

Season 24

Debating the 2023-2024 NCFCA Policy Resolution

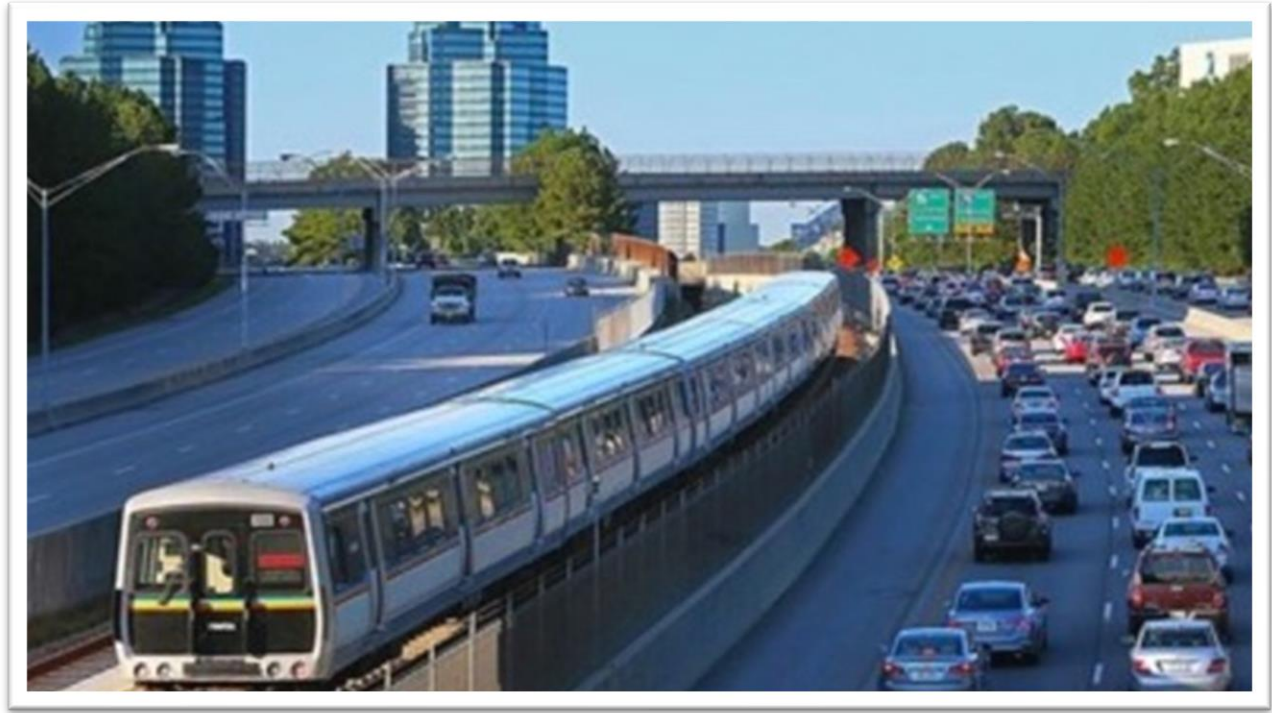
The “status quo” refers to current policies, essentially what Affirmative teams need to change. Policy debaters must have a solid understanding of the current state of affairs before debating the year’s topic. The purpose of this article is to give competitors the underlying knowledge of the status quo as it relates to the following resolution:

“Resolved: The United States Federal Government should significantly reform its domestic transportation policy implemented by the Department of Transportation.”

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Current Issues in US Transportation Policy



NCFCA 2023-2024 Policy Resolution

Resolved: The United States Federal Government should significantly reform its domestic transportation policy implemented by the Department of Transportation.

In this chapter, we examine some of the better-known and widely debated issues that are currently being discussed in the literature on transportation policy in the United States. Our goal is not to persuade you to any point of view, but rather to summarize what some of the arguments are so that you have a better understanding of the positions you may find yourself debating this year. This may also give you ideas for areas of research on Affirmative cases you could write or Negative briefs you will need to prepare.

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Negatives would do well to prepare briefs full of definitions of transportation policy for use in topicality arguments. Negatives must also be prepared to challenge policies that are coming from places outside the US Dept. of Transportation. Negatives must limit the resolution to some reasonable interpretations, or else research preparation will be impossible. After all, almost everything we use, including our own bodies, are “transported” at some point.

Federal vs. States

Historically, states and cities have done most of the heavy work of transportation policy in the United States. The federal Department of Transportation was not established until 1967, so somehow the country got along without it for a very long time. Since the resolution is omnidirectional, it does not tell the Affirmative to increase or decrease federal involvement.

Negatives must therefore be prepared to argue that the States are better at doing transportation policy (when the AFF increases federal involvement) and also to argue that the States cannot do it effectively (when AFF is decreasing federal involvement). Negatives may also want to research counterplans involving “states do it instead” as a possible generic response to Affirmative federal actions.

[T]he States can best govern our home concerns and the general government our foreign ones. I wish, therefore . . . never to see all offices transferred to Washington, where, further withdrawn from the eyes of the people, they may more secretly be bought and sold at market.

Thomas Jefferson
1823



Given the fact that the states are funding most transportation policies anyway, and the array of experts who argue that local control is better, it is easy to see how this will be a useful position for Negatives to brief and prepare. The classic argument is that, in addition to being more accountable to the voters, states are “laboratories of democracy” where ideas can be tested, with the good ones adopted nationwide and the bad ones only hurting the states that tried them and not the entire population.¹

When Affirmatives are reducing the federal role, Negatives need to be able to research evidence so they can articulate why states might fail. This could be as simple as the fact that the states just don’t have the money to pay for the programs, or Affirmatives could delve deeper into the motivations, competencies or attitudes of state officials toward the policy under consideration. Transportation frequently involves movement across the country and among the states, making it more efficient for the federal government to standardize it and fund it. Of course, some

¹ Justice Louis Brandeis 1932 dissent in the case of *New State Ice Co. v. Liebmann*. “Denial of the right to experiment may be fraught with serious consequences to the nation. It is one of the happy incidents of the federal system that a single courageous state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.”

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transportation policies (involving things on the seas, interstate commerce, foreign trade, the military, etc.) can only be done by the federal government.

Another way for Affirmatives to head off Negative arguments about the states is to work on a subject completely and unquestionably under federal jurisdiction. One example is the District of Columbia, which is assigned to Congressional oversight by the Constitution. Other areas of unquestionable federal jurisdiction include military installations and Indian reservations. Congress also has jurisdiction over territories like Puerto Rico, Guam and the Virgin Islands, if you find issues in those places that could be fixed by an Affirmative plan (see Article IV of the Constitution).

“Crumbling Infrastructure”

One can easily foresee a number of debates this year on the question of whether the US transportation infrastructure is “crumbling.” Some say America’s infrastructure is in terrible shape:

“According to a report from the American Society Of Civil Engineers, the U.S. economy is expected to lose just under \$4 trillion in GDP between 2016 and 2025 if investment gaps are not addressed. This could hit \$14 trillion by 2040 if the nation's aging roads, railways and bridges are left to decay even further.”²

Others say our infrastructure is doing just fine.

“America’s state-owned highways have actually improved on key measures of road performance. ... the crumbling infrastructure meme is just a myth. ... We compile data from the states’ reports to the federal government from 1989 through 2008 (the last year available). We also track spending and compare each state with national averages. Perhaps surprisingly, the U.S. highway system actually improved ... over the last two decades:

- The percentage of rural interstates rated “poor” declined by two-thirds, from 6.6 percent to 1.9 percent.
- Urban interstates with poor pavement dropped from 6.6 percent to 5.4 percent.
- Rural primary poor pavement improved from 2.8 percent to 0.5 percent.
- Deficient bridges improved from 37.8 percent to 23.7 percent.
- Fatality rates improved from 2.16 to 1.25 per 100 million miles driven.”³

² FORBES magazine 13 March 2017 <https://www.forbes.com/sites/niallmccarthy/2017/03/13/the-massive-cost-of-americas-crumbling-infrastructure-infographic/#3dc691dd3978>

³ David T. Hartgen 2013 <https://fee.org/articles/the-myth-of-crumbling-highways/>

Infrastructure Investment & Jobs Act (IIJA)

In November 2021, Congress passed the IIJA with a goal of improving the US economy long-term by improving its infrastructure. The law allocates over a trillion dollars in infrastructure spending, of which about half was for new projects above and beyond previously planned budgetary outlays.

Many (not all) of those hundreds of billions of dollars will be managed or mismanaged by the US Dept. of Transportation. If infrastructure really isn't "crumbling," Affirmative debaters might find things worthy of being canceled. If the money is being misspent, Affirmative debaters might want to propose reallocating it to more worthy projects. If the money is being spent by other agencies besides the Dept. of Transportation, then Affirmative debaters cannot do anything about it. Here are some examples of federal programs funded in the IIJA that fall under the oversight of the US Dept. of Transportation.⁴

- Carbon Reduction Program, funding bicycle and pedestrian trails, and mass transit
- Electric vehicle charging stations and electric buses
- Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grants for local bridge and road projects
- INFRA Grant Program, which allows States to apply for funding for "multimodal freight and highway projects of national or regional significance to improve the safety, efficiency, and reliability of the movement of freight and people in and across rural and urban areas."⁵
- Airport Terminals Program

Highway Funding

The federal Highway Trust Fund (HTF) is the federal government's primary vehicle for funding road construction and maintenance. The federal fuel tax (currently 18.4 cents/gallon on gasoline and 24.4 cents/gallon in diesel) funds the HTF, which follows complicated formulas for distributing the money back to the states to assist them in paying for highways and other transportation projects. The HTF was founded on the principle of "user pays": Those who use the highways are the ones paying for them through the fuel tax.

⁴ And see here for even more: <https://www.transportation.gov/bipartisan-infrastructure-law/bil-funded-infrastructure-projects>

⁵ <https://www.transportation.gov/grants/infra-grant-program>

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There are a number of areas ripe for reform with the HTF. Congress hasn't raised the gasoline tax since 1993, so while the price of everything else has gone up a lot since then, the tax has not kept pace. Revenues are also reduced by the conundrum that Congress also insists on higher fuel efficiency standards (CAFE), so as cars obey one Congressional mandate, they jeopardize another one by using less fuel and paying less tax. In addition, Congress can't seem to help itself when it comes to spending, and it always votes for more transportation projects than the HTF can pay for. The shortfall is always made up by Congress voting to transfer general revenues (i.e. deficit borrowing, since the federal government doesn't collect enough tax money to cover the federal budget) into the HTF at the last minute.

One possible solution is to tax vehicles based on miles traveled (perhaps with some kind of odometer monitoring system), so that all vehicles (including electric cars that use no taxed fuel) pay their fair share of the cost of highways. Others advocate abolishing the HTF altogether, along with its taxes, and let the States decide on an appropriate level of gas tax and highway funding, rather than being dictated by Washington. Congress could also cut the budget so that spending gets into line with revenue, or they could stop diverting fuel tax money into mass transit (see below).



Gasoline taxes, and federal policies like sanctions on Russia, can raise gasoline prices and anger voters.

Mass Transit

Mass transit includes things like buses, trains, light rail, and subways. The HTF has some of its “highway” money (paid by gasoline taxes from car drivers) diverted into subsidies for mass transit. The federal government also provides funding from the Federal Transit Administration, with an annual baseline budget of \$16.9 billion plus another \$4.3 billion in temporary funding from the IIJA. These funds are distributed to various mass transit projects to subsidize state and local efforts at providing transportation alternatives to cars.

Mass transit can have several goals. It can be a way to subsidize transportation for the poor,⁶ who can't afford gas, insurance, car payments or parking, so they can hold down jobs in the city and be productive citizens. Transit could also be a way to reduce road congestion. Every person who rides the train to work is a person who isn't in a car clogging traffic on the freeway. Even people who drive and pay for roadways might appreciate paying a little for transit if it keeps the roads a

⁶ Or people who can't drive for other reasons, like disabilities that would prevent them from obtaining a driver's license, or whose driving privileges have been revoked due to bad behavior.

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bit less congested. Some view mass transit as a way to improve the environment, under the theory that it can move more people with more efficient fuel usage and less pollution. If true, this could lead to reduced mortality from air pollution and aid efforts at reducing the risks of climate change, if such risks exist. Others view mass transit as necessary to “get people out of their cars.” Some think this is a social good in and of itself, viewing the automobile as a negative factor that reduces the quality of life by promoting urban/suburban sprawl, in addition to its negative environmental impacts.

Substantial debates can be had over whether these are worthy goals, and if they are, whether we’re getting our money’s worth with the billions being spent to achieve them. There’s substantial question about whether mass transit ridership has increased despite the billions invested in it. Even if mass transit can achieve great things, if no one rides it and the trains or buses cruise around empty, it does nothing but waste money.

Consideration of transit subsidies can also include federal funding of Amtrak. The government-owned and operated passenger train service has never made a profit in its 52-year lifetime, and many experts advocate cancelling federal subsidies and/or selling it off and privatizing it. Whatever parts of it that are profitable will stay in business and whatever parts are wasteful can disappear, if left to the market.



Water

The federal government has for many years played a role in funding transportation infrastructure involving rivers, locks, canals, ports and other waterway projects. Many cities in the US, even far inland, are connected by water transportation to the oceans through rivers and the Great Lakes. Coastal cities have port facilities that require substantial funding to keep them maintained and up to date to handle large volumes of shipping traffic.

“Increasing containers on the nation’s inland waterways will be necessary to meet increasing demand over the next 30 years, said U.S. Department of Transportation Maritime Administrator Paul “Chip” Jaenichen. “It’s really not a matter of ‘if,’ it’s a matter of ‘when.’ 85 percent of all freight that’s moving domestically is moving on our roads and our rails. That is just not sustainable from a congestion stand point. We’re going to have to incorporate water into that

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transportation freight network,” he said. According to Jaenichen, about 6 percent of the total domestic freight market takes place on inland waterways.”⁷

Be careful with water transportation infrastructure, however, since some of the nation's efforts in that area are overseen by agencies outside the Dept. of Transportation, and are therefore not topical for Affirmative cases. For example, the Army Corps of Engineers handles a great deal of the nation's water infrastructure, and it is entirely within the scope of the Army, not the DOT.

One of the most frequently referenced water transportation issues is the Jones Act, which requires cargo carried between two US ports to be transported on US-flagged, US-built, US-citizen-owned and crewed ships. This has the effect of driving up transportation costs by taking a large number of potential shipping options out of the market, drastically reducing competition and creating artificial profit margins for Jones Act ships. Administration of the Jones Act spans multiple federal agencies, but part of it is administered by the Maritime Administration, an agency of the Dept. of Transportation, making it arguably topical for debate again this year.

There's also a cousin to the Jones Act that does the same thing for maritime passenger transportation: the Passenger Vessel Services Act of 1886. It restricts transportation of passengers in a similar way⁸ to how the Jones Act restricts the transportation of cargo between US ports. Like the Jones Act, some of PVSA is administered by the Dept. of Transportation.⁹ Several bills have been proposed by members of Congress to amend or abolish PVSA.

Safety

The federal government has a large and detailed list of Federal Motor Vehicle Safety Standards (FMVSS).¹⁰ These standards regulate the design, performance, and safety features of vehicles allowed on US roadways. The federal government enforces these standards through the National Highway Traffic Safety Administration (NHTSA), which also oversees CAFE standards and publishes research on vehicle safety issues.

Trucking has specific safety concerns that go above and beyond those of cars, given the dangerous risks posed by their size and potentially hazardous cargoes. Regulation of trucks and buses on our nation's highways is done by the Federal Motor Carrier Safety Administration

⁷ Joseph Leahy 2016 « Federal grants aim to boost container shipping on Mississippi River » <http://news.stlpublicradio.org/post/federal-grants-aim-boost-container-shipping-mississippi-river#stream/0>

⁸ Unlike the Jones Act, however, PVSA allows some trips between US ports as long as a stop at a foreign port is included in the trip.

⁹ <https://www.maritime.dot.gov/ports/domestic-shipping/small-vessel-waiver-program>

¹⁰ They have their own website: <http://www.fmvss.com/>

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(FMCSA, an agency within the Dept. of Transportation). The federal government imposes numerous rules, including drug and alcohol prohibitions, mandatory rest periods, special licensing requirements, and inspection rules.

The federal government, through the Federal Aviation Administration (FAA) is also heavily involved in the safety of air travel, both by regulating the air carriers and by its own direct involvement in operating the air traffic control (ATC) system. The nation's ATC is charged with safely moving thousands of planes around the nation simultaneously and continuously, and comes under great strain. New technologies have been right around the corner for many years, but don't seem to be getting implemented. Many are arguing for privatizing the ATC, as Canada did some years ago, by sending it to a non-profit corporation that could collect user fees and issue bonds to fund capital improvements. This would free ATC from the vagaries of Congressional budget bungling and create new incentives for better performance and results.

Energy

Cars are the biggest concern when it comes to transportation's relationship with energy, given the amount of petroleum-based fuel burned each year to move Americans around in private vehicles. Getting cars to use less fuel, and getting cars to use alternative fuels, are both policies that have been pursued by the federal government in recent years.

CAFE sets a miles-per-gallon target that auto makers must meet across all the cars they sell in a particular year in the US. The manufacturer can sell big gas guzzlers if they want to, but they have to sell enough small fuel-efficient cars to make the average come out to the target value. If not, they pay a penalty based on the number of cars sold and the amount by which the average was missed.

“...the Alliance of Automobile Manufacturers... Chief Executive Mitch Bainwol called for creation of a presidential advisory committee to guide the review process, and hinted at a “new paradigm” for vehicle

NHTSA finalizes CAFE standards for Model Year 2024-2026; fleet average of 49 mpg by 2026

02 April 2022

The US Department of Transportation's National Highway Traffic Safety Administration (NHTSA) has **finalized** new Corporate Average Fuel Economy **standards** for MY 2024-2026. The new standards require an industry-wide fleet average of approximately 49 mpg for passenger cars and light trucks in model year 2026.

Estimated Average of CAFE Levels (mpg) Required Under Final Rule

| Fleet | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 |
|----------------|------|------|------|------|------|------|
| Passenger Cars | 49.2 | 53.4 | 59.4 | 59.4 | 59.3 | 59.3 |
| Light Trucks | 35.1 | 38.2 | 42.4 | 42.4 | 42.4 | 42.4 |
| Overall Fleet | 40.6 | 44.2 | 49.1 | 49.1 | 49.2 | 49.3 |

The new standards will increase fuel efficiency 8% annually for model years 2024-2025 and 10% annually for model year 2026. They will also increase the estimated fleetwide average by nearly 10 miles per gallon for model year 2026, relative to model year 2021.

<https://www.greencarcongress.com/2022/04/20220402-cafe.html>

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regulation. ...Government analysts at the time calculated CAFE-related prices would add \$926 to the cost of an average vehicle sold in 2016 and \$2000 in 2025.”¹¹

Vehicle safety is also an important consideration with CAFE standards. Lighter cars get better mileage, so manufacturers cut vehicle bulk to improve fuel economy. But less metal in the car means passengers have less protection in a crash, and probably CAFE has cost some lives over the years.

For alternative fueled vehicles, the IRS has a tax credit available to the end purchaser if their vehicle is a hybrid, electric, or clean diesel. The list of other federal subsidies, credits and incentives for alternative fuel vehicles is lengthy.¹² Any of these could be ripe for reform, expansion, or elimination:

- Advanced Biofuel Feedstock Incentives
- Advanced Biofuel Production Grants and Loan Guarantees
- Advanced Biofuel Production Payments
- Advanced Energy Research Project Grants
- Advanced Technology Vehicle (ATV) and Alternative Fuel Infrastructure Manufacturing Incentives
- Airport Zero Emission Vehicle (ZEV) and Infrastructure Incentives
- Alternative Fuel Tax Exemption
- Alternative Fuel and Advanced Vehicle Technology Research and Demonstration Bonds
- Biodiesel Education Grants
- Biomass Research and Development Initiative
- Ethanol Infrastructure Grants and Loan Guarantees

¹¹ LOS ANGELES TIMES 25 Nov 2016 <http://www.latimes.com/business/autos/la-fi-hy-trump-electric-vehicles-20161121-story.html>

¹² US Dept of Energy https://www.afdc.energy.gov/laws/fed_summary

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- Idle Reduction Equipment Excise Tax Exemption
- Improved Energy Technology Loans
- Low and Zero Emission Public Transportation Research, Demonstration, and Deployment Funding
- Natural Gas Vehicle (NGV) Weight Exemption
- Qualified Plug-In Electric Drive Motor Vehicle Tax Credit
- Value-Added Producer Grants (VAPG)

Miscellaneous Things to Remember and Avoid

There are numerous other miscellaneous areas in which the federal government is involved in transportation. The resolution is broad enough to possibly include many things beyond the obvious ones you first think of when “transportation policy” is mentioned. We can’t possibly think of nor cover them all, but you are encouraged to research the literature and see what experts classify under “transportation policy,” as you do the reading needed to prepare for this topic.

Make sure the policy you want to change is found within the US Dept. of Transportation (<https://www.transportation.gov/>) in order to avoid topicality problems. Other agencies, outside the DOT, that manage some transportation policies include:

- The US Coast Guard (which handles a lot of maritime transportation issues, including the availability of icebreakers)
- Transportation Safety Administration (TSA). TSA used to be part of the Dept. of Transportation, but were moved to Dept. of Homeland Security 20 years ago.
- The Army Corps of Engineers. They maintain 25,000 miles of inland waterways, including the Mississippi River.
- The US Dept. of Energy (DOE). It has some programs that overlap with the Dept. of Transportation, like, for example, Corporate Average Fuel Economy (CAFÉ) standards. It has other programs that sound like (and probably are) transportation policies but are administered by DOE and not DOT.
- The Environmental Protection Agency. It has programs that it administers to reduce motor vehicle emissions (example: the Diesel Emissions Reductions Act), and other programs that might be transportation related, but not topical, since EPA is not part of DOT.

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One final piece of advice: Let the literature tell you what your Plan should be. Don't start with "I have this idea for a plan, now I need to go find evidence for it." Start by just reading and doing searches on general ideas about things the DOT is doing. Then look up experts who talk about those policies and see what they recommend as a policy change. Make that your plan, then work backwards from there. Why do they recommend that policy change? What is the Status Quo doing and why should it be changed? What problems are occurring that would go away if we did this plan? Let the literature and the experts write your plan for you, and you are sure to have a much better plan than anything you might come up with on your own.