual states is collectively irrational at the national level. n38 Professor Richard Stewart describes the implication of this dynamic in concise terms: Given the mobility of industry and commerce, any individual state or community may rationally decline unilaterally to adopt high environmental standards that entail substantial costs for industry and obstacles to economic development for fear that the resulting environmental gains will be more than offset by movement of capital to other areas with lower standards. *If each locality reasons in the same way*, all will adopt lower standards of environmental quality than they would prefer if there were some binding mechanism that enabled them simultaneously to enact higher standards, thus eliminating the threatened loss of industry or development. n39 According to this logic, federal regulation is necessary to correct a political market failure at the state level. But there is a faulty link in the syllogism--each locality does not reason in the same way. Localities have different preferences for environmental quality, for a variety of economic and aesthetic **[\*44]** reasons, and it is not at all clear that competition between jurisdictions will lead to a lower level of environmental quality than would a national median voter model. n40 In fact, competition between jurisdictions may lead to improvements in environmental quality. It is often argued that environmental quality is a luxury good in the sense that individuals develop a greater concern for environmental issues as their incomes rise. n41 If this is true, the key to increases in environmental quality may be found in higher incomes. This point has implications for the desirability of jurisdictional competition, as illustrated by the following example. Assume that there is no national environmental regulation, and all environmental issues are the prerogative of the state and local governments. Firm "X" operates in New Jersey. As the incomes of those who live in New Jersey increase as a result of industrial growth provided by X, the citizens of New Jersey will place a higher emphasis on environmental quality. State and local government decisionmakers will respond to citizens' demands for better pollution control. Assume that X responds to the increase of pollution standards in New Jersey by moving to Missouri, where pollution control is not as stringent. Missouri's environmental laws could reflect Missourians' preferences given their low relative incomes. Many people in Missouri welcome X's operations even at the expense of environmental problems. As X's industrial production causes Missouri's economy to expand, the incomes of individuals will increase and so will their demand for a cleaner environment. The initial harmful levels of pollution may be a necessary first step toward increasing citizen's demands for a cleaner environment. The competition among different states may enhance economic growth and accelerate the evolution of more efficient pollution abatement equipment. n42 **[\*45]** Finally, the race-to-the-bottom rationale for federal government domination of environmental regulation is based on the assumption that the federal government in practice can do a better job at regulating than the state governments. There are strong reasons to believe that this assumption is wrong. The race-to-the-bottom justification for federal intervention, while critical of state political processes, ignores the problem of interest group domination of the legislative process in Washington. The interest group problem is more acute at the federal level than at the state level due to the lack of competition among regulators at the national level. n43 On the other hand, there are numerous reasons to believe that the Washington political market reflects its own regulatory common pool problem, with logrolling for environmental votes with votes on totally unrelated issues. Unfortunately, the race-to-the-bottom rationale underlies much of the federal environmental statutes. n44

# A2: Race to the Bottom

Imagine the US as a group of the MOST highly integrated states; conceding authority to the states leads to a race to the top

David Vogel, Solomon P. Lee Distinguished Professorship in Business Ethics at University of California Berkeley, 1995, “Trading Up: Consumer and Environmental Regulation in a Global Economy”

To the extent that treaties or trade agreements provide formal mechanisms for establishing harmonized or equivalent standards, they provide an opportunity for richer, more powerful countries to play a greater role in setting those standards. If the five trade treaties and agreements discussed in detail in this book were ranked in terms of the extent to which their signatories have agreed to reduce the use of regulation as trade barriers, the most powerful would be the Single European Act, followed by the Treaty of Rome, the North American Free Trade Agreement, the Free Trade Agreement, and the various rounds of the General Agreement on Tariffs and Trade. If these same five treaties and agreements were to be ranked in terms of the extent to which they contain provisions designed to either maintain or strengthen the regulatory standards of their signatories or members, *the rankings would be identical*. Paradoxically, the more authority nations concede over the making of national regulatory standards, the more likely these standards will be strengthened. The reason for this relationship is *not* that international agreements to promote trade liberalization automatically strengthen regulatory standards; in principle, they can just as easily weaken them. It is politics that makes the difference. Specifically, trade agreements and treaties are likely to maintain or raise regulatory standards when a powerful and wealthy nation insists that they do so. In turn, the powerful nation’s willingness to demand that trade liberalization be accompanied by the maintenance or strengthening of health, safety, and environmental standards is in large measure due to the influence of its domestic NGOs and, in many cases, its domestic producers as well. But the ability of a powerful nation to impose its preferences on its trading partners is also dependent on the degree of integration: the more integration, the greater its influence.

# A2: Race to the Bottom

States race to top due to economic benefit

Alice Kaswan, University of San Francisco School of Law, 2007, University of San Francisco Law Review, “The Domestic Response to Global Climate Change: What Role for Federal, State, and Litigation Initiatives?”,

States may be taking more action than expected under a race to the bottom model because of the perceived economic benefits of taking early action.139 Governor Schwarzenegger emphasized that California’s climate change initiatives will not just impose economic costs, they could also create economic opportunities for companies investing in new technologies.140 At the conference, Devra Wang, the Director of the California Energy Program at the Natural Resources Defense Council and one of the original architects of AB 32, stressed the economic benefits to California of leading the way in climate change reductions. Reduction requirements are inevitable, and if California regulates sooner rather than later, California businesses will become the exporters of cutting-edge technology, rather than, at a later point, having to import innovations developed in other states. Some states may thus be racing to the top—racing to develop their response to climate change—rather than racing to the bottom.

States have additional economic justifications for taking climate change measures. Some states may hope to benefit their agricultural sectors through supporting biofuels or carbon sequestration.141 Others may seek more reliable and secure energy supplies through renewable portfolio standards that draw on a diverse set of local energy sources.142 Moreover, energy-efficiency requirements could provide states with net economic benefits.143

# A2: Race to the Bottom

No race to the bottom- states have the enforcement capacity to exceed federal standards.

Adler, Jonathan H., Jonathan H. Adler is Associate Professor of Law and Associate Director of the Center for Business Law and Regulation, Case Western Reserve University School of Law, "Jurisdictional Mismatch in Environmental Federalism" (July 2005). Case Research Paper Series in Legal Studies 05-18 Available at SSRN: [http://ssrn.com/abstract=770305](http://ssrn.com/abstract%3D770305)

 Yet another argument against decentralization in environmental policy is that there be other institutional or public choice reasons to expect state and local governments to be less able to address environmental concerns than the federal government, even in the absence of spillovers or economies of scale. While there are certainly collective action problems that inhibit the adoption of environmental measures, there is no reason to assume that such problems are greater at the national level. If anything, given wide diversity in environmental problems and preferences across the country, the opposite is likely to be true. More important, as with the “race-to-the-bottom” theory, the empirical evidence that states face particularly acute public choice problems is lacking. Whatever the imperfections of state and local governments – and there are many – these “flawed institutions” acted first to address air pollution and other environmental problems. Historically, state and local governments began to address most major environmental problems well before the federal government got into the act. As knowledge and awareness of specific environmental problems and their causes accumulated, state and local governments began to act. As David Schoenbrod notes, in the six years following publication of Rachel Carson’s Silent Spring – arguably the single book most responsible for awakening the nation’s environmental consciousness – “the number of states with air pollution laws went from sixteen to forty-six.” This change was driven by a shift in public opinion. The percentage of Americans who believed air pollution to be a serious problem increased from 28 percent in 1965 to 69 percent in 1970. Cities like Pittsburgh adopted local measures to address air quality precisely because the federal government (and, at the time, state governments) was unwilling to act. Interestingly enough, such measures were adopted with the support of local business leaders, not over their opposition. Indeed, in the 1940s U.S. Steel threatened to leave Pittsburgh because there was too little air pollution control. This was not an aberration. Many local governments recognized the need to adopt environmental measures so as to prevent industrial flight to cleaner jurisdictions. Today, state capacity and willingness to address environmental problems remains substantial. The nation’s state environmental agencies employ approximately 60,000 people, over three times the number employed by the EPA. State environmental agencies also perform the majority of inspections and enforcement actions. States also routinely exceed federal minimum standards in many areas. While there certainly are cases in which state environmental policy decisions are influenced by rent-seeking and interest group politics, this is no less true at the federal level. Indeed, in some cases industry groups seek federal regulation to preempt potentially more stringent state and local rules. Empirical studies of state regulatory activity generally fail to support the claim that state governments are more susceptible to interest group pressure than the federal government.

# A2: Rollback

**Fiat ensures no rollback from any branch. Its justified** –

**A) Reciprocal** – legislation can be over turned by Congress, the Court, or not signed by the President – our fiat is no different and is key to fair ground.

**B) Ground** – durable fiat ensures the Aff doesn’t lose solvency on backlash and ensures negative disad ground.

**C) Education** – it’s the only way to debate about what could happen instead of what happens now

**This hurts the Aff** – if the plan is inherent, it’d get rolled back too and you should vote negative on presumption.

# A2: Links to Politics

**State politics isn’t like national politics. There aren’t big fights and more gets done.**

Barry G. Rabe. Statehouse and Greenhouse. Brookings Institution Press. Washington, DC. 2004. Pg 22.

But this is not what occurred in the states examined in this study. Instead, a much quieter process of policy formation has emerged, even during more recent years, when the pace of innovation has accelerated and the intent of many policies has been more far-reaching. This is not to suggest that climate-related episodes have been irrelevant or that leading environmental groups have played no role in state policy development. Contrary to the kinds of political brawls so common in debates about climate change policy at national and international venues, however, state-based policymaking has been far less visible and contentious, often cutting across traditional partisan and interest group fissures. It has, moreover, been far more productive in terms of generating actual policies with the potential to reduce greenhouse gas releases.

# A2: Links to Politics

**Less bureaucracy helps avoid the clash for a politics da.**

Barry G. Rabe. Statehouse and Greenhouse. Brookings Institution Press. Washington, DC. 2004. Pg 27

Second, state-level policymaking is often quite different from what occurs in Washington. As at the federal level, state governments can bog down in partisan squabbles and succumb to the powers of influential interest groups. But in many states, policymaking is far more informal, and entrepreneurial opportunities may be considerably greater, than in Washington. In the absence of particularly strong opposition from interest groups, entrepreneurs may have a much better opportunity to establish and sustain supportive networks. These may involve other agencies, interest groups, or allied elcted officials and may have been established over an extended period, over a decade in some of the state climate change cases. Consequently, many state capitals may offer particularly promising entrepreneurshi. The mezzo level in many state agencies, such as environmental protection and energy, is much less densely staffed than in their federal counerparts, and the layers between an agency and the governor’s office are likely to be much thinner. This allows and individual to emerge as the trusted resident expert on a particular topic, such as climate change, able to get important messages to prominent places in the state governance structure p opportunities, particularly for relatively “new” issues for which and infrastructure of established policies and interest group positions has not been created.

# A2: 50 State Fiat Bad

**1. Ground – state counterplans are key to check “federal government” in the resolution, which is a core negative ground issue. Disads alone will always be outweighed by the aff.**

**2. Education – debating about the merits of two different actors is key to learning about different ways of implementing**

**Elmore**, Prof. Public Affairs at University of Washington, PolySci Quarterly 79-80, p. 605, 19**80**

The emergence of implementation as a subject for policy analysis coincides closely with the discovery by policy analysts that decisions are not self-executing. Analysis of policy choices matter very little if the mechanism for implementing those choices is poorly understood in answering the question, "What percentage of the work of achieving a desired governmental action is done when the preferred analytic alternative has been identified?" Allison estimated that in the normal case, it was about 10 percent, leaving the remaining 90 percent in the realm of implementation.

**And, it’s crucial for policymakers to engage in this key question of agents**

**Biering 8 –** former Executive Fellow in the California Resources Agency (Brian, 23 J. Envtl. L. & Litig. 35, AG)

Federalism issues aside, the fundamental question policymakers need to resolve is whether it is more appropriate for the states to act now in the area of climate change, or whether the field should be simply left to the federal government to address in its own time.

**3. Functional limits – states counterplans are key to checking tiny affs with no federal key warrants that the neg would otherwise never be ready to debate**

**4. Solvency advocates check – whether or not the states should do the plan is a key question in the literature – proves that there’s built in clash for both the aff and neg, and solves predictability.**

**5. Uniformity is real world**

**Ribstein 95** – law prof, George Mason Larry and Bruce Kobayashi, 66 U. Colo. L. Rev. 947, AG)

First, NCCUSL can serve as a coordinator and focal point to achieve uniformity of state law. Second, NCCUSL can provide drafting and screening services, particularly to state lawmakers who cannot internalize the high costs of these activities, thereby performing a model function.

**6. Reciprocity – the aff chooses their agent, we should get to choose too. This is key to offset aff bias.**

**7. No infinite regress – “in the US” means there are only a few domestic government actors**

**8. Reject the argument, not the team.**

# \*\*\*AFF ANSWERS\*\*\*

# No Solvency – High Speed Rail

**Empirics prove that high speed rails produced by individual states don’t make economic sense**

**Building America’s Future Educational Fund**, bipartisan coalition of elected officials dedicated to bringing about a new era of U.S. investment in infrastructure, founded by former Governer Rendell of Pennsylvania and former Government Schwarzenegger of California and Mayor Bloomberg of New York and has a diverse membership of state and local elected officials from across the nation, 20**11**, “Building America’s Future - Falling Apart and Falling Behind” <https://docs.google.com/viewer?a=v&q=cache:GmWS-sY8hEkJ:www.bafuture.org/sites/default/files/Report_0.pdf+&hl=en&gl=us&pid=bl&srcid=ADGEESgstzwvkXiHGjZpHO3Cuugda_oUJi_DcDIhG0CCwNi4VIEjkaRzgKHb7iFFNYWZhJQLJ3uq_XnuwNWmg9zhlAn4bjlBs37X2rJUusywV0olTy6J9A8KeEdOT0hA5NlAgSsDAR6z&sig=AHIEtbT3X5uDAJH3zzsxr_c-9YmPASrZ-A>

Some states are planning trains that will not run at truly high speeds—in which case they won’t create genuinely attractive travel options to ease our air and road congestion problems. Some states are planning to improve existing passenger lines, rather than build new dedicated high-speed lines—which means the passenger trains will still have to share the tracks with freight and be accordingly subjected to delays. And some states are planning projects that simply don’t make economic sense—or at least should not be considered a top national priority.

# No Solvency – High Speed Rail – California Proves Fed Key

**California proves high speed rail projects are unsuccessful without federal help**

Brian **Koenig**, a freelance journalist for The New American and conservative blogger and columnist who has been published in Real Clear Politics, Daily Caller, American Thinker and St. Louis Post-Dispatch, among other local and national publications, **6/7**/12, “California Voters Turn on High-Speed Rail Project” http://www.thenewamerican.com/usnews/politics/item/11646-california-voters-turn-on-high-speed-rail-project

After enduring a series of financial and logistical hiccups, California’s landmark high-speed rail project has become increasingly unpopular among voters, as the project’s enormous price tag continues to inflate and as the state’s budgetary woes grow more severe.

Without a concrete plan for funding, supporters of the state’s high-speed rail project pitched a revised proposal in April to lawmakers and the general public. Due to severe budget constraints, the updated plan narrowed the scope of the project while speeding up construction to save money. Furthermore, about $1 billion in voter-approved bonds will be available to revamp existing tracks, which will purportedly make rail service more efficient and potentially bring in more customers. In a previous article, The New American reported on the revised proposal:

The newly minted plan expedites completion of the first true U.S. high-speed rail system, moving it to 2028, trimming the project timeline by five years and shaving $30 billion off the original budget drafted last year by the California High-Speed Rail Authority. In 2008, when residents first voted to authorize the bonds, they were told the overall cost of the project would be $45 billion — and four years later, the total became $98 billion. The new proposal has reduced that number to $68.4 billion, still $23.4 billion more than the original total.

However, despite the purported cost savings, **the rail system still relies heavily on shaky federal funding** and speculative private-sector investments. "We've seen numbers in the $30 billion, $40 billion, the $90 billion range, and now we're back in the $60 billion range," Sen. Joe Simitian (D-Palo Alto) said at the time. "I think there is understandably both some confusion and skepticism about what is the system going to cost, and then there's the question of where is the money going to come from?"

Due to such uncertainty, voters in the state are turning on the project, as a new poll conducted by USC-Dornsife and the Los Angeles Times found that 55 percent of California voters want the $9-billion bond issue — which was approved in 2008 to fund early stages of the rail system — back on the ballot. And a startling 59 percent affirmed that they now would vote against it.

# Perm/Fed Key – Generic

**States and the federal government working together is the best solution – but federal government action is uniquely key**

**Building America’s Future Educational Fund**, bipartisan coalition of elected officials dedicated to bringing about a new era of U.S. investment in infrastructure, founded by former Governer Rendell of Pennsylvania and former Government Schwarzenegger of California and Mayor Bloomberg of New York and has a diverse membership of state and local elected officials from across the nation, 20**11**, “Building America’s Future - Falling Apart and Falling Behind” <https://docs.google.com/viewer?a=v&q=cache:GmWS-sY8hEkJ:www.bafuture.org/sites/default/files/Report_0.pdf+&hl=en&gl=us&pid=bl&srcid=ADGEESgstzwvkXiHGjZpHO3Cuugda_oUJi_DcDIhG0CCwNi4VIEjkaRzgKHb7iFFNYWZhJQLJ3uq_XnuwNWmg9zhlAn4bjlBs37X2rJUusywV0olTy6J9A8KeEdOT0hA5NlAgSsDAR6z&sig=AHIEtbT3X5uDAJH3zzsxr_c-9YmPASrZ-A>

There are always excuses to delay tough decisions, but the time has come for the U.S. to join China, India, Canada, Brazil, France, Spain, and the United Kingdom by committing to a long-term infrastructure revitalization plan. It should focus on transportation but should also include our water and wastewater systems, our dams, our electric grid, and our broadband system. To be as significant in scale as the plans adopted by our competitor nations, it must spur an investment of at least $200 billion a year.7 Not all of that needs to be a federal commitment—state and local government and the private sector must also do their share. And it need not all be new investment because a significant amount of dollars should be forthcoming from the gas tax and other fees. But make no mistake: **We cannot long stay atop the global economy without a significant new federal commitment.**

# Fed Key – Generic

**Big projects and interstate projects all require an active federal role – states can’t plan without federal policy to establish certainty**

Edward **Alden**, Council on Foreign Relations, **6/14**/12, “The First Renewing America Progress Report and Scorecard: The Road to Nowhere” http://blogs.cfr.org/renewing-america/2012/06/14/the-first-renewing-america-progress-report-and-scorecard-the-road-to-nowhere/

It would be easy to point a finger at Congress, and we certainly do in the report. Reauthorization of the surface transportation bill, usually known as the highway bill, has always been contentious, but nevertheless it used to win approval routinely. But the last multi-year bill expired in 2009 and has been replaced by a series of short-term extensions that make rational construction planning all but impossible for state and local governments. The bill expires again June 30th, and congressional leaders again look unlikely to reach agreement and are predicting another short-term extension. It will be the 10th; as a Miami Herald editorial put it recently, this marks “a new low in congressional irresponsibility.”

But congressional inaction in many ways reflects public ambivalence. Americans want uncluttered highways, efficient airports, and seamless mass transit systems, but they are either reluctant to pay for these things or doubt the ability of governments to deliver. The overdue backlash against pork barrel politics for favored projects, for instance, seems to have hardened into a deeper public cynicism about the ability of government to deliver any needed public works. Even proposals like using a federal seed money to create a National Infrastructure Bank that would funnel private investor (not taxpayer) money into new projects have been unable to get through Congress.

There are encouraging signs from some state and local governments. Chicago is launching a $7 billion Infrastructure Trust that will rely primarily on private investor capital to finance city projects. New York state has created a new state infrastructure bank intended to leverage $15 billion in investments into state projects. But most big projects, and all interstate projects, require some active federal role, and that is still missing.

# California Budget Disad – Uniqueness – Education Will Be Cut Next

**Education will be cut if more of the budget is spent on high speed rail**

Brian **Koenig**, a freelance journalist for The New American and conservative blogger and columnist who has been published in Real Clear Politics, Daily Caller, American Thinker and St. Louis Post-Dispatch, among other local and national publications, **6/7**/12, “California Voters Turn on High-Speed Rail Project” http://www.thenewamerican.com/usnews/politics/item/11646-california-voters-turn-on-high-speed-rail-project

“California voters have clearly reconsidered their support for high-speed rail,” said Dan Schnur, who directed the USC Dornsife/Times Poll. “They want the chance to vote again — and they want to vote no. The growing budget deficit is making Californians hesitant about spending so much money on a project like this one when they’re seeing cuts to public education and law enforcement.”

The public has become even more skeptical of the high-speed rail line as Gov. Jerry Brown has threatened severe cuts in education spending — among other public programs — due to the state’s expanding budget gap. "The growing budget deficit is making Californians hesitant about spending so much money on a project like this one when they're seeing cuts to public education and law enforcement," Schnur noted. "But they also seem to be wary as to whether state government can run a big speed rail system effectively."

# California Budget Disad – Link – High Speed Rail

**High speed rail funding will have to trade off with something else**

**The Herald**, Monterey Country, **6/9**/12, “Other views: State's high-speed rail project already a train wreck” http://www.montereyherald.com/opinion/ci\_20823434/states-high-speed-rail-project-already-train-wreck

There is a fine line between visionary and delusional. California's high-speed rail project whizzed across that line long ago and now is chugging toward the monorail station at Fantasyland.

The latest end-run tactic by the train's chief engineer, Gov. Jerry Brown, would have California's Legislature suspend its tough environmental laws so the state could put this pet project on the — pardon the pun — fast track.

Never mind that every independent analysis of the project has been highly critical of it.

Never mind that the High Speed Rail Authority's own peer review group said it was terribly flawed.

Never mind that the nonpartisan Legislative Analysts Office said even the new, new, new and improved incarnation still is not nearly "strong enough" and relies on "highly speculative" funding sources.

For the uninitiated, that is bureaucratese for "not a snowball's chance in hell of finding the money to pay for it."

Never mind that the state's projected budget shortfall is now greater than the total budget of 39 states and that the debt service on the sale of these rail bonds would create another fiscal chasm that would have to be filled by another cockamamie budget gimmick.

Never mind that the new, new, new and improved plan bears so little resemblance to the bond sale plan that voters narrowly approved four years ago that going ahead with it now borders on ballot fraud.

# \*\*\*RANDOM\*\*\*

# Agenda Politics Link – High Speed Rail

**High speed rail is a controversial issue in Congress**

Elizabeth **Dovell**, Council on Foreign Relations **3/7**/12, “U.S. Rail Infrastructure” http://www.cfr.org/united-states/us-rail-infrastructure/p27585

Funding for the upkeep and expansion of passenger rail--which receives significantly less in federal subsidies than other transportation modes--has remained a controversial issue in Washington. The Obama administration's plan to expand high-speed rail (sustained speeds of more than 125 miles per hour) faces fierce opposition. Supporters cite the unique benefits of high-speed rail, including energy savings, more efficient mobility, and greater manufacturing opportunities for U.S. companies. Moreover, many U.S. economic competitors in Asia and Europe are making significant investments in HSR (WashPost). Opponents argue the economic benefits of HSR rarely surpass the costs, and point out that most systems do not turn a profit and rely heavily on government subsidies.

# Agenda Politics Link – High Speed Rail

**Empirics prove high speed rail is unpopular in Congress**

Elizabeth **Dovell**, Council on Foreign Relations **3/7**/12, “U.S. Rail Infrastructure” http://www.cfr.org/united-states/us-rail-infrastructure/p27585

But in November 2011 the U.S. Senate and the House of Representatives killed HSR stimulus funding (USA Today), a measure that was controversial from the start. It faced opposition at the state level, where some lawmakers and policy analysts claimed high-speed rail was impractical and a waste of taxpayer dollars. Republican governors from Florida, Ohio, and Wisconsin rejected their HSR stimulus grants (TransportationNation), calling for the redistribution of funds to other infrastructure and transportation projects. In spite of the funding setback, the Department of Transportation announced in its 2011 DoT Year in Review the accumulation of $9.4 billion in Federal Railroad Administration grants for HSR innovation.

# Aff – Elections – Link Turn – Successful High Speed Rail Key to Elections

**How Obama’s high speed rail policy plays out will play a huge role in his re-election**

**Washington Post**, **1/15**/12, “Plans for high-speed rail are slowing down” http://www.washingtonpost.com/business/economy/plans-for-high-speed-rail-are-slowing-down/2012/01/13/gIQAngYc1P\_story.html

Obama set a goal of providing 80 percent of Americans access to high-speed rail within 25 years. But that lofty vision is yielding to the political gravity generated by high costs, determined opponents and a public that has grown dubious of government’s ability to do big things.

Virtually none of the projects has gotten off the ground, and the one that has is in trouble.

For Obama, the political stakes are high going into the 2012 election. Republican front-runner Mitt Romney has accused him of putting too much faith in government to build the economy. The president, Romney says to the delight of Republican partisans, “does not know” how business, or the economy, works.