# Uniform Act CP

## Explanation

#### Per Wikipedia:

“In the United States, a Uniform Act is a proposed state law drafted by the U.S. Uniform Law Commission (ULC) and approved by its sponsor, the National Conference of Commissioners on Uniform State Laws (NCCUSL).”

And

“The National Conference of Commissioners on Uniform State Laws (NCCUSL) is a body of lawyers, both private practitioners and government attorneys; judges, both state and federal; and law professors, typically appointed by the governor of each state. The NCCUSL drafts laws on a variety of subjects and proposes them for enactment by each state, the District of Columbia, the U.S. Virgin Islands, and Puerto Rico. NCCUSL was established in 1892. The NCCUSL, while influential, does not have any direct legislative power itself; uniform acts become laws only to the extent they are enacted into law by state legislatures.”

#### Strategy

This counterplan is very similar to the typical states CP except that this CP does not fiat that the states act. The ULC drafts laws known as Uniform Acts which are submitted to the various states and territories for consideration and possible ratification. Politics and federalism are still the likely net benefits since the federal government does not act in a world of the counterplan. However, the neg has to win that states will “say yes” to the action of the counterplan to solve. But this also means that the UA CP is more theoretically legitimate than the average states CP since it utilizes a process actually employed among the 50 state governments to agree upon and carry out uniform policies. The CP has two levels of solvency, ie “top level” and “bottom level.” The top level solvency centers on states actually saying yes to the uniform act. The bottom level solvency is the same as typical states solvency evidence, i.e. that the states can do the plan (this file is light on the bottom level solvency because another lab is doing a normal states CP file. **So check the file for case specific solvency**).

#### Examples of Uniform Acts

“ Among the most influential uniform acts are the Uniform Commercial Code, Uniform Probate Code, Uniform Trust Code, Uniform Partnership Act, Uniform Limited Liability Company Act, Uniform Transfers to Minors Act, Uniform Certification of Questions of Law Act, Uniform Enforcement of Foreign Judgments Act, Uniform Controlled Substances Act, Uniform Arbitration Act, Uniform Environmental Covenants Act, Uniform Conservation Easements Act, Uniform Management of Institutional Funds Act, Uniform Interstate Family Support Act, Uniform Child Custody Jurisdiction and Enforcement Act, and Uniform Anatomical Gift Act. However, there are well over 100 uniform acts.” (Wikipedia)

## 1NC Shell

#### Text: The Uniform Law Commission will submit to the fifty states and all relevant territories for ratification a uniform act to [blank].

#### Uniform acts solve comparatively better than federal legislation and avoids the politics/federalism disads

William Henning, 3/15/2011, (Prof. of Law, Univ. of Alabama) "The Uniform law commission and cooperative federalism: implementing private international law conventions through uniform state laws," p. 39-41

The Uniform Law Commission (ULC) is a non-partisan, nonprofit, unincorporated association comprised of commissions formed in each state of the United States and also the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. Its mission is “to promote uniformity in the law among the several States on subjects as to which uniformity is desirable and practicable.”2 In the 117 years of its existence, the ULC has produced hundreds of uniform laws and forwarded them to the legislatures of its member jurisdictions for enactment, often with striking and sometimes with universal success. Its premier product, produced in partnership with the American Law Institute (ALI), is the Uniform Commercial Code (UCC), but the laws it promulgates extend far beyond the area of commercial law.3 Among the many other areas in which the ULC is active, and of particular importance to the subject of this article, is family law.4 The ULC chooses its projects carefully, emphasizing acts that facilitate the interstate flow of commerce, acts that avoid conflicts when the laws of more than one state might apply to a particular situation, and acts that fill emergent needs, modernize antiquated concepts, or codify the common law.5 Lawmaking in the United States is the shared responsibility of the federal and state governments, and the areas in which the ULC has been most successful were once, almost exclusively, the domain of the states. However, one result of the expansion of the federal government’s reach that began even before the New Deal and continues in the early years of the 21st century has been an inevitable encroachment on these areas. In a continental nation bound together by modern methods of communication and transportation, where people and transactions move easily across borders, there are undeniable advantages to federal legislation: it can be drafted and enacted quickly, and it achieves uniformity because under the Constitution it is the supreme law of the land.6 In the areas of law traditionally reserved for the states, however, these advantages are usually outweighed by a number of disadvantages. Congress tends to enact sweeping legislation and then turn over to regulatory agencies the task of fleshing out the details, but neither Congress nor the agencies have institutional expertise in these areas. Moreover, federal legislation is “one-size-fits-all” whereas the states in adopting a law promulgated by the ULC can maintain a core of uniformity while adapting the law to idiosyncratic local needs. The following quote from another article by your author, although written with regard only to commercial law, is more broadly applicable and expresses other concerns: [C]onsider what will happen if commercial law emanates from the federal government. The process is almost certain to be political, and only well-funded interest groups are likely to have access to the decision-makers. The drafting will typically be done by staffers, perhaps in cooperation with interest groups, and it is unlikely that there will be an extensive effort to make certain that each word works and that the provisions of an act do not have inadvertent and unanticipated negative consequences. . . . By contrast with the federal process, the process by which [Uniform Commercial] Code amendments and revisions are produced involves multiple years of careful work by a dedicated committee . . . none of whose members have a political stake in the outcome; at least one dedicated reporter who is a top scholar in the field; . . . an open process where the only price of admission is the travel costs involved in attending meetings and where there is a full opportunity to explain one’s needs to the committee and other observers; and multiple exposures at annual meetings . . . where many members have a deep knowledge of commercial law and long experience as judges, practitioners, and academics.7 Increasingly in recent years, the ULC has become involved at the federal level; sometimes by trying to persuade Congress or an agency that state action is preferable to federal action and sometimes by working with Congress or an agency so that, to the extent practicable, federal law is consistent with state law. Without the ULC, it is likely that the balance in our federal system would have swung even further towards the federal government than it has.

## Solvency (Top Level: ULC/Say Yes)

### Solvency – General (Do Anything)

#### Uniform laws can do the same thing as federal legislation

Kathleen Patchel, 1993, Minnesota Law Review, "Interest Group Politics, Federalism, and the Uniform Law Process: Some Lessons from the Uniform Commercial Code," p. 147-8

A year after the decision in Carter Coal, however, the Supreme Court made the discovery that had eluded Justice Sutherland.257 The Supreme Court's expansive interpretation of the Commerce Clause and the concomitant expansion of federal regulatory power filled the void once occupied only by the uniform laws process with the power of the national government. The Conference moved from being a facilitator in an area where no government entity could operate effectively to being a competitor with national legislative action.258 It thus is not surprising that the Conference often promotes the uniform laws process as an alternative to federal legislation -a way to obtain nation -wide uniformity of the substantive law while avoiding the federal intervention that normally would accompany that result -and, thus, as a means of protecting state autonomy and state's rights.259

#### The CP can do the same thing as Congress without involving the federal government

Eric Fish, 7/1/12, "The Uniform Law Commission: Preserving the Roles of Federal and State Law," (Fish serves as interim legal counsel to the ULC), p. 66

This example illustrates how the Uniform Law Commission can work within the political process to concurrently defend traditional areas of state law while offering solutions to national problems without departing from the balance of state and federal law. Providing a forum for each state to have a voice in crafting a uniform act respectful of existing law, the commission is able to reform law in a way that achieves the objectives sought by Congress without eradicating the deference to the states in matters of traditional state authority.

### Solvency: Say Yes (General)

#### States will support uniform laws

Kathleen Patchel, 1993, Minnesota Law Review, "Interest Group Politics, Federalism, and the Uniform Law Process: Some Lessons from the Uniform Commercial Code," p. 140

A number of factors also make the reliance argument a fairly persuasive one from the point of view of the state legislators. First, the drafters of uniform laws are experts in their fields -often highly respected experts -and the laws they draft tend to display a high degree of technical competency. Certainly, this is true of the current revisions to Articles 3 and 4. The reporters for that project are respected commercial law professors, and the drafts of Articles 3 and 4 they have produced are of a very high technical quality. Further, as discussed above, at the enactment stage the major industries regulated by the law are behind it, as are most of the lawyers. Thus, it is logical for legislators to accept uniform laws as proposed.

#### States will defer to the drafters – means they will say yes

Kathleen Patchel, 1993, Minnesota Law Review, "Interest Group Politics, Federalism, and the Uniform Law Process: Some Lessons from the Uniform Commercial Code," p. 140-1

For instance, Professor Macey argues that the complexity of banking issues explains the great deference Congress gives to congressional committees dealing with these issues: In large part, the evidence shows that the ability of legislative committees to formulate the agenda of a proposed legislative package gives the committee extraordinary power. Although the complexity of the issues already gives the legislative committee a virtual monopoly on the relevant information about the pros and cons of a proposed legislative package, the committee's power is further enhanced because it does not pay for other lawmakers to become informed about the intricacies of the policies under the command of the relevant committee.737 Similar considerations no doubt incline state legislators toward reliance upon the drafters of complex uniform commercial law statutes, such as Article 4. Legislators logically can assume that the drafters of uniform laws have obtained the relevant information about the pros and cons of the legislation during the drafting process, consulted with the relevant interest groups, and produced a final product that appropriately reflects the relevant considerations.238 These assumptions seem particularly reasonable because uniform laws are drafted by representatives of "neutral" and distinguished sponsoring organizations, rather than drafters representing a particular interest group. Thus, there is likely to be considerable reliance upon the judgment of the drafters by state legislators who have neither the time nor, perhaps, the inclination to master the details of banking law.

#### States will say yes – non-partisan drafters will persuade them

Joseph Zimmerman, 2011, "Horizontal Federalism: Interstate Relations," p. 184

Commissioners are appointed by the fifty states, District of Columbia, Puerto Rico, and the U.S. Virgin Islands. The number of commissioners from a state varies, but most states appoint at least three. The governor typically is responsible for appointing the commissioners. The New York governor, for example, appoints three commissioners who serve at his or her pleasure. The conference is composed of approximately 300 nonpartisan judges, attorneys, and law professors who serve without compensation. Their roles are twofold -draft uniform laws and persuade their respective state legislature to enact them. The latter role is a most crucial one and often is time -consuming. The expenses of the conference are financed by the states with the assessment determined by the population of each state.

### Solvency – Say Yes (Transportation Infrastructure)

#### States will say yes – they want to fix their infrastructure

Sean Slone, current transportation policy analyst for The Council of State Goverments, member of CSG since 2006, Transportation and Infrastructure Finance, A CSG National Report, Introduction, 2008, page 3, <http://www.csg.org/knowledgecenter/docs/TransportationInfrastructureFinance.pdf>, SJ

“Kansas is not alone in considering these issues. Most states have begun to look at and even implement innovative ways to fund transportation. Their efforts come with the realizations that raising fuel taxes is politically difficult and that the future revenue yield from existing funding sources will be inadequate to maintain the nation’s existing transportation systems and to increase capacity for the future.”

### Solvency – AT “No One Will Push for the Laws”

#### The drafters will push for the laws in each state

Kathleen Patchel, 1993, Minnesota Law Review, "Interest Group Politics, Federalism, and the Uniform Law Process: Some Lessons from the Uniform Commercial Code," p. 138

Added to the stronger organizational position that business interest groups have with state legislatures is the support of those involved in the uniform laws process itself. The Conference extracts a commitment from its commissioners to have uniform laws introduced in their states, although it does not require them to work for the laws' enactment.229 Further, those who assist in drafting the uniform laws do work actively for their enactment, and the Conference also works to enlist local bar association support to assist in the lobbying efforts to have uniform laws passed.23O Indeed, because uniform legislation promulgated by the Conference is passed through the American Bar Association for approval, at the enactment stage it bears the imprimatur of that organization as well.231 The efforts of the Conference and its contacts, therefore, are added to those of interest groups who support uniform laws like the Code in the push for their enactment in any given skate.

### AT “Endless Amendments”

#### States won’t add amendments – fear of federal intervention

Kathleen Patchel, 1993, Minnesota Law Review, "Interest Group Politics, Federalism, and the Uniform Law Process: Some Lessons from the Uniform Commercial Code," p. 141-2

Finally, the pressure not to alter a uniform law as proposed is enhanced by "the threat of preemption " -if the states do not pass uniform laws in an area, then the federal government will step in and take over the field. This "threat of preemption " -or, to put it another way, this invocation of states' rights -has been used by Code supporters as an argument to persuade the states to avoid amendment of the Code during the enactment process so that the commercial interests who need uniformity will not have to resort to federal legislation in order to obtain it.241

### AT “CP Not Real World”

#### There have been over 310 uniform acts

Joseph Zimmerman, 2011, "Horizontal Federalism: Interstate Relations," p. 185

Since 1892, approximately 310 uniform laws have been drafted as of 2009 on a wide variety of topics, including Fiduciaries (1922), Common Trust Funds (1952), Alcoholism and Intoxication Treatment (1971), Parentage (1973), Rules of Criminal Procedure (1987), Securities (1988), Interstate Family Support (1922), Victims of Crimes (1992), Common Interest Ownership (2008), and Unsworn Foreign Declarations (2008).

## Solvency (Bottom Level: States Solvency)

### Solvency – General

#### Texas proves—States can solve TI problems

Bill Hammond, 6/17/12, president and chief executive officer of the Texas Association of Business, “Hammond: Texas, U.S. need better transportation solutions,” Lubbock Avalanche-Journal, <http://lubbockonline.com/editorial-columnists/2012-06-17/hammond-texas-us-need-better-transportation-solutions#.T-tygbV8BOE>, DY

For this reason, states like Texas have taken matters into their own hands in recent years, leading the rest of the country in infrastructure development through innovations like public-private partnerships. Together with globally recognized and industry-leading developers, the state of Texas has partnered not only to create several billion dollars’ worth of new congestion-relieving roadways without raising taxes, but is also putting employees of more than 400 Texas firms to work in the process.

### Solvency – Funding

#### States have the resources to solve

Dierkers and Mattingly’ 09

(Greg Dierkers Justin Mattingly, (national consulting firm for governors and their key policy staff for develop and implement innovative solutions to public policy), 2009, The NGA Center for Best Practices, “￼How States and Territories Fund Transportation”, p1-2, http://www.ibtta.org/files/PDFs/How%20States%20fund%20transportation%20strategies.pdf, AD)

The nation’s transportation system faces many pressures, including a growing imbal- ance between system use and system capacity, erosion of traditional funding sources, greater infrastructure costs, and shrinking sources of credit resulting from the current economic crisis. In response, states and territories1 are actively exploring how they can make better use of existing and new approaches to fund and finance trans- portation. This report provides states with an overview of traditional funding mechanisms, profiles of new and innovative programs at work in the United States and overseas, and a summary of each state’s surface trans- portation funding approaches. The report covers state-driven mechanismsi only and is meant to help states identify strategies to consider in addressing their revenue needs alongside federal and local approaches. Traditional Funding and Financing State transportation revenue from traditional sources, which account for the majority of state spending on highway transportation, totaled over $100 billion in 2007.2 Those funding sources are primarily dedicated to highways but vary by state and may also fund bridges, rail, and ports. Fuel Taxes All states have some kind of motor fuel tax; notably, Alaska’s tax is under one-year suspension until August 2009. In 2009, state motor fuel taxes averaged 21.72 cents per gallon for gasoline (ranging from 7.0 to 32 cents per gallon), 22.62 cents per gallon for diesel, and 21.54 cents for gasohol.3 State gasoline taxes generated approximately $36 billion in 2008.4 Sales Taxes on Fuel or Other Fuel Industry Taxes5 Nine states add a sales tax to gasoline purchases or tax fuel distributors or suppliers. Five states use a sales tax on gasoline that ranges from 2 percent to over 7 per- cent; three states tax fuel distributors’ gross earnings, gross receipts, or income for transportation purposes; in one state, motor fuel suppliers must collect a prepaid state tax on all motor fuel sold. Vehicle Registration Fees All states collect some form of vehicle registration fee, which amounted to a total collection of almost $20 bil- lion in 2008. However, two states do not explicitly fund transportation with these revenues. Traditional Bond Proceeds Nearly all states have transportation bonding authority.6 New state bond obligations in 2007 were valued at $19.8 billion.7 This included general obligation bond is- suances across 20 states and territories.8 With traditional bonds, states repay bondholders from user revenues, in- cluding taxes, vehicle-related fees, and toll receipts. Tolls There are approximately 150 toll roads, bridges, and tun- nels in the United States that operate in 27 states. Forty of these toll facilities are administered by state operating authorities. In 2006, state-administered toll facility rev- enue (including state revenue generated under the inter- state and international authorities) accounted for about 5 percent of total state transportation funding. Tolls gener- ated $7.6 billion in state revenues in 2007.9 General Funds Thirty-two states have general fund revenues that collec- tively account for approximately 6 percent of total state highway funding. In 2007, state general fund proceeds directed to transportation projects amounted to just over $8 billion. State general funds are established through income taxes, sales taxes, property taxes, and other state and local fees. A number of states use dedicated state transportation trust funds to manage and disperse some or all of their transportation funds. Other Sources (Fees, Taxes and Other Funds) Twenty states use one or more other sources of fund- ing, including inspection fees; driver license fees; advertising; a rental car tax; state lottery/gaming funds; oil company taxes; vehicle excise taxes; vehicle weight fees; investment income; and other licenses, permits, and fees revenue. Nontraditional and Innovative Funding and Financing States are also using nontraditional and innovative approaches to funding and financing, including sources of revenue, new financing mechanisms, new funds management techniques, and new institutional arrange- ments. These might be new sources for bond repayment or electronic road tolls that charge based on time of use. Although traditional sources still produce the majority of state transportation revenues, new and innovative ap- proaches have generated billions of dollars to fund state transportation projects over the past decade or so. Since 1990, new federal bonding programs and credit assis- tance has leveraged over $29 billion in new revenue, spread across almost all states.10 Leading categories of new and innovative transportation financing being used in the states or overseas include the following: iThis report defines state funding as state government revenues dedicated for surface transportation needs; this may include state and local sources. 1 ￼ ￼￼ 2 An Overview of Traditional and Nontraditional Strategies GARVEE Bonds Grant Anticipation Revenue Vehicles, or GARVEE bonds, are any debt financing instrument (bond, note, certifi- cate, mortgage, or lease) that a state issues whose principal and interest are repaid primarily by future fed- eral-aid funds.11 Before their creation in 1995, states could not use federal-aid funds to support bonding. As of 2008, 30 states and territories authorized GARVEEs, with 32 issuances worth $9.3 billion, accounting for approximately 40 percent of state bonds for transporta- tion purposes.12 An additional five states issued eight “indirect” GARVEEs that pledge other future sources of federal highway funds for debt service and repayment.13 Private Activity Bonds Private Activity Bonds (PABs) are debt financing instru- ments authorized for highway and intermodal transfer stations in 2005. As of December 2008, eight PABs worth over $4.9 billion had been issued in six states.14 Tax-exempt PABs are limited to straight-line deprecia- tion, and only 25 percent of the money can be used for real estate. The total amount of private activity bonding that a state can issue is subject to annual federal limits. ARRA Bonds The American Recovery and Reinvestment Act of 2009 (ARRA) provided for two new transportation bonds, Build America Bonds (BABs) and Recovery Zone Bonds (RZBs). In the first several months of availability, public issuers sold nearly $8 billion in BABs, including a suc- cessful $1.375 billion issue by the New Jersey Turnpike Authority. ARRA established a $10 billion national bond cap for RZBs, but none have been used to date. Federal Credit Assistance Through the Transportation Infrastructure Finance and Innovation Act (TIFIA) loan program, the federal gov- ernment provides states direct loans, loan guarantees, and lines of credit for major transportation infrastruc- ture projects. Traditionally, these types of projects were supported by federal grants. As of April 2009, 17 projects in 12 states and territories have used TIFIA fi- nancing with a value of $6 billion. State Infrastructure Banks State Infrastructure Banks (SIBs) are revolving loan funds to finance highway and transit projects.15 SIBs are in place in 35 states, although more than 95 percent of the funding is concentrated in eight states, and one state ac- counts for more than half. They became widespread in 1998 when the federal government expanded eligibility and provided $150 million in seed funding for initial capi- talization.16 To date, SIBs have provided $6.2 billion in loans for 693 different transportation projects.17 Congestion and Cordon Pricing Congestion pricing is designed to shift demand to less- congested areas or time periods by charging motorists for road use, or varying charges, during times of peak demand. Cordon pricing similarly charges users for entry into a congested area, such as a city center, during some portion of the day. Although only a few states use congestion fees and none have cordon pricing, these tools are used in a number of countries as a means of both demand mitigation and revenue generation (for ex- ample to help fund transit options). The United Kingdom, Norway, and Sweden have been operating successful congestion and cordon pricing schemes for several years; Singapore created the first congestion pricing program in the 1970s. Public-Private Partnerships Public-private partnerships (PPPs) establish a contrac- tual agreement between a public agency and a private sector entity to collaborate on a transportation project. Twenty-six states have some sort of PPP enabling legis- lation, and 24 states have used some form of public-pri- vate partnership for surface transportation, including roads, freight facilities, and transit, for a total of 71 proj- ects.18 PPP activity is much greater outside the United States, where partnerships have been used to fund more than four times as many projects as have been under- taken here. Vehicle Miles Traveled Fees Vehicle miles traveled (VMT) fees charge drivers directly for each mile traveled; the fees replace a traditional motor fuel tax. States are beginning to examine using VMT fees, including one pilot and one weight-mile tax. VMT-based fees are in place for trucks in Germany, Switzerland, and Austria. VMT-based fees are due to be utilized in the Netherlands by 2014 and in Denmark by 2016. Other Sources (Impact Fees, Traffic Camera Fees, Container Fees, Emissions Fees) Other types of new or innovative vehicle or user fees are also employed by states and internationally to gen- erate revenue. Twenty-three states and a number of European countries are using impact fees to help fund new infrastructure and transportation projects. Mean- while, 23 states and many European countries are using traffic cameras to generate revenue for surface transportation. Several European and Asian countries rely on vehicle emissions fees, which are currently not in use in the United States. Table 1 summarizes states’ use of traditional and nontra- ditional financing approaches. ￼

#### States want more freedoms for their transportation infrastructure & funding

ACC 09 “New transportation funding methods popular, survey says” <http://americancityandcounty.com/pubwks/streets_hwy_bridges/new-transportation-funding-popular-20090917> - JW

Voters remain open to allowing states to explore non-traditional methods for funding transportation projects, according to a survey of states released Wednesday by the Atlanta-based [Association County Commissioners of Georgia](http://www.accg.org/) (ACCG). The report, "[Coping with Transportation Funding Deficits: A Survey of States](http://www.accg.org/library/ACCG%20Transportation%20Funding%20Survey%20of%20the%20States_Fall%202009.pdf)," summarizes states' efforts to increase transportation funding since 2000. ACCG found that referenda were the most popular method to increase transportation funding, and that the 210 referenda held since 2000 frequently represented moves away from the traditional use of gas taxes to fund transportation projects. Sales and property taxes, bonds and other fees were the more popular alternative funding sources under consideration in the referenda. "Our primary purpose in developing this report was to assist Georgia's policymakers by providing them with a comprehensive overview of legislative strategies used by other states," said Matthew Hicks, ACCG associate policy director for economic development and transportation. "We learned that there is no single answer to transportation funding. States are developing solutions to meet their specific needs and empowering local governments with the tools necessary to address their own transportation challenges." Other results of the survey include: Many states are enabling local governments and existing or newly defined regions to develop their own revenue-generating solutions. More local tax measures (173) were proposed than any other type of referenda. In addition, 19 regional measures were proposed. The majority (13) of the proposals included sales tax increases, and nine of them were approved. Most of the statewide measures that were proposed to voters were for the approval of bond projects. Fourteen of the 17 statewide ballot measures were for bond approvals. Many state legislatures are taking direct action to increase transportation funding. Six states increased the motor fuel tax, 12 raised fees, and three enabled their largest metropolitan regions to levy sales taxes for transportation.

#### Texas proves that states can do this on their own

Mark Whittaker, 7, Capital Outlay Coordinator, Debt Service,” The LAO report”, LAO publications, pg. 7-8, <http://www.lao.ca.gov/reports/2011/stadm/infrastructure/infrastructure_082511.pdf>, Lo

The state’s infrastructure spending relies on various financing approaches and funding sources. For example, fuel tax revenues fund a portion of transportation infrastructure, water fees collected from water users fund certain water projects, and the General Fund pays for other infrastructure. Some infrastructure has been funded through direct—or pay-as-you-go—spending from the General Fund and special funds. Under the pay-as-you go approach, the state funds infrastructure up front through the direct appropriation of taxes and fees. Over the last decade, , direct appropriations from General Fund sources represented a small portion of the state’s infrastructure spending (2 percent). In contrast, pay-as-you-go spending from special funds—primarily transportation revenues—made up a significant share of the state’s infrastructure spending (33 percent). Lease revenue bonds, which accounted for 5 percent of the state’s total infrastructure spending, are the second type of bond.

### Solvency: Toll Roads (Gas Tax Affs)

#### States can use toll fees to offset dependence on the federal gas tax

Jaime Rall and Simon Workman, June 2012, NCSL, National Conference of State Legislatures, "6 ways to pay," p. 15

Transportation experts agree the current transportation funding system, which relies heavily on fuel taxes, is not sustainable. As the purchasing power of fuel taxes continues to drop, more states are turning back to how transportation improvements were first funded in the United States: tolling. In the late 1700s, as the new nation grew, so did its need for passable roads, many of which were operated by private turnpike companies and paid for with tolls. But with the rise of public roads and fuel taxes, interest in tolling declined. In recent years, the idea has gained traction in light of funding shortfalls, electronic tolling capabilities, and growing interest in public-private partnerships. About 40 states have laws that authorize tolls, and at least 36 have toll facilities run by statewide, regional or private operators. Many of these use state-of-the-art electronic toll collection systems that allow drivers to pay without stopping their cars, reducing operating costs as well as lines. At least 10 states have also developed special facilities called high-occupancy toll lanes. These lanes allow solo drivers to use high-occupancy vehicle lanes if they pay a toll. This approach can not only can bring in revenue, but also can ease traffic jams as more cars move off congested lanes.

### Solvency: National Infrastructure Bank (State Infrastructure Banks)

#### States can set up their own infrastructure banks – Virginia proves

Leesburg Patch.com, June 21, 2012, VTIB Finances $160 Million in Transportation Improvements, SJ

It was announced on Wednesday that the Commonwealth Transportation Board has approved an $80 million loan to finance an extension to both Gloucester Parkway and Pacific Boulevard. Governor Bob McDonnell announced on Wednesday that a critical link of Gloucester Parkway in Loudoun County and the Route 460 project in southeastern Virginia will move forward as a result of financing provided by the Virginia Transportation Infrastructure Bank (VTIB). The Commonwealth Transportation Board (CTB) voted to approve applications for both projects, totaling $160 million, through the infrastructure bank. It issues low-interest loans to fast-track high priority projects. The infrastructure bank is part of the governor's $4 billion transportation package passed in 2011 by the General Assembly. “Much needed transportation projects can accelerate toward construction with financial assistance from the Virginia Transportation Infrastructure Bank,” McDonnell said. “The bank provides a resource that public- and private-sector entities can use to finance projects so they can be built as soon as possible to relieve congestion, provide better transportation and stimulate the economy in the near-term instead of waiting years into the future.” State Senator Mark Herring (D – Loudoun & Fairfax) also praised the decision and said, that advancing the construction will relieve congestion on Route 7, Route 28 and Waxpool Road and will improve the quality of life for thousands of Loudoun residents He proposed the establishment of a state transportation infrastructure bank in a letter to Governor McDonnell in November 2010. Creation of the infrastructure bank later became part of the Governor’s 2011 Transportation Package. In that letter, Senator Herring wrote that an infrastructure bank would: “[…] provide financing for qualified infrastructure projects throughout the state and leverage resources to stimulate public and private investment in infrastructure. Funds could be used for the construction of roads bridges, public transit, and passenger and freight rail, with the criteria being congestion relief and economic development. "Special emphasis should be given to projects that support top state transportation priorities such as those projects that serve Dulles International Airport and the ports in the Hampton Roads region, Virginia’s two largest job generators and our gateways to the global economy." The new loan will completely finance the three-phase project: Phase 1 – Extend Pacific Boulevard north at its intersection with Gloucester Parkway Phase 2 – Extend Gloucester Parkway west from its intersection with Pacific Boulevard to Loudoun County Parkway Phase 3 – Extend Pacific Boulevard north at Russell Branch Parkway and another extension south to Severn Way Construction is scheduled to finish by the end of 2014.

#### Georgia also proves states can sustain their own infrastructure banks

Dave Williams, Staff Writer for Atlanta Business Chronicle, State awards $8M for metro-Atlanta roadwork, Atlanta Buisiness Chronicle, June 2012, <http://www.bizjournals.com/atlanta/news/2012/06/21/state-awards-8m-for-metro-atlanta.html>, SJ

“A state transportation-financing program awarded more than $8 million in grants and loans Thursday for a dozen road, bridge and streetscape projects across metro Atlanta. The Georgia Transportation Infrastructure Bank, a revolving investment fund created by the General Assembly in 2008, approved requests from 11 community improvement districts. The amounts of funding that went to each project ranged from five $1 million grants for major intersection upgrades to two $200,000 grants for bridge improvements. “They were great applications,” Gov. [Nathan Deal](http://ad.doubleclick.net/imp%3Bv7%3Bj%3B257773330%3B0-0%3B0%3B17652487%3B0/0%3B48845127/48842170/1%3B%3B~aopt%3D2/0/c0/0%3B~okv%3D%3Bat%3Ddaily%3Bpageid%3D8708462%3Bpos%3Dwel%3Bdcopt%3Dist%3Btile%3D11%3Bkw%3Datlanta%3Bpage%3D8708462%3Bvs%3Dlogistics_and_transportation%3Bco%3D3327917%3Bsz%3D1x1%3Bbsg%3D1418586%3Bbsg%3D1431906%3B%3B~cs%3Dr%3Fhttp%3A/s0.2mdn.net/3571821/acerTM_interstitial_v1.htm?t=10&cT=http%3A//ad.doubleclick.net/click%253Bh%253Dv8/3ca1/2/0/%252a/f%253B257773330%253B0-0%253B0%253B17652487%253B255-0/0%253B48845127/48842170/1%253B%253B%257Eaopt%253D2/0/c0/0%253B%257Esscs%253D%253f&l=http%3A//www.bizjournals.com/atlanta/search/results%3Fq%3DNathan%20Deal) said during a ceremony at the Capitol announcing the awards. “We saw the value in each.” The applications were approved by the [State Road and Tollway Authority](http://ad.doubleclick.net/imp%3Bv7%3Bj%3B257773330%3B0-0%3B0%3B17652487%3B0/0%3B48845127/48842170/1%3B%3B~aopt%3D2/0/c0/0%3B~okv%3D%3Bat%3Ddaily%3Bpageid%3D8708462%3Bpos%3Dwel%3Bdcopt%3Dist%3Btile%3D11%3Bkw%3Datlanta%3Bpage%3D8708462%3Bvs%3Dlogistics_and_transportation%3Bco%3D3327917%3Bsz%3D1x1%3Bbsg%3D1418586%3Bbsg%3D1431906%3B%3B~cs%3Dr%3Fhttp%3A/s0.2mdn.net/3571821/acerTM_interstitial_v1.htm?t=10&cT=http%3A//ad.doubleclick.net/click%253Bh%253Dv8/3ca1/2/0/%252a/f%253B257773330%253B0-0%253B0%253B17652487%253B255-0/0%253B48845127/48842170/1%253B%253B%257Eaopt%253D2/0/c0/0%253B%257Esscs%253D%253f&l=http%3A//www.bizjournals.com/profiles/company/us/ga/atlanta/state_road_and_tollway_authority/3327917/) [State Road and Tollway Authority](http://ad.doubleclick.net/imp%3Bv7%3Bj%3B257773330%3B0-0%3B0%3B17652487%3B0/0%3B48845127/48842170/1%3B%3B~aopt%3D2/0/c0/0%3B~okv%3D%3Bat%3Ddaily%3Bpageid%3D8708462%3Bpos%3Dwel%3Bdcopt%3Dist%3Btile%3D11%3Bkw%3Datlanta%3Bpage%3D8708462%3Bvs%3Dlogistics_and_transportation%3Bco%3D3327917%3Bsz%3D1x1%3Bbsg%3D1418586%3Bbsg%3D1431906%3B%3B~cs%3Dr%3Fhttp%3A/s0.2mdn.net/3571821/acerTM_interstitial_v1.htm?t=10&cT=http%3A//ad.doubleclick.net/click%253Bh%253Dv8/3ca1/2/0/%252a/f%253B257773330%253B0-0%253B0%253B17652487%253B255-0/0%253B48845127/48842170/1%253B%253B%257Eaopt%253D2/0/c0/0%253B%257Esscs%253D%253f&l=http%3A//www.bizjournals.com/profiles/company/us/ga/atlanta/state_road_and_tollway_authority/3327917/)Latest from The Business Journals[Group fights continuation of Ga. 400 toll](http://ad.doubleclick.net/imp%3Bv7%3Bj%3B257773330%3B0-0%3B0%3B17652487%3B0/0%3B48845127/48842170/1%3B%3B~aopt%3D2/0/c0/0%3B~okv%3D%3Bat%3Ddaily%3Bpageid%3D8708462%3Bpos%3Dwel%3Bdcopt%3Dist%3Btile%3D11%3Bkw%3Datlanta%3Bpage%3D8708462%3Bvs%3Dlogistics_and_transportation%3Bco%3D3327917%3Bsz%3D1x1%3Bbsg%3D1418586%3Bbsg%3D1431906%3B%3B~cs%3Dr%3Fhttp%3A/s0.2mdn.net/3571821/acerTM_interstitial_v1.htm?t=10&cT=http%3A//ad.doubleclick.net/click%253Bh%253Dv8/3ca1/2/0/%252a/f%253B257773330%253B0-0%253B0%253B17652487%253B255-0/0%253B48845127/48842170/1%253B%253B%257Eaopt%253D2/0/c0/0%253B%257Esscs%253D%253f&l=http%3A//www.bizjournals.com/atlanta/morning_call/2012/06/group-fights-continuation-of-ga-400.html)[I-85 HOT lane toll reaches](http://ad.doubleclick.net/imp%3Bv7%3Bj%3B257773330%3B0-0%3B0%3B17652487%3B0/0%3B48845127/48842170/1%3B%3B~aopt%3D2/0/c0/0%3B~okv%3D%3Bat%3Ddaily%3Bpageid%3D8708462%3Bpos%3Dwel%3Bdcopt%3Dist%3Btile%3D11%3Bkw%3Datlanta%3Bpage%3D8708462%3Bvs%3Dlogistics_and_transportation%3Bco%3D3327917%3Bsz%3D1x1%3Bbsg%3D1418586%3Bbsg%3D1431906%3B%3B~cs%3Dr%3Fhttp%3A/s0.2mdn.net/3571821/acerTM_interstitial_v1.htm?t=10&cT=http%3A//ad.doubleclick.net/click%253Bh%253Dv8/3ca1/2/0/%252a/f%253B257773330%253B0-0%253B0%253B17652487%253B255-0/0%253B48845127/48842170/1%253B%253B%257Eaopt%253D2/0/c0/0%253B%257Esscs%253D%253f&l=http%3A//www.bizjournals.com/atlanta/morning_call/2012/04/toll-for-i-85-hot-lanes-reaches-5.html) [I-85 HOT lanes bring 0K a month, 20% don't pay](http://ad.doubleclick.net/imp%3Bv7%3Bj%3B257773330%3B0-0%3B0%3B17652487%3B0/0%3B48845127/48842170/1%3B%3B~aopt%3D2/0/c0/0%3B~okv%3D%3Bat%3Ddaily%3Bpageid%3D8708462%3Bpos%3Dwel%3Bdcopt%3Dist%3Btile%3D11%3Bkw%3Datlanta%3Bpage%3D8708462%3Bvs%3Dlogistics_and_transportation%3Bco%3D3327917%3Bsz%3D1x1%3Bbsg%3D1418586%3Bbsg%3D1431906%3B%3B~cs%3Dr%3Fhttp%3A/s0.2mdn.net/3571821/acerTM_interstitial_v1.htm?t=10&cT=http%3A//ad.doubleclick.net/click%253Bh%253Dv8/3ca1/2/0/%252a/f%253B257773330%253B0-0%253B0%253B17652487%253B255-0/0%253B48845127/48842170/1%253B%253B%257Eaopt%253D2/0/c0/0%253B%257Esscs%253D%253f&l=http%3A//www.bizjournals.com/atlanta/morning_call/2012/03/i-85-hot-lanes-bring-200k-a-month-20.html)[Follow this company](http://ad.doubleclick.net/imp%3Bv7%3Bj%3B257773330%3B0-0%3B0%3B17652487%3B0/0%3B48845127/48842170/1%3B%3B~aopt%3D2/0/c0/0%3B~okv%3D%3Bat%3Ddaily%3Bpageid%3D8708462%3Bpos%3Dwel%3Bdcopt%3Dist%3Btile%3D11%3Bkw%3Datlanta%3Bpage%3D8708462%3Bvs%3Dlogistics_and_transportation%3Bco%3D3327917%3Bsz%3D1x1%3Bbsg%3D1418586%3Bbsg%3D1431906%3B%3B~cs%3Dr%3Fhttp%3A/s0.2mdn.net/3571821/acerTM_interstitial_v1.htm?t=10&cT=http%3A//ad.doubleclick.net/click%253Bh%253Dv8/3ca1/2/0/%252a/f%253B257773330%253B0-0%253B0%253B17652487%253B255-0/0%253B48845127/48842170/1%253B%253B%257Eaopt%253D2/0/c0/0%253B%257Esscs%253D%253f&l=http%3A//www.bizjournals.com/%23bizWatch-infoPopup) , which administers the infrastructure bank. Deal serves as SRTA’s board chairman. Thursday’s round of funding was the second for the program. More than $10 million in grants and loans were awarded in the first round of funding two years ago. Thus far, community improvement districts, self-taxing organizations formed by businesses to finance transportation projects in their communities, have leveraged the state money to finance more than $100 million in improvements. “It’s a great partnership,” said Lt. Gov. [Casey Cagle](http://ad.doubleclick.net/imp%3Bv7%3Bj%3B257773330%3B0-0%3B0%3B17652487%3B0/0%3B48845127/48842170/1%3B%3B~aopt%3D2/0/c0/0%3B~okv%3D%3Bat%3Ddaily%3Bpageid%3D8708462%3Bpos%3Dwel%3Bdcopt%3Dist%3Btile%3D11%3Bkw%3Datlanta%3Bpage%3D8708462%3Bvs%3Dlogistics_and_transportation%3Bco%3D3327917%3Bsz%3D1x1%3Bbsg%3D1418586%3Bbsg%3D1431906%3B%3B~cs%3Dr%3Fhttp%3A/s0.2mdn.net/3571821/acerTM_interstitial_v1.htm?t=10&cT=http%3A//ad.doubleclick.net/click%253Bh%253Dv8/3ca1/2/0/%252a/f%253B257773330%253B0-0%253B0%253B17652487%253B255-0/0%253B48845127/48842170/1%253B%253B%257Eaopt%253D2/0/c0/0%253B%257Esscs%253D%253f&l=http%3A//www.bizjournals.com/atlanta/search/results%3Fq%3DCasey%20Cagle), who helped spearhead the legislation creating the program. “[It] has allowed the private sector to sort through a lot of bureaucracy … to improve our transportation system around the state.” Two of the $1 million grants – to the Gwinnett Place and Gwinnett Village CIDs – will go toward the construction of “diverging diamond interchanges” (DDI) at Interstate 85 and Pleasant Hill Road and I-85 and Jimmy Carter Boulevard. Georgia’s first DDI opened recently at I-285 and Ashford-Dunwoody Road.”

#### States can build transportation infrastructure with the help of the state infrastructure bank

Slone 11

Sean Slone, Council of State Governments, “State Infrastructure Bank”, <http://knowledgecenter.csg.org/kc/content/state-infrastructure-banks> KSM

An interchange at the Fort Lauderdale airport. A bridge replacement in Cleveland. An interstate around North Augusta, S.C., that will help ease the daily commute for thousands of motorists. The thing they all have in common is that they were all financed with help from a state infrastructure bank, a type of revolving infrastructure investment fund for surface transportation projects with which 32 states and Puerto Rico have at least some experience. Operating much like other kinds of banks, these infrastructure banks can offer loans and credit assistance enhancement products to public and private sponsors of certain highway construction, transit or rail projects. Under the 2005 federal highway authorization bill, known as SAFETEA-LU, all states and territories plus the District of Columbia were given the authority to establish state infrastructure banks. This followed a period during the 1990s when at different times, anywhere from 10 to 39 states were allowed to experiment with these banks under a series of federal pilot programs. The 2005 legislation also allowed for the creation of multi-state infrastructure banks. Federal and state matching funds are generally used to start a state infrastructure bank. States can then contribute state or local funds and seek additional federal funds to provide more capital.1 The bank’s initial capitalization and ongoing revenue can be used in a number of different ways. The funds can be lent directly to selected projects. The bank can leverage its initial capitalization by providing loan assistance, by using loan repayments as dedicated revenue to sell bonds in the bond market and by providing additional loan assistance with the proceeds of the bond. Finally, the bank can use the funds to guarantee bonds issued by cities, counties, public-private partnerships and other entities, in the process enhancing their creditworthiness and lowering the interest rates they have to pay in the capital markets. Loan guarantees can be particularly beneficial in reducing interest rates on projects in states with cities, counties and special districts that have limited financial capacity.2 While the SAFETEA-LU authorization established the basic requirements and overall operating framework for state infrastructure banks, many states have tailored their banks to meet their own needs and offer their own types of financing assistance. That being said, loans remain the most popular form of state infrastructure bank assistance. The Federal Highway Administration reported that through the end of 2008 (the latest year for which complete data is available), 32 states and Puerto Rico had entered into 609 state infrastructure bank loan agreements totaling $6.2 billion.3

## Net Benefits

### Federalism

#### Uniform acts are essential to preserve federalism

Eric Fish, 7/1/12, "The Uniform Law Commission: Preserving the Roles of Federal and State Law," (Fish serves as interim legal counsel to the ULC), p. 65

The Constitution of the United States is a delicate instrument that divides governing power between two sovereigns whose purpose is to provide for the betterment of the whole. The Founding Fathers acknowledged that “federal and state governments are in fact but different agents and trustees of the people, constituted with different powers and designed for different purposes.”1 The federal government is responsible for integrating citizens of states with different histories, resources, and needs together into one unified nation. At the same time, the Constitution circumscribes the powers of the federal government. States remain sovereign, free to a separate and independent existence, so far as the exercise of power does not conflict with powers specifically enumerated as within the purview of the federal government. Maintaining this constitutional division of power between state and federal authority is ultimately dependant on the political process. A robust Federalism has been, and will continue to be, a dynamic arrangement of governance with its sustainability dependent on the spirited exploration of its limits by the people. Although the structure of the Constitution has not changed, the authority of the federal government with respect to the powers reserved to the states has changed over the years. From the ever expanding and contracting conception of the commerce clause, to the tendency for a legislator to draft legislation attuned more to popular opinion than the structural benefits of federalism, the choices made during the political process often create unforeseen implications on the balance of federal and state powers. As such, the powers of the state are in need of constant protection from federal encroachment. The inherent tendency in protecting state law is to wait until an intrusion into state law is perceived to violate the 10th Amendment and seek judicial intervention. Advocates rely on the courts to fulfill their role as ultimate arbiter of the bounds of federalism, swayed by claims that the action in controversy will, for example, be a “death-knell for the Constitution’s finely calibrated system of federalism.”2 Without question, the judiciary plays a significant role maintaining the design contemplated by the Constitution’s framers. But the role is passive and unpredictable, and should be one of last resort. By design, the judiciary is not to be an active participant in the political process. The balance of federalism is best maintained through the political process, with the representatives of the people engaged in debate and competition to establish the proper bounds of federal and state authority.3 Unique state-based institutions, such as the Uniform Law Commission, offer an alternative to the reliance on litigation to advance the cause of state law. The active participation of the Commission in the political process is providing considerable protection from federal encroachment on state power and helping to shape future discussions on the issue of federalism.

#### Uniform acts are key to maintain federalism

Eric Fish, 7/1/12, "The Uniform Law Commission: Preserving the Roles of Federal and State Law," (Fish serves as interim legal counsel to the ULC), p. 65-66

For well over a century, the more than 250 uniform acts drafted by the Uniform Law Commission have brought consistency, clarity and stability to state statutory law. While one of the original intentions of state governments when founding the Commission was to have a forum where state leaders could consider state law, determine in which areas of the law uniformity is important, and then draft uniform and model acts for consideration by the states, the Uniform Law Commission plays an important role in preserving the balance of federalism. Although uniform legislation was initially characterized by some as tending toward the same sort of centralization imposed by federal mandate, voluntary state action through uniform laws “takes from the general government any excuse for absorbing powers now confined to the states, and therefore directly tends to preserve intact the independence of the states.”4 As the debate over federalism intensifies, the Uniform Law Commission is continuing to preserve the role of state law within a federal system. Recently, the Commission has served as a bulwark against federal legislation that would federalize areas of family law, while at the same time offering a state solution. It also has worked with the federal government to integrate international obligations into state law without damaging existing laws. And, much in the same way, it has played an important role in addressing the feasibility of federal initiatives and provides commentary that can help guide federal policy. Expounding on these examples, the importance of the Uniform Law Commission as a political institution of state government able to engage in the political pursuit of federalism becomes clear.

#### Uniform acts are key to boost interstate relations and prevent encroachment of the federal government

Joseph Zimmerman, 2011, "Horizontal Federalism: Interstate Relations," p. ix-x

Cooperative interstate relations are essential for the maintenance of the economic union and the political union established by a confederacy or a federacy. The importance of interstate relations suggests they would be featured prominently in the literature on the US federal system, yet a review focusing upon the post-World War II period reveals relatively few scholars studied horizontal state relations. State-erected trade barriers completely or partially blocking the arteries of interstate commerce and interstate boundary disputes threatened the two unions established by the Articles of Confederation and Perpetual Union. The response of the unicameral Congress was to convene a constitutional convention in Philadelphia in 1787 to revise the articles. The convention, however, quickly decided to replace the articles with the US Constitution which created a system of dual sovereignty with Congress exercising delegated powers, including exclusive ones, and state exercising reserved or residual powers on an equal footing with each other. The fundamental law establishes an interstate regulatory framework in the form of four important provisions -interstate commerce, full faith and credit, rendition of fugitives from justice, and privileges and immunities specifically designed to ensure maintenance of the viability of the two unions. Furthermore, the constitution authorizes states to enter into compacts or agreements to promote interstate cooperation in the provision of services and establishment of uniform regulations, and provides for the impartial settlement of intractable interstate controversies by establishing the U.S. Supreme Court as a court of the states with original jurisdiction over such controversies. Congress, state legislatures, state courts, and U.S. courts play important roles in the governance of horizontal relations between the semi- autonomous states. State governors are assigned an exclusive role in the interstate rendition process. The intricate web of interstate relations is held together by the above cited constitutional provisions and the power of Congress to regulate interstate commerce. The lack of uniform state statutes and administrative rules and regulations on a wide variety of subjects creates serious problems for citizens traveling to sister states and for multistate and multinational corporations. Organized state efforts have been made since 1892 to harmonize diverse state regulatory laws in the form of uniform laws, yet nonuniformity characterizes statutes and administrative rules on numerous subjects. The failure or inability of states to solve several important transboundary problems, such as water pollution, resulted in increasing congressional preemption of their regulatory authority since 1965. Enactment of 650 complete and partial preemption statutes in the period of 1790 -2010 produced significant changes in the nature of the federal system in general and relations between states in particular.

### Politics

#### The CP avoids politics – doesn’t use the federal government and the conference is politically neutral

Kathleen Patchel, 1993, Minnesota Law Review, "Interest Group Politics, Federalism, and the Uniform Law Process: Some Lessons from the Uniform Commercial Code," p. 146

Further, although some political analysts are quite skeptical that representative government actually provides an effective check on special interests, it certainly is true that the theory of representative government, whether it always works in practice or not, provides a type of legitimacy to the decisions made by politically accountable bodies that the Conference's decisions lack. The Conference gains legitimacy for its laws, not from their democratic origins, but from the neutrality of their drafters and the nonpolitical nature of the drafting process that produces them. The idea is that these laws are not the product of the pressures of politics, but politically neutral "best" solutions to the problems with which they deal.

# Aff Answers

## Solvency Answers

### Say No – Won’t Want To Spend More

#### The states will say no – too expensive

Brad Plumer, 3/21/12, Washington Post, "why can't we just leave infrastructure spending to the state?" <http://www.washingtonpost.com/blogs/ezra-klein/post/why-cant-we-just-leave-infrastructure-spending-to-the-states/2012/03/21/gIQAjpYBSS_blog.html>

Yesterday, I pointed out that Rep. Paul Ryan’s GOP budget proposal would require the federal government to spend less and less on transportation over time. Reihan Salam asks whether this is really such a bad thing. Can’t state governments just pick up the slack? That’s possible, sure. But it hasn’t happened so far. As a recent report (pdf) from the Congressional Budget Office detailed, the federal government’s share of infrastructure spending has already been shrinking since the 1960s and 1970s. And the states, which still provide the vast majority of spending on roads and highways, haven’t made up the difference. The end result? There’s less infrastructure spending overall as a percent of GDP: [chart excluded]. Keep in mind that this is all happening at a time when infrastructure is getting increasingly expensive to build — the CBO notes that the cost of building highways has tripled since 1980, far faster than inflation. States are spending the same, but getting less and less. Now, maybe this would all be okay if we were keeping our roads and bridges and pipes in good shape. But various experts and groups like the American Civil Society of Engineers seem to think that we’re woefully under-investing in infrastructure of all sorts. One potential pitfall with handing over more and more infrastructure responsibilities to the states, meanwhile, is that states tend to cut way back on spending during recessions. And local funding can be pretty erratic, all told. Here’s a graph from New America’s Samuel Sherradan, based on CBO data:[chart excluded]. We’ve seen this in the current downturn. Sherraden observes that California’s transportation spending declined by 31 percent from 2007 to 2009 after the housing bubble burst and local tax revenue fell. The same goes for Texas, which saw an 8 percent drop. “[I]t is clear,” Sherraden writes, “that leaving a greater share of infrastructure spending to state and local governments makes infrastructure investment more vulnerable during downturns.”

#### State governments cannot afford to expand their transportation infrastructure

Sean Slone, current transportation policy analyst for The Council of State Goverments, member of CSG since 2006, Transportation and Infrastructure Finance, A CSG National Report, Defining the Problem, 2008, page 6, <http://www.csg.org/knowledgecenter/docs/TransportationInfrastructureFinance.pdf>, SJ

“Unfortunately, finding the money to improve and expand the transportation system is a significant challenge facing state governments. ‘Maintenance costs of existing transportation assets are competing for the same funds need to expand transportation system,’ Mark Florian, the head of Infrastructure Banking for Goldman Sachs, told Congressional committee in June 2008. ‘Many states do not have sufficient funds to maintain their roads, much less add need capacity.’”

### Say No – Wants Federal Funding

#### Nearly all of the states want federal funding, means they will say no

Larry Ehl, 6/5/12, publisher of transportationissuesdaily.com with nearly fifteen years of public and private sector experience in transportation policy, “What 49 Chambers from Red and Blue States Want in Transportation Bill,” <http://www.transportationissuesdaily.com/what-49-chambers-from-red-and-blue-states-want-in-transportation-bill/>, DY

Forty-nine Chambers from both red and blue states are asking Congress to quickly enact a transportation bill, and to include a certain provision from the Senate bill. The letter was released today by Senator Barbara Boxer, chair of the Senate-House transportation bill negotiating committee. Observing that “we see transportation infrastructure as a top priority for our cities, states and nation.,”

### Say No/Can’t Afford

#### States don’t have enough money to rebuild alone, Congress not helping

Jeff Plungis, 2012(transportation politics journalist for Bloomberg). “Patchwork U.S. Highway Deals Leave States Hanging”,http://www.bloomberg.com/news/2012-06-22/patchwork-u-s-highway-deals-leave-states-hanging.html. , Bloomberg online. June 22, 2012 A.G.

One consideration above all others may be pushing the political odd couple of Senator Barbara Boxer and Representative John Mica toward a deal on U.S. highway spending through next year: Failure to reach one may idle thousands of construction workers.**The Highway Trust Fund**, which enables the federal government to pay for state road and bridge projects, **may run out of money if Congress resorts**, as it has nine times already, **to a temporary extension of current law**. States will become cautious about starting or continuing projects if Congress can’t agree on a funding plan soon, possibly putting an entire year’s construction on hold, said Brian Turmail, spokesman for the Associated General Contractors of America, an Arlington, Virginia-based trade group.“We’re going to come back and will have a harder problem,” he said. “There’s no incentive to kick the can here.”After weeks of growing doubts within the transportation and construction industries that a deal was possible before the current law’s June 30 expiration, congressional negotiators took steps this week toward working out their differences. Boxer, a California Democrat, and Mica, a Florida Republican, said yesterday they’re making progress and will work into next week.The Highway Trust Fund will run out of money sometime in the next 15 months without a congressional transportation deal, according to the Congressional Budget Office. The fund, which works as a kind of credit card to reimburse states for construction they’re undertaking, is paid for through taxes on gasoline, diesel, new-truck purchases and truck tires. ‘Political Games’: “**We need Congress to stop playing political games and take action,” U.S. Transportation Secretary** Ray **LaHood told reporters** in a conference call today. “I have my fingers and toes and eyes, and everything I can cross, crossed that we will get to a bill that will put people back to work.” Without additional revenue, the trust fund will be drained by January or February, Jack Basso, a transportation finance specialist at the American Association of State Highway and Transportation Officials, told reporters after a June 13 rally with senators and builders on the National Mall in Washington. A six-month extension would put the transportation negotiations into a post-election session of Congress that probably will be mired in discussions of the national deficit, whether to extend former President George W. Bush’s tax cuts, and how to avoid reductions in defense spending. States don’t want to take that chance, said Basso, a former assistant secretary for budget at the U.S. Transportation Department. Missouri Projects: “They will start fewer projects if it’s uncertain through the fall,” Basso said. “We’re going to miss a major part of the construction season.” **Missouri, even at current funding levels, is already struggling to find enough money to rebuild Interstate 70, which runs between St Louis and Kansas City, or replace bridges over the Mississippi and Missouri rivers**, said Bob Brendel, a spokesman for the state transportation department in Jefferson City. “**We have way more needs than funds to meet them,” Brendel said.** “We’re in virtual maintenance-only mode now.” **The Washington-based American Road and Transportation Builders Association said** June 20 that **28 states and the District of Columbia are spending less on highways and bridges than they were in 2008**, before the latest U.S. recession, according to data compiled by McGraw-Hill Analytics. Construction Unemployement: “That’s a major reason why unemployment in the construction industry is over six points higher than the national average,” said Alison Premo Black, the 110-year-old trade group’s chief economist. **If conferees reduced federal highway program spending to what the Highway Trust Fund is taking in, as some Republican lawmakers are proposing, it would mean a decrease of about 35 percent in the amount of money states could obligate**, Black said. **“This would definitely have an adverse effect on the market,” Black said. “State DOTs and local governments could choose to spend their own money to help make up that gap,** but they are still feeling the impact of the weak economy**.”** The Highway Trust Fund collected $36.9 billion in taxes and interest in 2011, while it sent out $44.3 billion in payments, according to the CBO. Of the outlays, $36.7 billion went to highways and $7.6 billion to mass transit. Declining balance:This year’s spending is more in line with receipts, according to an update on the Federal Highway Administration website.

### No Solvency - Lobbying

#### Lobbying groups will kill the administration of the plan at the state level absent federal action

Kathleen Patchel, 1993, Minnesota Law Review, "Interest Group Politics, Federalism, and the Uniform Law Process: Some Lessons from the Uniform Commercial Code," p. 143-4

To the above -mentioned considerations, which work against the ability of consumer interests to change the content of a uniform law at the enactment stage, must be added the general tendency observed by political scientists for state legislation to favor business interests over those of consumers. State government "tends to be dominated by corporate, professional, and bureaucratic lobbies for the status quo, "214 and, thus, the legislation states pass tends to be less effective in protecting the interests of consumers vis a vis these business interests.245 A "state legislature has a narrower set of interests within its area of jurisdiction, whereas the national legislature is responsible to the vast array of interests spread among the entire United States."246 Consequently, special interests often find it possible to maintain a position of strength at the state level that they could not maintain at the national level where they would have to compete with a broader range of other interests and thus would have less influence.247 Further, "some large corporations have financial resources greater than many state governments," and "many states lack the necessary administrative machinery to provide thorough supervision" with regard to regulation of businesses.248 Therefore, it is not surprising that "[Often .. . corporate interests find it more compatible with their goals to advocate the expansion of state jurisdiction at the expense of the national government. "249 Indeed, the tendency of special interest groups to dominate at the state level has led some political scientists to conclude that "[t]he decentralized and fragmented nature of American political institutions frequently helps the few defeat the many. "25°

### No Solvency – Special Interests

#### Uniform laws are dominated by special interest and fail to balance federalism

Kathleen Patchel, 1993, Minnesota Law Review, "Interest Group Politics, Federalism, and the Uniform Law Process: Some Lessons from the Uniform Commercial Code," p. 162

Consideration of the uniform laws process in light of modern group theory demonstrates that, as currently structured, the process is an inadequate mechanism for drafting commercial legislation designed to reach reasonable accommodation among the interests of all affected groups. Grounded in outmoded notions of group dynamics and the workings of federalism, the current uniform laws process, rather than providing a means for drafting laws that represent neutral, best solutions to commercial law issues, tends instead to produce only solutions that are the most amenable to the business special interests that largely dominate it.

### No Solvency – Majority Vote/Amendments

#### Counterplan requires a majority vote and is subject to numerous amendments – high risk of a solvency deficit

Joseph Zimmerman, 2011, "Horizontal Federalism: Interstate Relations," p. 185

Each drafting committee meets on a regular basis during a given year and does not submit a draft of a uniform act until it has been subjected to extensive review. As preliminary drafts are prepared, they are distributed to the commissioners, advisers, and interested parties for criticisms and suggestions. Subsequently, comments and suggestions received are reviewed and the final draft uniform law is prepared. Preliminary drafts of uniform state laws have been enacted into law by a number of state legislatures as illustrated by the Florida, Illinois, New York, and Virginia state legislatures enacting into law prudent investor statutes based on drafts of the uniform state law. To be approved, a draft law must be examined, section by section, by all commissioners, functioning as a committee of the whole, at two annual meetings. On the motion for final approval of a draft uniform law, each state has one vote. The draft cannot be approved as a uniform law unless it receives the votes of a majority of states provided there is a quorum of twenty states present. Commissioners spend much of their one-week annual meeting considering the draft laws and "it is a rare draft that leaves an annual meeting in the same form it comes in." Subsequent to the annual meeting, committees revise uncompleted drafts based upon criticisms and suggestions made by conferees. Because of the great importance of the Uniform Commercial Code, a permanent editorial board continuously reviews the Code and develops recommended amendments. Revisions of the Model Administrative Procedure Act required the appointment of a new committee because the act was drafted before the explosion in state rules and regulations in the 1960s and 1970s.

### No Solvency – Amendments/AT “Won’t Do it because they fear preemption”

#### Desires for conformity won’t prevent amendments

Kathleen Patchel, 1993, Minnesota Law Review, "Interest Group Politics, Federalism, and the Uniform Law Process: Some Lessons from the Uniform Commercial Code," p. 138

The pressures against amendment associated with the drive for uniformity, of course, have not prevented nonuniform amendment by the states at the enactment stage. Indeed, Pennsylvania was the only state to adopt the original Code without any amendment,242 and New York was not alone in pursuing a course of independent study of the Code before deciding to enact it.243 Nevertheless, these pressures do place an. additional burden of persuasion on anyone seeking to amend the uniform law at the enactment stage, a burden that is particularly heavy for consumer interests when coupled with the organizational disadvantages under which those interests already operate in that process.

### No Solvency – Drafting Process

#### The CP can’t solve – bad drafting process

Kathleen Patchel, 1993, Minnesota Law Review, "Interest Group Politics, Federalism, and the Uniform Law Process: Some Lessons from the Uniform Commercial Code," p. 156

It seems clear that the Conference and, to the extent it becomes involved in this process, the ALI, need to open up the uniform laws process -to make it more visible and accessible to a wider range of interests -at the drafting stage. Adequate representation of all affected interests is crucial if the Conference is serious about its goal of drafting the "best" legislation with regard to a given subject matter: Representation not only affects the information available and the assessment of that information, but also affects the kinds of solutions that are developed and considered. Drafting a statute is not simply a matter of choosing between existing approaches on the basis of one's political predilections. It also involves the development of new ideas and new statutory devices to deal with perceived problems.... To trigger this process of innovation, the representation of opposing groups ... need[s] [to] be sufficient to present both perspectives forcefully, and strong enough to motivate the drafters to seek new solutions.28o

## AT Politics Net Benefit

### Links to Politics

#### The CP links more to politics due to interest groups

Kathleen Patchel, 1993, Minnesota Law Review, "Interest Group Politics, Federalism, and the Uniform Law Process: Some Lessons from the Uniform Commercial Code," p. 148-9

As the discussion of interest group theory in Part V illustrates, however, the consequences from the choice of state over federal legislation go beyond merely maintaining state control over a subject area. The choice of a state or a federal forum also may affect the substance of the law that is produced. State legislatures tend to be more susceptible to special interest groups representing business interests. This phenomenon is reflected in the substance of state legislation, which tends to favor these interests over those. of consumers.260 On the other hand, since the founding of the nation, federal legislation has been suggested as the cure for undue influence by factions, as the greater number of interests represented in the national legislature tends to operate to dilute the power of special interest groups.261

## Perm Solvency

### Perm Solvency

#### States will inevitably disagree – meaning only the perm can solve the counterplan

Kathleen Patchel, 1993, Minnesota Law Review, "Interest Group Politics, Federalism, and the Uniform Law Process: Some Lessons from the Uniform Commercial Code," p. 150-2

Normally, however, the geographic boundaries of a state's legislative jurisdiction limit what a state legislature can do for a business interest operating on a national scale.265 As James Madison wrote in The Federalist No. 10, federalism reflects the notion that state governments and the national government should serve different functions.286 Its genius is in creating different levels of government to more effectively deal with different types of issues: national representatives address issues of concern to the nation as a whole, whereas state representatives address issues of interest to a particular state.267 Delineation of the precise point at which a particular issue becomes primarily one of national rather than local concern is not easy, particularly in the area of commercial law. Indeed, that demarcation is one of the perennial struggles of our system -a struggle that in recent times, the Supreme Court has left largely to the political processes.268 Nevertheless, although the application may be subtle and complex, the theory at least is clear: at some point issues are no longer local, and at that point, the appropriate policymaker is the national government. At the point when this occurs -when for our purposes business interests find that a single state's law is ineffective in providing the climate that they need for efficient commercial interaction -those interests are motivated to seek federal legislation. Thus, when the Merchants' Association of New York found that the state law of sales had not provided the uniformity necessary for business to operate effectively in the common market of the United States, and the previously existing federal judicial mechanism for obtaining uniform commercial laws had been destroyed, they turned to the Congress and sought a federal sales bill to provide the necessary uniformity.269 In the normal course of state and federal interaction, the need for uniformity in interstate commercial transactions logically leads to federal legislation and the concomitant broadening of the scope of conflict that national decisionmaking entails.

### Perm Solvency – Federalism

#### Doing both avoids the federalism DA

Kathleen Patchel, 1993, Minnesota Law Review, "Interest Group Politics, Federalism, and the Uniform Law Process: Some Lessons from the Uniform Commercial Code," p. 161-2

The sponsoring organizations also may want to consider whether they have taken too narrow a view of their role. It has been suggested from time to time that the Conference should draft uniform laws for enactment at the federal level as well as laws for enactment by the states. Indeed, the Code itself was originally planned as legislation that could be enacted at either the state or the federal level.288 The Conference, however, has rejected these suggestions on the grounds that drafting laws for federal enactment would go beyond its statutory mandate and be inconsistent with its emphasis on preserving state autonomy. 289 It may be time to reconsider this position. State interests are represented in our federal system in numerous ways other than through the passage of state legislation.29° In fact, several commentators -including Karl Llewellyn -have argued that adoption at the federal level of a law that has been developed with input from the Conference is an accommodation of state interests rather than an invasion of state sovereignty. 291 Certainly, to the extent that the Conference views itself as representative of the views of the states, this seems a logical conclusion. To the extent that the Conference views itself primarily as a mechanism for providing quality drafting of uniform laws, it seems that the expertise of the Conference's drafters would be just as beneficial at the federal as at the state level. In any event, whether the Conference chooses to view itself as limited to promulgating laws for state adoption or not, it seems clear that an organization devoted to uniformity of law cannot afford to ignore the possibility that uniformity may best be furthered through federal rather than state legislation. Given the impact of the uniform laws process on the dynamics of federalism, it would seem irresponsible for the Conference to do so.