# Violations

### Substantial - Contextual

#### A) Interpretation- Contextually, substantial transportation infrastructure investment is at least 48 billion dollars

Giamberardino and Pallasch 10 (Marco and Brian, Co-Chairs of the Water Resource Coalition, January 2010, Water Resource Coalition eNewsletter, <http://www.waterresourcescoalition.org/files/contrib/January2010.html>) Azimi

Before the House of Representatives broke for the holidays the Chamber passed the "Jobs for Main Street" Act, H.R. 2847, which includes substantial transportation and infrastructure investment aimed at creating new jobs. The bill passed with a close vote of 217 - 212. Specifically, the legislation provides $48 billion for infrastructure, including: More than $35 billion for highways and mass transit; $2 billion for clean and safe water; $800 million for Amtrak; $500 million for the Airport Improvement Program; $715 million for investments in inland and navigable waterways administered by the U.S. Army Corps of Engineers.

#### B) Violation- They don’t increase transportation infrastructure investment by at least 48 billion dollars

#### C) Standards

#### 1) Limits- Our interpretation is key to limit out small affs that don’t increase by more than 48 billion dollars. That’s key to predictability because it explodes the topic allowing any aff that does any action and makes the research burden on the negative huge because we would have to research an infinite number of affs that don’t do a substantial amount .

#### 2) Ground- Allowing them to be less than substantial destroys the negative’s division of ground We lose our core generics that are based on spending including the Elections and Spending Disads which are key to check unpredictable and new affs. We would also lose our government tradeoff disads because they wouldn’t be a substantial tradeoff to trigger the links.

#### D) Voting Issue- Topicality is a voter for fairness and education and should be evaluated as competing interpretations.

### Substantially-Without Material Qualifications

#### A. Interpretation- Substantially means without material qualifications

Black’s Law Dictionary 1991 (p. 1024)

Substantially - means essentially; without material qualification.

#### B. Violation – the aff limits the scope of the resolution to a particular instance of infrastructure investment.

#### C. Standards -

#### 1. Ground- over specification of plan action allows the aff to spike links to disads like politics and counterplans by saying their increase wouldn’t be enough to trigger the link. They justify excessively small and unpredictable cases.

#### 2. Limits- they allow multiple variations of the same action. This explodes the neg’s research burden and forces overly specific debate

#### 3. Predictability- the aff makes it impossible to predict a reasonable amount of affs. They justify aff’s that improve one bridge, killing topic-specific education.

#### 4. Education- affs that materially qualify kill in depth education about the topic because we zone in on one specific section of the topic. Learning about the topic as a whole is key to real world education

#### **D. Topicality is a voter for fairness and education. Evaluate under competing interpretations because reasonability is arbitrary.**

### Increase Does Not Equal Create

#### A. Interpretation: The plan must be pre-existance

#### Increase must be of something that already exists

Buckley 6 (Jeremiah, Attorney, Amicus Curiae Brief, Safeco Ins. Co. of America et al v. Charles Burr et al, <http://supreme.lp.findlaw.com/supreme_court/briefs/06-84/06-84.mer.ami.mica.pdf>)

First, the court said that the ordinary meaning of the word “increase” is “to make something greater,” which it believed should not “be limited to cases in which a company raises the rate that an individual has previously been charged.” 435 F.3d at 1091. Yet the definition offered by the Ninth Circuit compels the opposite conclusion. Because “increase” means “to make something greater,” there must necessarily have been an existing premium, to which Edo’s actual premium may be compared, to determine whether an “increase” occurred. Congress could have provided that “ad-verse action” in the insurance context means charging an amount greater than the optimal premium, but instead chose to define adverse action in terms of an “increase.” That def-initional choice must be respected, not ignored. See Colautti v. Franklin, 439 U.S. 379, 392-93 n.10 (1979) (“[a] defin-ition which declares what a term ‘means’ . . . excludes any meaning that is not stated”). Next, the Ninth Circuit reasoned that because the Insurance Prong includes the words “existing or applied for,” Congress intended that an “increase in any charge” for insurance must “apply to all insurance transactions – from an initial policy of insurance to a renewal of a long-held policy.” 435 F.3d at 1091. This interpretation reads the words “exist-ing or applied for” in isolation. Other types of adverse action described in the Insurance Prong apply only to situations where a consumer had an existing policy of insurance, such as a “cancellation,” “reduction,” or “change” in insurance. Each of these forms of adverse action presupposes an already-existing policy, and under usual canons of statutory construction the term “increase” also should be construed to apply to increases of an already-existing policy. See Hibbs v. Winn, 542 U.S. 88, 101 (2004) (“a phrase gathers meaning from the words around it”) (citation omitted).

#### More ev

Brown 3(US Federal Judge – District Court of Oregon (Elena Mark and Paul Gustafson, Plaintiffs, v. Valley Insurance Company and Valley Property and Casualty, Defendants, 7-17, Lexis)

FCRA does not define the term "increase." The plain and ordinary meaning of the verb "to increase" is to make something greater or larger. 4 Merriam-Webster's [\*\*22] Collegiate Dictionary 589 (10th ed. 1998). The "something" that is increased in the statute is the "charge for any insurance." The plain and common meaning of the noun "charge" is "the price demanded for something." Id. at 192. Thus, the statute plainly means an insurer takes adverse action if the insurer makes greater (i.e., larger) the price demanded for insurance.

An insurer cannot "make greater" something that did not exist previously. The statutory definition of adverse action, therefore, clearly anticipates an insurer must have made an initial charge or demand for payment before the insurer can increase that charge. In other words, an insurer cannot increase the charge for insurance unless the insurer previously set and demanded payment of the premium for that insured's insurance [\*\*23] coverage at a lower price.

#### Violation: The aff plan is not pre-existing

#### Reasons to prefer:

#### Contextual: our definitions come from U.S.F.G. law

#### Limits – The definition provides predictable ground making it possible for the negative to prepare

#### Topicality is a voter for fairness and education, and should be evaluated as competing interpretations

### Increase is net increase

#### Interpretation: Increase requires an overall net increase in investment

#### **Increase means net increase**

Rogers 5 (Judge – New York, et al., Petitioners v. U.S. Environmental Protection Agency, Respondent, NSR Manufacturers Roundtable, et al., Intervenors, 2005 U.S. App. LEXIS 12378, \*\*; 60 ERC (BNA) 1791, 6/24, Lexis)

[\*\*48]  Statutory Interpretation. [HN16](http://www.lexis.com/research/retrieve?_m=1fe428155fdfc9074f3623f0dae9d78a&docnum=14&_fmtstr=FULL&_startdoc=1&wchp=dGLbVlz-zSkAW&_md5=0ebd338d6a7793de8561db53b915effd&focBudTerms=term%20increase&focBudSel=all#clscc16)While the CAA defines a "modification" as any physical or operational change that "increases" emissions, it is silent on how to calculate such "increases" in emissions. [42 U.S.C. § 7411(a)(4)](http://www.lexis.com/research/buttonTFLink?_m=8541fbf7a7f5554ca588059b132acd17&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b367%20U.S.%20App.%20D.C.%203%5d%5d%3e%3c%2fcite%3e&_butType=4&_butStat=0&_butNum=103&_butInline=1&_butinfo=42%20U.S.C.%207411&_fmtstr=FULL&docnum=14&_startdoc=1&wchp=dGLbVlz-zSkAW&_md5=1f89a0e47b1996a5400e8d865d8da08a). According to government petitioners, the lack of a statutory definition does not render the term "increases" ambiguous, but merely compels the court to give the term its "ordinary meaning." See [Engine Mfrs.Ass'nv.S.Coast AirQualityMgmt.Dist., 541 U.S. 246, 124 S. Ct. 1756, 1761, 158 L. Ed. 2d 529(2004)](http://www.lexis.com/research/buttonTFLink?_m=8541fbf7a7f5554ca588059b132acd17&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b367%20U.S.%20App.%20D.C.%203%5d%5d%3e%3c%2fcite%3e&_butType=3&_butStat=2&_butNum=104&_butInline=1&_butinfo=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b541%20U.S.%20246%5d%5d%3e%3c%2fcite%3e&_fmtstr=FULL&docnum=14&_startdoc=1&wchp=dGLbVlz-zSkAW&_md5=48f016ea3eabfdb898b67b348b11662c); [Bluewater Network, 370 F.3d at 13](http://www.lexis.com/research/buttonTFLink?_m=8541fbf7a7f5554ca588059b132acd17&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b367%20U.S.%20App.%20D.C.%203%5d%5d%3e%3c%2fcite%3e&_butType=3&_butStat=2&_butNum=105&_butInline=1&_butinfo=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b370%20F.3d%201%2cat%2013%5d%5d%3e%3c%2fcite%3e&_fmtstr=FULL&docnum=14&_startdoc=1&wchp=dGLbVlz-zSkAW&_md5=78fdfe9d48c7b91d7659b90c0198707e); [Am. Fed'n of Gov't Employees v. Glickman, 342 U.S. App. D.C. 7, 215 F.3d 7, 10 [\*23]  (D.C. Cir. 2000)](http://www.lexis.com/research/buttonTFLink?_m=8541fbf7a7f5554ca588059b132acd17&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b367%20U.S.%20App.%20D.C.%203%5d%5d%3e%3c%2fcite%3e&_butType=3&_butStat=2&_butNum=106&_butInline=1&_butinfo=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b342%20U.S.%20App.%20D.C.%207%5d%5d%3e%3c%2fcite%3e&_fmtstr=FULL&docnum=14&_startdoc=1&wchp=dGLbVlz-zSkAW&_md5=fb18ff0b92931ac00621d88dae997e67). Relying on two "real world" analogies, government petitioners contend that the ordinary meaning of "increases" requires the baseline to be calculated from a period immediately preceding the change. They maintain, for example, that in determining whether a high-pressure weather system "increases" the local temperature, the relevant baseline is the temperature immediately preceding the arrival of the weather system, not the temperature five or ten years ago. Similarly,  [\*\*49]  in determining whether a new engine "increases" the value of a car, the relevant baseline is the value of the car immediately preceding the replacement of the engine, not the value of the car five or ten years ago when the engine was in perfect condition.

#### Violation: The plan simply reallocates funds from one sector to another

#### Reasons to Prefer

1. **Limits- There’s a massive amount of programs the aff could reallocate funding from, and a near infinite amount of possibilities as to what program’s funding goes to what other program. Gives the neg a huge research burden that can’t be overcome**
2. **Ground- We lose access to all spending, trade-off, and politics disads because the aff isn’t a net increase of the status quo**
3. **Predictability- Our interpretation allows for a clear brightline for what is and isn’t topical, allows for the most predictable and stable case list.**
4. **Kills Education- We should be getting good in depth education about new innovative policies rather than stale proposals. Our interp allows for aff creativity within reasonable boundaries.**

#### Voter for fairness and education. Default to competing interpretations as it’s the only objective way to analyze the round.

### Increase is not decrease

#### Interpretation: Increase means to make greater

#### Increase merely means to make greater

Reinhardt 5 (U.S. Judge for the UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT (Stephen, JASON RAY REYNOLDS; MATTHEW RAUSCH, Plaintiffs-Appellants, v. HARTFORD FINANCIAL SERVICES GROUP, INC.; HARTFORD FIRE INSURANCE COMPANY, Defendants-Appellees., lexis)

Specifically, we must decide whether charging a higher price for initial insurance than the insured would otherwise have been charged because of information in a consumer credit report constitutes an "increase in any charge" within the meaning of FCRA. First, we examine the definitions of "increase" and "charge." Hartford Fire contends that, limited to their ordinary definitions, these words apply only when a consumer has previously been charged for insurance and that charge has thereafter been increased by the insurer. The phrase, "has previously been charged," as used by Hartford, refers not only to a rate that the consumer has previously paid for insurance but also to a rate that the consumer has previously been quoted, even if that rate was increased [\*\*23] before the consumer made any payment. Reynolds disagrees, asserting that, under [\*1091] the ordinary definition of the term, an increase in a charge also occurs whenever an insurer charges a higher rate than it would otherwise have charged because of any factor--such as adverse credit information, age, or driving record 8 --regardless of whether the customer was previously charged some other rate. According to Reynolds, he was charged an increased rate because of his credit rating when he was compelled to pay a rate higher than the premium rate because he failed to obtain a high insurance score. Thus, he argues, the definitions of "increase" and "charge" encompass the insurance companies' practice. Reynolds is correct.

“Increase" means to make something greater. See, e.g., OXFORD ENGLISH DICTIONARY (2d ed. 1989) ("The action, process, or fact of becoming or making greater; augmentation, growth, enlargement, extension."); WEBSTER'S NEW WORLD DICTIONARY OF AMERICAN ENGLISH (3d college ed. 1988) (defining "increase" as "growth, enlargement, etc[.]"). "Charge" means the price demanded for goods or services. See, e.g., OXFORD ENGLISH DICTIONARY (2d ed. 1989) ("The price required or demanded for service rendered, or (less usually) for goods supplied."); WEBSTER'S NEW WORLD DICTIONARY OF AMERICAN ENGLISH (3d college ed. 1988) ("The cost or price of an article, service, etc."). Nothing in the definition of these words implies that the term "increase in any charge for" should be limited to cases in which a company raises the rate that an individual has previously been charged.

#### Violation: The plan decreases current transportation infrastructure

#### Reasons to Prefer

#### Limits-allowing the aff to decrease investment explodes the topic, negative could never predict all the things they might possibly decrease

1. **Ground- Kills virtually all das. All our links are predicated off increases in total investment. We can’t access simple things such as the spending da.**
2. **Education-Plan makes it so we only discuss decreases in current programs, means we never get in depth education on innovative ways to improve our infrastructure. Leads to stale debate and education**
3. **Predictability- No brightline for what is and isn’t topical anymore. Allowing for both increases and decreases means the all ground is unpredictable to the negative**
4. **It’s Anti-Resolutional- The negative could never hope to have a quality debate against an aff that uses a completely unpredictable interpretation.**
5. **Voter for Fairness and Education.** **Default to competing interpretations as it’s the only objective way to analyze the round.**

### Investment must be tangible

#### Interpretation: Transportation infrastructure investment must be spending on physical capital.

The result of investment must be tangible Congressional Budget Office 9 (“Subsidizing Infrastructure Investment with Tax-Preferred Bonds”, October 26, <http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/106xx/doc10667/10-26-taxpreferredbonds.pdf> Accessed 7/10/12) In this analysis, investment in infrastructure is defined as capital spending on transportation, utilities (for example, water and power supply), environmental projects, and schools. 1 In addition, because they account for a significant share of the tax-exempt debt issued, health care facilities and hospitals are treated as infrastructure in this study, although they might not be classified as such for many other types of analyses. Capital spending under this study’s definition consists of investment in physical capital, such as structures and facilities, rather than intangible capital, which is formed by spending on educational programs or on research and development.

#### Transportation infrastructure is material

Orr and Keever 8 (Ryan, professor in engineering at Stanford who has hosted a variety of infrastructure conferences with federal officials, and Gregory, attorney, “Enabling User-Fee Backed Transportation Finance in California”, *Collaboration for Global Research* (program at Stanford University), [http://crgp.stanford.edu/publications/working\_papers/Orr \_Keever\_Enabling\_User\_Fee\_Backed\_Transportation\_Finance\_wp0041.pdf](http://crgp.stanford.edu/publications/working_papers/Orr%20_Keever_Enabling_User_Fee_Backed_Transportation_Finance_wp0041.pdf)) GSK

Here transportation infrastructure is defined as “any fixed physical asset designed for transporting people and goods including highways, arterial streets, bridges, tunnels, and mass transportation systems.” 1 An often overlooked aspect of transportation infrastructure, even of the most well constructed type, is that it is a consumable asset: it has a finite life, wears out with use, and needs periodic replacement.

#### Violation: The affirmative does not invest in physical capital

#### Standards:

1. **Ground**- denies the negative DAs linked to physical construction such as environment DAs. Those DAs are important because they teach us about the real world consequences of the plan.
2. **Education**- we will never be able to learn about specific transportation infrastructure if the affirmative never defines a physical outcome of the plan
3. **Fairness**- by not outlining a definite, tangible outcome of the plan, the affirmative becomes a moving target and can spike out of DAs linked to a definite physical outcome
4. **Extra T**- limiting investment to spending on tangible structures prevents extra topical advantages that come from non-tangible investment
5. **Effects T**- non-tangible investment may indirectly lead to investment in physical transportation infrastructure but there is no guarantee—generates a solvency deficit to the aff. and allows the aff. to spike out of DAs

#### Topicality is a voter for fairness and education, and should be evaluated as competing interpretations

### Infrastructure = Fixed Assets

#### A. Interpretation- Transportation is fixed physical assets for moving products or people.

#### Transportation infrastructure is fixed physical assets for moving goods or people.

Orr and Keever 8 (Ryan, professor in engineering at Stanford who has hosted a variety of infrastructure conferences with federal officials, and Gregory, attorney, “Enabling User-Fee Backed

Transportation Finance in California”, *Collaboration for Global Research* (program at Stanford University), <http://crgp.stanford.edu/publications/working_papers/Orr_Keever_Enabling_User_Fee_Backed_Transportation_Finance_wp0041.pdf>) GSK

Here transportation infrastructure is defined as “any fixed physical asset designed for transporting people and goods including highways, arterial streets, bridges, tunnels, and mass transportation systems.” 1 An often overlooked aspect of transportation infrastructure, even of the most well constructed type, is that it is a consumable asset: it has a finite life, wears out with use, and needs periodic replacement.

#### Transportation infrastructure can’t be mobile

ESCAP 6 (United Nations Economic and Social Commission for Asia and the Pacific—Macroeconomic Policy and Development Division, “Enhancing Regional Cooperation in Infrastructure Development Including that Related to Disaster Management”, *United Nations Economic and Social Commission for Asia and the Pacific—Macroeconomic Policy and Development Division*, p. 25, <http://www.unescap.org/pdd/publications/themestudy2006/9_ch3.pdf>) GSK

For the purpose of this study, transport infrastructure refers to “hardware”, including roads, railways, bridges, tunnels, ports (for maritime and inland water transport), airports, urban transport infrastructure (mass transit systems), dry ports and inland container depots (intermodal infrastructure). It also includes signage and traffic management systems. It does not include mobile equipment, except for trains. “Software” issues are discussed in the study only to the extent that they create an environment conducive to investment in infrastructure, make more efficient the utilization of existing infrastructure (for example, repairs and maintenance) or facilitate the movement of goods, vehicles and people, thereby supporting trade, growth and mobility objectives. In other words, they have a direct bearing on type or volume of investments for “hardware”.

#### B. Violation- The aff is not a fixed physical asset intended for moving goods or people.

#### C. Reasons to prefer-

#### 1. Limits- allowing non-physical affs unlimits the topic and allows for any aff that repairs a virus or increases broadband speed—we can`t be prepared to debate every minute aff

#### 2. Ground- they can avoid our specific politics, spending and tradeoff disads by simply saying that the plan isn`t relevant to generic transportation policy and doesn`t require enough workers to cost a lot

#### 3. Predictability- there is no way that we can predict the thousands of possible changes to data, sewage systems or other minute programs

#### D. Vote on competing interpretations- this is key at the beginning of the year to establish the course of the topic and reasonability destroys fairness and education through pre-round abuse

### Infrastructure =/= pipelines

#### A. Interpretation: transportation infrastructure excludes pipelines

#### Pipelines are defined as energy infrastructure

US Chamber of Commerce 10

(Project Team: Michael Gallis, Michael Gallis & Associates Sue McNeil, University of Delaware Susanne Trimbath, STP Advisory Services Tom Skancke, Global Systems Solutions Qiang Li, University of Delaware Michelle Oswald, University of Delaware Erik Kreh, Michael Gallis & Associates T.K. Foulke, University of Delaware Jonathan Calhoun, University of Delaware Dustin Briggs, University of Delaware Zach Petersen, Michael Gallis & Associates Transportation Experts James Corbett, University of Delaware Mark Hanson, University of California, Berkeley Ashish Sen, University of Illinois at Chicago Economics Reviewers Jon C. Cooper, Consultant Consulting, LLC Ernie P. Goss, Creighton University Blancha Sanchez‐Robles, GLADIUS Real Estate Mark Schill, Praxis Strategy Group: Stanley O. Shell, Stanyurl, LLC Infrastructure Workshop Facilitators Ona Ferguson and Kate Harvey, The Consensus Building Institute, “Transportation Performance Index”, p. 11, <http://www.uschamber.com/sites/default/files/lra/files/LRA_TPI%20_Summary_Report%20Final%20092110.pdf>) GSK

It is important to establish a definition of transportation infrastructure in order to establish the scope of the index. General Definition: Moving people and goods by air, water, road, and rail. Technical Definition: The fixed facilities―roadway segments, railway tracks, public transportation terminals, harbors, and airports―flow entities―people, vehicles, container units, railroad cars―and control systems that permit people and goods to traverse geographical space in a timely, efficient manner for an intended purpose. Transportation modes include highway, public transportation, aviation, freight rail, marine, and intermodal. Note that pipeline infrastructure is not included in this definition. For purposes of the Infrastructure Performance Index it is considered an element of energy infrastructure.

#### **B. Violation: They increase energy infrastructure**

#### C. Reasons to prefer:

1. Limits—there are an unlimited number of affs that could fall under energy infrastructure—our interpretation provides a clear brightline of what constitutes transportation infrastructure

2. Topic specific education—by allowing infrastructure to mean energy, they kill the core of the resolution; without resolutional focus, the game loses its appeal to competitive equity

3. Ground—defending energy makes it impossible to garner transportation links on disads, exploding the negative research burden

#### **D. Topicality is a voter for education and competitive equity. It should be evaluated through competing interpretations to ensure better a better debate**

### Transportation Is Not Utilities

**A. Interpretation- transportation infrastructure does not include utilities**

#### 1. Transportation infrastructure investment excludes electricity, telecommunications, or waste disposal- those are utilities.

Congressional Budget Office 8 (“Issues and Options in Infrastructure Investment”, May, [http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/91xx/doc9135/05-16-infrastructure.pdf Accessed 7/10/12)](http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/91xx/doc9135/05-16-infrastructure.pdf%20%20Accessed%207/10/12))

Under any definition, “infrastructure investment” encompasses spending on a variety of proje95230cts. For present purposes, it is useful to distinguish transportation, which receives the bulk of federal support, from other types of infrastructure, such as utilities. Both types of assets promote other economic activities: An adequate road, for example, facilitates the transport of goods from one place to another and thereby promotes economic activity; utilities that provide such services as electricity, telecommunications, and waste disposal are also essential to modern economies. (Appendix A describes spending on research and development and on education. Those categories form the basis for supporting intellectual and human capital, respectively, and can provide benefits that are similar to those generated by infrastructure spending.)

#### 2. Energy and water are utilities infrastructure, not transportation.

Beeferman 8 (Larry W., Director, Pensions and Capital Stewardship Project, Labor and Worklife Program, Harvard Law School, “Pension Fund Investment in Infrastructure: A Resource Paper” <http://www.law.harvard.edu/programs/lwp/pensions/publications/occpapers/occasionalpapers3.pdf>, 12/08) VZ

A. Infrastructure: deﬁnitions The term infrastructure can be deﬁned in various ways. One approach is to describe it largely in functional terms; that is, in terms of the uses of the facilities and services involved. For example, some analysts use the category of economic infrastructure to describe essential services such as toll-roads, bridges, tunnels, airports, seaports, and rail networks, as well as common utilities such as gas distribution networks, electricity and renewable energy production and distribution, and water treatment and distribution facilities. 8 They distinguish those from social infrastructure such as schools, health care facilities, prisons and intra-city railroads. 9 A somewhat more detailed deﬁnition divides infrastructure into three categories: transportation, utilities, and social infrastructure. The ﬁrst category includes toll roads, bridges, tunnels, parking facilities, railroads, rapid transit links, airports, refueling facilities, seaports. The second encompasses electricity generation and transmission, gas and water distribution, sewage treatment, broadcast and wireless towers, telecommunication, cable networks, and satellite networks. The third covers courthouses, hospitals, schools, correctional facilities, stadiums, and subsidized housing. 10

**-B. Violation- the affirmative plan includes utility infrastructure**

**-C. Reasons to prefer**

1. **Ground** – the aff kills links to trade off DAs because the literature does not compare transportation and non-transportation trade offs, and kills States counterplans because utilities are interstate commerce.
2. **Limits** – they explode limits and allow for thousands of tiny obscure affs. Err neg, aff has infinite prep

#### **D. Topicality is a voter for fairness and education. Evaluate under competing interpretations because reasonability is arbitrary.**

### Transportation Infrastructure =/= Military

#### Interpretation: The affirmative plan cannot invest in military functions

#### Transportation infrastructure investment is non-military

Congressional Budget Office 10 (“Public Spending on Transportation and Water Infrastructure,”

<http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/119xx/doc11940/11-17-infrastructure.pdf> Accessed 7/10/12)

Although different definitions of “infrastructure” exist, this report focuses on two types that claim a significant amount of federal resources: transportation and water. Those types of infrastructure share the economic characteristics of being relatively capital intensive and producing services under public management that facilitate private economic activity. They are typically the types examined by studies that attempt to calculate the payoff, in terms of benefits to the U.S. economy, of the public sector’s funding of infrastructure.

For the purposes of CBO’s analysis, “transportation infrastructure” includes the systems and facilities that support the following types of activities:

* Vehicular transportation: highways, roads, bridges, and tunnels;
* Mass transit: subways, buses, and commuter rail;
* Rail transport: primarily the intercity passenger service provided by Amtrak;
* Civil aviation: airport terminals, runways, and taxiways, and facilities and navigational equipment for air traffic control; and
* Water transportation: waterways, ports, vessels, and navigational systems.

The category “water infrastructure” includes facilities that provide the following:

* Water resources: containment systems, such as dams, levees, reservoirs, and watersheds; and sources of fresh water such as lakes and rivers; and
* Water utilities: supply systems for distributing potable water, and wastewater and sewage treatment systems and plants.

Consistent with CBO’s previous reports on public spending for transportation and water infrastructure, this update excludes spending that is associated with such infrastructure but does not contribute directly to the provision of infrastructure facilities or certain strictly defined infrastructure services. Examples of excluded spending are federal outlays for homeland security (which are especially pertinent to aviation), law enforcement and military functions (such as those carried out by the Coast Guard), and cleanup operations (such as those conducted by the Army Corps of Engineers following Hurricane Katrina in 2005).

#### Violation – The plan spends capital on military functions

#### Reasons to prefer:

1. **Ground -** military functions explodes the negative research burden, forcing us to link to the military instead of transportation policy
2. **Limits –** our interpretation fairly limits the topic to include vehicles, mass transit, aviation, and water transportation affirmatives
3. **Contextual –** This evidence comes from the CBO, which provides an objective analyses of budgetary and economic issues to the U.S. Congress and is key to the topic
4. **Brightline –** This interpretation shows what cases are topical which reduces the negative’s research burden.

#### Topicality is a voter for fairness and education, and should be evaluated as competing interpretations

### T - Framework

#### A. Interpretation: The aff should defend a topical plan text that supports the resolution

#### 1. ‘Resolved’ denotes a proposal to be enacted by law

Words and Phrases 64 (Permanent Edition, 1964)

Definition of the word “resolve,” given by Webster is “to express an opinion or determination by resolution or vote; as ‘it was resolved by the legislature;” It is of similar force to the word “enact,” which is defined by Bouvier as meaning “to establish by law”.

#### 2. USfg is the three branches

US Legal 9 (definitions.uslegal.com/u/united-states-federal-government, September 23, 2009, DA 6/21/11, OST)

The United States Federal Government is established by the US Constitution. The Federal Government shares sovereignty over the United Sates with the individual governments of the States of US. The Federal government has three branches: i) the legislature, which is the US Congress, ii) Executive, comprised of the President and Vice president of the US and iii) Judiciary. The US Constitution prescribes a system of separation of powers and ‘checks and balances’ for the smooth functioning of all the three branches of the Federal Government. The US Constitution limits the powers of the Federal Government to the powers assigned to it; all powers not expressly assigned to the Federal Government are reserved to the States or to the people.

#### 3. “Should” is used to express obligation and expediency

Merriam-Webster’s Collegiate Dictionary 2 (Merriam-Webster’s Inc., Tenth Ed., 2002, http://www.m-w.com/cgi-bin/dictionary)

Used in auxiliary function to express obligation, propriety, or expediency

#### B. Violation: The 1AC doesn’t include a topical plan text

#### C. Standards

#### 1. Ground: The negative generates links based on the plan text, without a stable locus to debate around it’s impossible for the neg to generate offense

#### 2. Predictable Limits: Expecting the affirmative to defend the resolution via a plan text is the most predictable model for debate because it establishes a standard research expectation for the neg; this leads to more in-depth education

#### 3. Topic Specific Education: The topic changes every year so debaters have access to a wider variety of literature; having a plan text is the best way for both sides of the debate to research the intricacies of the resolution

#### 4. Transportation *infrastructure* education is uniquely key for high school students - this is important to overcome communication gaps and encourage future career opportunities

Regenold 5 (Michele – Center for Transportation Research and Education, Workforce Recruitment Dilemma: Defining Transportation and Transportation Careers, Mid-Continent Transportation Research Symposium, August, <http://www.ctre.iastate.edu/pubs/midcon2005/RegenoldWorkforce.pdf>, Accessed 7/10/12, p. 2)

When high school and college students hear the term “transportation,” what comes to mind? Moving goods and people? Driving somewhere? Maybe taking a plane? What generally does not come to mind is the transportation infrastructure—the roads and bridges, rail lines and runways. These elements are invisible to them. Transportation can be a vague, even misleading, word, so it’s not surprising that workforce development efforts, especially those targeting children, avoid the term. The concept of transportation careers is nearly as ambiguous. What job titles does that term encompass? In the Des Moines Register’s help-wanted ads, for example, one category of jobs is “Automotive/Transportation.” The majority of the jobs advertised in this section is usually truck drivers. While moving goods across the country is important and necessary work, it does not reflect the breadth of the transportation career field. Misperceptions about transportation careers compound the recruiting problem. Yet the field of transportation is a great industry for people looking for long-term work. According to the National LTAP (Local Technical Assistance Program) Association, nearly half of the current transportation workforce may retire by 2010. The U.S. is beginning to experience a serious worker shortage at all skill and education levels. Attracting young people to transportation careers, particularly careers related to the transportation infrastructure, has become critical. But designing, developing, and maintaining the infrastructure can be an invisible function to young people and to their parents, teachers, and guidance counselors. Even when the work is visible, as in the case of road work zones, high school students (and most adults, for that matter) have no idea what kind of work and planning is done before and after that work zone goes up. There is a fundamental communication gap between transportation professionals and laypeople about the work that goes on to keep this country moving. Because of this communication gap, recruiting young people into professional and non-professional careers in transportation can be particularly challenging.

#### 5. Extra Topicality: The aff involves a discussion of actions and agents external to the resolution- this is uniquely bad

#### a. Explodes neg research burden- There’s no justification for expecting negative teams to be prepared to debate an issue that’s not directly presented in the resolution, this allows affs that are completely unrelated to the topic to slide by

#### b. Destroys education- an unpredictable literature base encourages shady debating that minimizes clash, resulting in shallow, aff-biased debates

#### 6. There’s a topical version of the aff: (insert)

This includes discussion of the fundamental problems the aff isolates while applying a topical solution that avoids killing negative ground

#### D. Topicality is a voting issue for a fair and educational model of debate. You should evaluate via competing interpretations: Reasonability is arbitrary, while competing interpretations forces a discussion about what the topic should look like for both sides of the debate

# The Resolution

#### Resolved: The United States federal government should substantially increase its transportation infrastructure investment in the United States.

# Resolved: The USFG Should

### Resolved = Policy/Legislative

#### In policy-related contexts, ‘resolved’ denotes a proposal to be enacted by law

Words and Phrases 1964 Permanent Edition

Definition of the word “resolve,” given by Webster is “to express an opinion or determination by resolution or vote; as ‘it was resolved by the legislature;” It is of similar force to the word “enact,” which is defined by Bouvier as meaning “to establish by law”.

#### Resolved means a determination reached by voting

Webster’s Revised Unabridged 98 (dictionary.com)

Resolved: 5. To express, as an opinion or determination, by resolution and vote; to declare or decide by a formal vote; -- followed by a clause; as, the house resolved (or, it was resolved by the house) that no money should be appropriated (or, to appropriate no money).

#### ‘Resolved’ means to settle formally by voting

Webster’s Law 96 ("resolved." Merriam-Webster's Dictionary of Law. Merriam-Webster, Inc. 01 Jul. 2007. <Dictionary.com <http://dictionary.reference.com/browse/resolved>>.)

resolve transitive verb 1 : to deal with successfully : clear up <resolve a dispute> 2 a : to declare or decide by formal resolution and vote b : to change by resolution or formal vote <the house resolved itself into a committee> intransitive verb : to form a resolution

### Resolved = Firm Decision/Course of Action

#### ‘Resolved’ means a firm decision

American Heritage 2k

(The American Heritage® Dictionary of the English Language: Fourth Edition,

http://www.bartleby.com/61/87/R0178700.html)

Resolve TRANSITIVE VERB:1. To make a firm decision about. 2. To cause (a person) to reach a decision. See synonyms at decide. 3. To decide or express by formal vote.

#### ‘Resolved’ implies a specific course of action

American Heritage 2k

(The American Heritage® Dictionary of the English Language: Fourth Edition,

http://www.bartleby.com/61/87/R0178700.html)

INTRANSITIVE VERB:1. To reach a decision or make a determination: resolve on a course of action. 2. To become separated or reduced to constituents. 3. Music To undergo resolution.

### Colon

#### Colon- the business follows it

Webster’s 0 Guide to Grammar and Writing

(<http://ccc.commnet.edu/grammar/marks/colon.htm>)

Use of a colon before a list or an explanation that is preceded by a clause that can stand by itself. Think of the colon as a gate, inviting one to go on… If the introductory phrase preceding the colon is very brief and the clause following the colon represents the real business of the sentence, begin the clause after the colon with a capital letter.

#### Colon- the second clause elaborates on the first

Encarta World Dictionary, 07 (<http://encarta.msn.com/encnet/features/dictionary/DictionaryResults.aspx?refid=1861598666>)

**punctuation mark:**the punctuation mark (:) used to divide distinct but related sentence components such as clauses in which the second elaborates on the first, or to introduce a list, quotation, or speech. A colon is sometimes used in U.S. business letters after the salutation. Colons are also used between numbers in statements of proportion or time and Biblical or literary references.

### The

#### “The” is used to denote specific persons or things

Ammer in 2000 (Christine, renowned linguist & author of 20 popular reference bks, American Heritage Dictionary of the English Language 4th ed. http://dictionary.reference.com/browse/the)

Used before singular or plural nouns and noun phrases that denote particular, specified persons or things.

### USFG

#### USfg is the three branches

The Free Dictionary 4(Thefreedictionary.com, April 6 2004, DA 6/21/11, OST)

The executive and legislative and judicial branches of the federal government of the United States

#### USfg is the three branches

USLegal 9(definitions.uslegal.com/u/united-states-federal-government, September 23 2009, DA 6/21/11, OST)

The United States Federal Government is established by the US Constitution. The Federal Government shares sovereignty over the United Sates with the individual governments of the States of US. The Federal government has three branches: i) the legislature, which is the US Congress, ii) Executive, comprised of the President and Vice president of the US and iii) Judiciary. The US Constitution prescribes a system of separation of powers and ‘checks and balances’ for the smooth functioning of all the three branches of the Federal Government. The US Constitution limits the powers of the Federal Government to the powers assigned to it; all powers not expressly assigned to the Federal Government are reserved to the States or to the people.

#### National gov’t, not the states

Black’s Law 99 (Dictionary, Seventh Edition, p.703)

A national government that exercises some degree of control over smaller political units that have surrendered some degree of power in exchange for the right to participate in national political matters

### Should

#### “Should” is used to express obligation and expediency

Merriam-Webster’s Collegiate Dictionary 2002 (Merriam-Webster’s Inc., Tenth Ed., http://www.m-w.com/cgi-bin/dictionary)

Used in auxiliary function to express obligation, propriety, or expediency

#### “Should” means what is expected

Merriam-Webster’s Collegiate Dictionary 2002 (Merriam-Webster’s Inc., Tenth Ed., http://www.m-w.com/cgi-bin/dictionary)

Used in auxiliary function to express what is probable or expected

#### “Should” is conditional

Merriam-Webster’s Collegiate Dictionary, 2002 (Merriam-Webster’s Inc., Tenth Ed., http://www.m-w.com/cgi-bin/dictionary)

Used in auxiliary function to express condition

#### Should is ought

Dictionary.com 6(Dictionary.com: definitions, 6/3/2006, dictionary.reference.com, DA 6/21/11, OST)

must; ought (used to indicate duty, propriety, or expediency): You should not do that.

#### Should is likely

The Free Dictionary 4(Thefreedictionary.com, January 9 2004, DA 6/20/11, OST)

Used to express probability or expectation

#### Should indicates a desirable condition

Oxford 10(Oxford dictionaries online, http://oxforddictionaries.com/definition/should, May 22 2010, 6/20/11, OST)

1 used to indicate obligation, duty, or correctness, typically when criticizing someone's actions: he should have been careful I think we should trust our people more you shouldn't have gone indicating a desirable or expected state: by now pupils should be able to read with a large degree of independence used to give or ask advice or suggestions: you should go back to bed what should I wear? (I should) used to give advice: I should hold out if I were you.

# Substantially

### Substantially- General Definitions

#### "Substantial" is of real worth or considerable value- this is the usual meaning

Words and Phrases 2 (Volume 40A, p. 458)

D.S.C. 1966. The word “substantial” within Civil Rights Act providing that a place is a public accommodation if a “substantial” portion of food which is served has moved in commerce must be construed in light of its usual and customary meaning, that is, something of real worth and importance; of considerable value; valuable, something worthwhile as distinguished from something without value or merely nominal

#### Substantial means considerable in quantity

Merriam-Webster 2003 (www.m-w.com)

Main Entry: sub·stan·tial **b** **:** considerable in quantity **:** significantly great <earned a *substantial* wage>

#### Substantially means including the material or essential part

Words and Phrases 05 (v. 40B, p. 329)

Okla. 1911. “Substantially” means in substance; in the main; essentially; by including the material or essential part.

#### “Substantially” means to large extent

Merriam-Webster 2002 (Merriam-Webster’s Collegiate Dictionary Tenth Edition http://www.m-w.com/cgi-bin/dictionary)

To a great extent or degree

#### “Substantially” means strongly

Merriam-Webster 2002 (Merriam-Webster’s Collegiate Dictionary Tenth Edition http://www.m-w.com/cgi-bin/dictionary)

In a strong substantial way

#### “Substantially” means to have importance

Merriam-Webster 2002 (Merriam-Webster’s Collegiate Dictionary Tenth Edition http://www.m-w.com/cgi-bin/dictionary)

Considerable in importance, value, degree, amount, or extent

#### “Substantially” is not imaginary

Merriam-Webster 2002 (Merriam-Webster’s Collegiate Dictionary Tenth Edition http://www.m-w.com/cgi-bin/dictionary)

True or real; not imaginary

#### “Substantially” means ample

Merriam-Webster 2002 (Merriam-Webster’s Collegiate Dictionary Tenth Edition http://www.m-w.com/cgi-bin/dictionary)

Ample; sustaining

### Substantially- General Definitions

#### “Substantially” means relating to

Merriam-Webster 2002 (Merriam-Webster’s Collegiate Dictionary Tenth Edition http://www.m-w.com/cgi-bin/dictionary)

Of, relating to, or having substance; material

#### “Substantial" means in the main

Words and Phrases 2 (Volume 40A, p. 469)

Ill.App.2 Dist. 1923 “Substantial” means in substance, in the main, essential, including material or essential parts

#### "Substantial" means actually existing, real, or belonging to substance

Words and Phrases 2 (Volume 40A) p. 460

Ala. 1909. “Substantial” means “belonging to substance; actually existing; real; \*\*\* not seeming or imaginary; not elusive; real; solid; true; veritable

### Substantially- %

#### Substantial increase is at least 30%

Bryson, 2001, Circuit Judge, US Court of Appeals Federal Circuit

(265 F.3d 1371; 2001 U.S. App. LEXIS 20590; 60 U.S.P.Q.2D (BNA) 1272, 9/19, lexis)

The term "to increase substantially" in claim 1 of the '705 patent refers to the claimed increase achieved by the invention in the relative productivity of the catalyst used in the Fischer-Tropsch process. The specification defines "substantially increased" catalyst activity or productivity as an increase of at least about 30%, more preferably an increase of about 50%, and still more preferably an increase of about 75%. '705 patent, col. 1, ll. 59-63. Based on that language from the specification, the trial court found, and the parties agree, that the term "to increase substantially" requires an increase of at least about 30% in the relative productivity of the catalyst. Notwithstanding that numerical boundary, the trial court found the phrase "to increase substantially" to be indefinite because the court concluded that there were two possible ways to calculate the increase in productivity, the subtraction method and the division method, and the patent did not make clear which of those ways was used in the claim.

#### Substantially is at least 90%

Words and Phrases, 2005 (v. 40B, p. 329)

N.H. 1949. The word “substantially” as used in provision of Unemployment Compensation Act that experience rating of an employer may be transferred to an employing unit which acquires the organization, trade, or business, or “substantially” all of the assets thereof, is an elastic term which does not include a definite, fixed amount of percentage, and the transfer does not have to be 100 per cent but cannot be less than 90 per cent in the ordinary situation. R.L. c 218, § 6, subd. F, as added by Laws 1945, c.138, § 16.

#### Substantial is 50%- two examples

Smythe 10

(Tom, engineer**,**<http://www.co.lake.ca.us/Government/Directory/Water_Resources/Department_Programs/Flood_Management/> Substantial\_Damage\_Improvement.htm, 6/15/2010, DA 6/21/11, OST)

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. "Substantial improvement" means any reconstruction, rehabilitation, addition, or other proposed new development of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed.

#### Substantial increase is 50 to 100 percent

UNEP 2 ( United nations environmental program, www.unep.org/geo/geo3/english/584.htm, October 1 2002, DA6/21/11, OST)

Change in selected pressures on natural ecosystems 2002-32. For the ecosystem quality component, see the explanation of the Natural Capital Index. Values for the cumulative pressures were derived as described under Natural Capital Index. The maps show the relative increase or decrease in pressure between 2002 and 2032. 'No change' means less than 10 per cent change in pressure over the scenario period; small increase or decrease means between 10 and 50 per cent change; substantial increase or decrease means 50 to 100 per cent change; strong increase means more than doubling of pressure. Areas which switch between natural and domesticated land uses are recorded separately.

### Substantially- Contextual Definitions

#### Substantial transportation investment is 40 million

Roman 6/12 (Jesse Roman, Staff writer Salem Times, Salem Times, 6/12/12, Casino Concern, <http://www.salemnews.com/local/x1570623246/CASINO-CONCERNS/print>) Azimi

"My sense is those roadways are all overly stressed and could use fixes whether the Suffolk Downs casino is built or not," she said. "If you can do that using private dollars, that is a real plus, especially now when state and city governments are strapped for cash. ... Forty million dollars is a pretty substantial transportation investment."

#### Contextually, substantial transportation infrastructure investment is 48 billion

Giamberardino and Pallasch 10 (Marco and Brian, Co-Chairs of the Water Resource Coalition, January 2010, Water Resource Coalition eNewsletter, <http://www.waterresourcescoalition.org/files/contrib/January2010.html>) Azimi

Before the House of Representatives broke for the holidays the Chamber passed the "Jobs for Main Street" Act, H.R. 2847, which includes substantial transportation and infrastructure investment aimed at creating new jobs. The bill passed with a close vote of 217 - 212. Specifically, the legislation provides $48 billion for infrastructure, including: More than $35 billion for highways and mass transit; $2 billion for clean and safe water; $800 million for Amtrak; $500 million for the Airport Improvement Program; $715 million for investments in inland and navigable waterways administered by the U.S. Army Corps of Engineers.

### Substantially- Contextual Definitions Best

#### Substantially must be interpreted in context

Devinsky 2 (Paul, “Is Claim "Substantially" Definite?  Ask Person of Skill in the Art”, IP Update, 5(11), November, http://www.mwe.com/index.cfm/fuseaction/publications.nldetail/object\_id/c2c73bdb-9b1a-42bf-a2b7-075812dc0e2d.cfm)

In reversing a summary judgment of invalidity, the U.S. Court of Appeals for the Federal Circuit found that the district court, by failing to look beyond the intrinsic claim construction evidence to consider what a person of skill in the art would understand in a "technologic context," erroneously concluded the term "substantially" made a claim fatally indefinite.  Verve, LLC v. Crane Cams, Inc., Case No. 01-1417 (Fed. Cir. November 14, 2002). The patent in suit related to an improved push rod for an internal combustion engine.  The patent claims a hollow push rod whose overall diameter is larger at the middle than at the ends and has "substantially constant wall thickness" throughout the rod and rounded seats at the tips.  The district court found that the expression "substantially constant wall thickness" was not supported in the specification and prosecution history by a sufficiently clear definition of "substantially" and was, therefore, indefinite.  The district court recognized that the use of the term "substantially" may be definite in some cases but ruled that in this case it was indefinite because it was not further defined. The Federal Circuit reversed, concluding that the district court erred in requiring that the meaning of the term "substantially" in a particular "technologic context" be found solely in intrinsic evidence:  "While reference to intrinsic evidence is primary in interpreting claims, the criterion is the meaning of words as they would be understood by persons in the field of the invention."  Thus, the Federal Circuit instructed that "resolution of any ambiguity arising from the claims and specification may be aided by extrinsic evidence of usage and meaning of a term in the context of the invention."  The Federal Circuit remanded the case to the district court with instruction that "[t]he question is not whether the word 'substantially' has a fixed meaning as applied to 'constant wall thickness,' but how the phrase would be understood by persons experienced in this field of mechanics, upon reading the patent documents."

### Substantially- Without Material Qualifications

#### Substantially means without material qualifications

Black’s Law Dictionary 1991 (p. 1024)

Substantially - means essentially; without material qualification.

#### “Material” is relevant and significant

Hill and Hill 2005 (Gerald, practiced law for more than four decade, and Kathleen, writer, publisher and newspaper columnist, http://legal-dictionary.thefreedictionary.com/material)

material adj. 1) relevant and significant in a lawsuit, as in "material evidence" as distinguished from totally irrelevant or of such minor importance that the court will either ignore it, rule it immaterial if objected to, or not allow lengthy testimony upon such a matter. 2) "material breach" of a contract is a valid excuse by the other party not to perform. However, an insignificant divergence from the terms of the contract is not a material breach.

#### “Qualification” is a limiting modification

Merriam-Webster Online 2011

(<http://www.merriam-webster.com/dictionary/qualification>)

1 : a restriction in meaning or application : a limiting modification <this statement stands without *qualification*>

### Substantially- Quantitative Best

#### The qualitative definitions of substantially are vague and unlimiting

Stark 97 (Stephen J., “Key Words And Tricky Phrases: An Analysis Of Patent Drafter's Attempts To Circumvent The Language Of 35 U.S.C.”, Journal of Intellectual Property Law, Fall, 5 J. Intell. Prop. L. 365, Lexis)

1. Ordinary Meaning. First, words in a patent are to be given their ordinary meaning unless otherwise defined. [30](http://www.lexis.com/research/retrieve?_m=1421887dc00d6c0b78bddb20857a69fa&docnum=20&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzW-zSkAz&_md5=3f3ffe65eadff46b38ea49c40cb1037e&focBudTerms=definition%20of%20the%20term%21%20substantial%21%20or%20definition%20of%20the%20word%20substantial%21&focBudSel=all" \l "n30" \t "_self) However, what if a particular word has multiple meanings? For example, consider the word "substantial." The Webster dictionary gives eleven different definitions of the word substantial. [31](http://www.lexis.com/research/retrieve?_m=1421887dc00d6c0b78bddb20857a69fa&docnum=20&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzW-zSkAz&_md5=3f3ffe65eadff46b38ea49c40cb1037e&focBudTerms=definition%20of%20the%20term%21%20substantial%21%20or%20definition%20of%20the%20word%20substantial%21&focBudSel=all" \l "n31" \t "_self) Additionally, there are another two definitions specifically provided for the adverb "substantially." [32](http://www.lexis.com/research/retrieve?_m=1421887dc00d6c0b78bddb20857a69fa&docnum=20&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzW-zSkAz&_md5=3f3ffe65eadff46b38ea49c40cb1037e&focBudTerms=definition%20of%20the%20term%21%20substantial%21%20or%20definition%20of%20the%20word%20substantial%21&focBudSel=all" \l "n32" \t "_self) Thus, the "ordinary meaning" is not clear. The first definition of the word "substantial" given by the Webster's Dictionary is "of ample or considerable amount, quantity, size, etc." [33](http://www.lexis.com/research/retrieve?_m=1421887dc00d6c0b78bddb20857a69fa&docnum=20&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzW-zSkAz&_md5=3f3ffe65eadff46b38ea49c40cb1037e&focBudTerms=definition%20of%20the%20term%21%20substantial%21%20or%20definition%20of%20the%20word%20substantial%21&focBudSel=all" \l "n33" \t "_self) Supposing that this is the precise definition that the drafter had in mind when drafting the patent, the meaning of "ample or considerable amount" appears amorphous. This could have one of at least the following interpretations: (1) almost all, (2) more than half, or (3) barely enough to do the job. Therefore, the use of a term, such as "substantial," which usually has a very ambiguous meaning, makes the scope of protection particularly hard to determine.

### Aff- Substantial Flexible/Imprecise

#### “Substantial” is inherently flexible and imprecise

Mellinkoff 92 (David, Law Professor UCLA, 1992 (Mellinkoff’s Dictionary of American Legal Usage, p. 626).

substantial is as flexible in the law as in ordinary English. That is its reason for continued existence in the law. Long use of substantial in combinations, e.g., *substantial evidence*, can produce impression of precision, which is lacking. The word is an alert! What substantial fastens itself to becomes infected with substantial’s flexibility. A place for discretion.

### Aff- AT: % Definitions

#### Common definitions are more predictable, because “substantially” is not a legal term of art.

Arkush 2 (David, A.B.. Washington University, 1999: J.D. Candidate. Harvard Law School. 2003., Preserving "Catalyst" Attorneys' Fees Under the Freedom of Information Act in the Wake of Buckhannon Board and Care Home v. West Virginia Department of Health and Human Resources, Harvard Civil Rights-Civil Liberties Law Review, Winter,   
<http://www.law.harvard.edu/students/orgs/crcl/vol37_1/arkush.pdf> Accessed 7/10/12)

Plaintiffs should argue that the term "substantially prevail" is not a term of art because if considered a term of art, resort to Black's 7th produces a definition of "prevail" that could be interpreted adversely to plaintiffs. [99](http://www.lexis.com/research/retrieve?_m=1421887dc00d6c0b78bddb20857a69fa&docnum=16&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzW-zSkAz&_md5=3f3ffe65eadff46b38ea49c40cb1037e&focBudTerms=definition%20of%20the%20term%21%20substantial%21%20or%20definition%20of%20the%20word%20substantial%21&focBudSel=all#n99) It is commonly accepted that words that are not legal terms of art should be accorded their ordinary, not their legal, meaning, [100](http://www.lexis.com/research/retrieve?_m=1421887dc00d6c0b78bddb20857a69fa&docnum=16&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzW-zSkAz&_md5=3f3ffe65eadff46b38ea49c40cb1037e&focBudTerms=definition%20of%20the%20term%21%20substantial%21%20or%20definition%20of%20the%20word%20substantial%21&focBudSel=all#n100) and ordinary-usage dictionaries provide FOIA fee claimants with helpful arguments. The Supreme Court has already found favorable, temporally relevant definitions of the word "substantially" in ordinary dictionaries: "Substantially" suggests "considerable" or "specified to a large degree." See Webster's Third New International Dictionary 2280 (1976) (defining "substantially" as "in a substantial manner" and "substantial" as "considerable in amount, value, or worth" and "being that specified to a large degree or in the main"); see also 17 Oxford English Dictionary 66-67 (2d ed. 1989) ("substantial": "relating to or proceeding from the essence of a thing; essential"; "of ample or considerable amount, quantity or dimensions"). [101](http://www.lexis.com/research/retrieve?_m=1421887dc00d6c0b78bddb20857a69fa&docnum=16&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzW-zSkAz&_md5=3f3ffe65eadff46b38ea49c40cb1037e&focBudTerms=definition%20of%20the%20term%21%20substantial%21%20or%20definition%20of%20the%20word%20substantial%21&focBudSel=all#n101)

#### Percentage definitions of substantially shouldn’t be used in a different context- what is substantial in one area might not be in another.

Prost 4 (United States Court of Appeals for the Federal Circuit, Committee For Fairly Traded Venezuelan Cement v. United States, June 18, [http://www.ll.georgetown.edu/federal/judicial/fed/ opinions/04opinions/04-1016.html](http://www.ll.georgetown.edu/federal/judicial/fed/%20opinions/04opinions/04-1016.html), Accessed 7/10/12)

The URAA and the SAA neither amend nor refine the language of § 1677(4)(C).  In fact, they merely suggest, without disqualifying other alternatives, a “clearly higher/substantial proportion” approach.  Indeed, the SAA specifically mentions that no “precise mathematical formula” or “‘benchmark’ proportion” is to be used for a dumping concentration analysis.  SAA at 860 (citations omitted); see also Venez. Cement, 279 F. Supp. 2d at 1329-30.  Furthermore, as the Court of International Trade noted, the SAA emphasizes that the Commission retains the discretion to determine concentration of imports on a “case-by-case basis.”  SAA at 860.  Finally, the definition of the word “substantial” undercuts the CFTVC’s argument.  The word “substantial” generally means “considerable in amount, value or worth.”  Webster’s Third New International Dictionary 2280 (1993).  It does not imply a specific number or cut-off.  What may be substantial in one situation may not be in another situation.  The very breadth of the term “substantial” undercuts the CFTVC’s argument that Congress spoke clearly in establishing a standard for the Commission’s regional antidumping and countervailing duty analyses.  It therefore supports the conclusion that the Commission is owed deference in its interpretation of “substantial proportion.”  The Commission clearly embarked on its analysis having been given considerable leeway to interpret a particularly broad term.

# Increase

### Increase- Make Greater

#### Increase is to make larger

American Heritage Dictionary 1(American Heritage Dictionary www.answers.com/topic/increase ,2/1/2001 , DA 6/20/11, OST)

To become greater or larger. To multiply; reproduce.

#### Increase is to become greater in size, number or intensity

Merriam-Webster 5(http://www.merriam-webster.com/dictionary/increase, dictionary, November 13 2005, DA 6/21/11, OST)

to become progressively greater (as in size, amount, number, or intensity)

#### Increase is to add to

Dictionary.com 6(Dictionary.com: definitions, 11/3/2006, dictionary.reference.com, DA 6/21/11, OST)

To make greater, as in number, size, strength, or quality; augment; add to: to increase taxes.

#### Increase means add duration to

Word and Phrases 8(vol. 20B, p. 265)

Me. 1922. Within Workmen’s Compensation Act, § 36, providing for review of any agreement, award, findings, or decree, and that member of Commission may increase, diminish, or discontinue compensation, an “increase” may include an extension of the time of the award. –Graney’s Case, 118 A. 369, 121 Me.500.—Work Comp 2049.

### Increase is Preexisting

#### Increase must be of something that already exists

Buckley 6 (Jeremiah, Attorney, Amicus Curiae Brief, Safeco Ins. Co. of America et al v. Charles Burr et al, <http://supreme.lp.findlaw.com/supreme_court/briefs/06-84/06-84.mer.ami.mica.pdf>)

First, the court said that the ordinary meaning of the word “increase” is “to make something greater,” which it believed should not “be limited to cases in which a company raises the rate that an individual has previously been charged.” 435 F.3d at 1091. Yet the definition offered by the Ninth Circuit compels the opposite conclusion. Because “increase” means “to make something greater,” there must necessarily have been an existing premium, to which Edo’s actual premium may be compared, to determine whether an “increase” occurred. Congress could have provided that “ad-verse action” in the insurance context means charging an amount greater than the optimal premium, but instead chose to define adverse action in terms of an “increase.” That def-initional choice must be respected, not ignored. See Colautti v. Franklin, 439 U.S. 379, 392-93 n.10 (1979) (“[a] defin-ition which declares what a term ‘means’ . . . excludes any meaning that is not stated”). Next, the Ninth Circuit reasoned that because the Insurance Prong includes the words “existing or applied for,” Congress intended that an “increase in any charge” for insurance must “apply to all insurance transactions – from an initial policy of insurance to a renewal of a long-held policy.” 435 F.3d at 1091. This interpretation reads the words “exist-ing or applied for” in isolation. Other types of adverse action described in the Insurance Prong apply only to situations where a consumer had an existing policy of insurance, such as a “cancellation,” “reduction,” or “change” in insurance. Each of these forms of adverse action presupposes an already-existing policy, and under usual canons of statutory construction the term “increase” also should be construed to apply to increases of an already-existing policy. See Hibbs v. Winn, 542 U.S. 88, 101 (2004) (“a phrase gathers meaning from the words around it”) (citation omitted).

#### More ev

Brown 3(US Federal Judge – District Court of Oregon (Elena Mark and Paul Gustafson, Plaintiffs, v. Valley Insurance Company and Valley Property and Casualty, Defendants, 7-17, Lexis)

FCRA does not define the term "increase." The plain and ordinary meaning of the verb "to increase" is to make something greater or larger. 4 Merriam-Webster's [\*\*22] Collegiate Dictionary 589 (10th ed. 1998). The "something" that is increased in the statute is the "charge for any insurance." The plain and common meaning of the noun "charge" is "the price demanded for something." Id. at 192. Thus, the statute plainly means an insurer takes adverse action if the insurer makes greater (i.e., larger) the price demanded for insurance.

An insurer cannot "make greater" something that did not exist previously. The statutory definition of adverse action, therefore, clearly anticipates an insurer must have made an initial charge or demand for payment before the insurer can increase that charge. In other words, an insurer cannot increase the charge for insurance unless the insurer previously set and demanded payment of the premium for that insured's insurance [\*\*23] coverage at a lower price.

### Increase Not Preexisting

#### “Increase” doesn’t require prior existence

Reinhardt 5 (U.S. Judge for the UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT (Stephen, JASON RAY REYNOLDS; MATTHEW RAUSCH, Plaintiffs-Appellants, v. HARTFORD FINANCIAL SERVICES GROUP, INC.; HARTFORD FIRE INSURANCE COMPANY, Defendants-Appellees., lexis)

Specifically, we must decide whether charging a higher price for initial insurance than the insured would otherwise have been charged because of information in a consumer credit report constitutes an "increase in any charge" within the meaning of FCRA. First, we examine the definitions of "increase" and "charge." Hartford Fire contends that, limited to their ordinary definitions, these words apply only when a consumer has previously been charged for insurance and that charge has thereafter been increased by the insurer. The phrase, "has previously been charged," as used by Hartford, refers not only to a rate that the consumer has previously paid for insurance but also to a rate that the consumer has previously been quoted, even if that rate was increased [\*\*23] before the consumer made any payment. Reynolds disagrees, asserting that, under [\*1091] the ordinary definition of the term, an increase in a charge also occurs whenever an insurer charges a higher rate than it would otherwise have charged because of any factor--such as adverse credit information, age, or driving record 8 --regardless of whether the customer was previously charged some other rate. According to Reynolds, he was charged an increased rate because of his credit rating when he was compelled to pay a rate higher than the premium rate because he failed to obtain a high insurance score. Thus, he argues, the definitions of "increase" and "charge" encompass the insurance companies' practice. Reynolds is correct.

“Increase" means to make something greater. See, e.g., OXFORD ENGLISH DICTIONARY (2d ed. 1989) ("The action, process, or fact of becoming or making greater; augmentation, growth, enlargement, extension."); WEBSTER'S NEW WORLD DICTIONARY OF AMERICAN ENGLISH (3d college ed. 1988) (defining "increase" as "growth, enlargement, etc[.]"). "Charge" means the price demanded for goods or services. See, e.g., OXFORD ENGLISH DICTIONARY (2d ed. 1989) ("The price required or demanded for service rendered, or (less usually) for goods supplied."); WEBSTER'S NEW WORLD DICTIONARY OF AMERICAN ENGLISH (3d college ed. 1988) ("The cost or price of an article, service, etc."). Nothing in the definition of these words implies that the term "increase in any charge for" should be limited to cases in which a company raises the rate that an individual has previously been charged.

### Increase = Net Increase

#### Must be a net increase

Rogers 5 (Judge – New York, et al., Petitioners v. U.S. Environmental Protection Agency, Respondent, NSR Manufacturers Roundtable, et al., Intervenors, 2005 U.S. App. LEXIS 12378, \*\*; 60 ERC (BNA) 1791, 6/24, Lexis)

[\*\*48]  Statutory Interpretation. [HN16](http://www.lexis.com/research/retrieve?_m=1fe428155fdfc9074f3623f0dae9d78a&docnum=14&_fmtstr=FULL&_startdoc=1&wchp=dGLbVlz-zSkAW&_md5=0ebd338d6a7793de8561db53b915effd&focBudTerms=term%20increase&focBudSel=all#clscc16)While the CAA defines a "modification" as any physical or operational change that "increases" emissions, it is silent on how to calculate such "increases" in emissions. [42 U.S.C. § 7411(a)(4)](http://www.lexis.com/research/buttonTFLink?_m=8541fbf7a7f5554ca588059b132acd17&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b367%20U.S.%20App.%20D.C.%203%5d%5d%3e%3c%2fcite%3e&_butType=4&_butStat=0&_butNum=103&_butInline=1&_butinfo=42%20U.S.C.%207411&_fmtstr=FULL&docnum=14&_startdoc=1&wchp=dGLbVlz-zSkAW&_md5=1f89a0e47b1996a5400e8d865d8da08a). According to government petitioners, the lack of a statutory definition does not render the term "increases" ambiguous, but merely compels the court to give the term its "ordinary meaning." See [Engine Mfrs.Ass'nv.S.Coast AirQualityMgmt.Dist., 541 U.S. 246, 124 S. Ct. 1756, 1761, 158 L. Ed. 2d 529(2004)](http://www.lexis.com/research/buttonTFLink?_m=8541fbf7a7f5554ca588059b132acd17&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b367%20U.S.%20App.%20D.C.%203%5d%5d%3e%3c%2fcite%3e&_butType=3&_butStat=2&_butNum=104&_butInline=1&_butinfo=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b541%20U.S.%20246%5d%5d%3e%3c%2fcite%3e&_fmtstr=FULL&docnum=14&_startdoc=1&wchp=dGLbVlz-zSkAW&_md5=48f016ea3eabfdb898b67b348b11662c); [Bluewater Network, 370 F.3d at 13](http://www.lexis.com/research/buttonTFLink?_m=8541fbf7a7f5554ca588059b132acd17&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b367%20U.S.%20App.%20D.C.%203%5d%5d%3e%3c%2fcite%3e&_butType=3&_butStat=2&_butNum=105&_butInline=1&_butinfo=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b370%20F.3d%201%2cat%2013%5d%5d%3e%3c%2fcite%3e&_fmtstr=FULL&docnum=14&_startdoc=1&wchp=dGLbVlz-zSkAW&_md5=78fdfe9d48c7b91d7659b90c0198707e); [Am. Fed'n of Gov't Employees v. Glickman, 342 U.S. App. D.C. 7, 215 F.3d 7, 10 [\*23]  (D.C. Cir. 2000)](http://www.lexis.com/research/buttonTFLink?_m=8541fbf7a7f5554ca588059b132acd17&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b367%20U.S.%20App.%20D.C.%203%5d%5d%3e%3c%2fcite%3e&_butType=3&_butStat=2&_butNum=106&_butInline=1&_butinfo=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b342%20U.S.%20App.%20D.C.%207%5d%5d%3e%3c%2fcite%3e&_fmtstr=FULL&docnum=14&_startdoc=1&wchp=dGLbVlz-zSkAW&_md5=fb18ff0b92931ac00621d88dae997e67). Relying on two "real world" analogies, government petitioners contend that the ordinary meaning of "increases" requires the baseline to be calculated from a period immediately preceding the change. They maintain, for example, that in determining whether a high-pressure weather system "increases" the local temperature, the relevant baseline is the temperature immediately preceding the arrival of the weather system, not the temperature five or ten years ago. Similarly,  [\*\*49]  in determining whether a new engine "increases" the value of a car, the relevant baseline is the value of the car immediately preceding the replacement of the engine, not the value of the car five or ten years ago when the engine was in perfect condition.

# Its

### Its- Possessive

#### “Its” implies possession

Corpus Juris Secundum, 1981 (Volume 48A, p. 247)

Its. The possessive case of the neuter pronoun “it.” Also, as an adjective, meaning of or belonging to it. Sometimes referred to as the possessive word, but it does not necessarily imply ownership in fee, but may indicate merely a right to use.

#### “Its” is an attributive adjective showing possession

Random House Dictionary, 1966 (p. 758)

Its (pronoun). The possessive form of it (used as an attributive adjective: *The book has lost its jacket. I’m sorry about its being so late*.)

#### “Its” means belonging to it or that thing

Oxford English Dictionary, 1989 (second edition, online)

Its A. As adj. poss. pron. Of or belonging to it, or that thing (L. ejus); also refl., Of or belonging to itself, its own (L. suus). The reflexive is often more fully its own, for which in earlier times the own, it own, were used: see OWN.

#### Its is belonging to

The Free Dictionary 5(Thefreedictionary.com, June 25 2005, DA 6/21/11, OST)

a. of, belonging to, or associated in some way with it its left rear wheel

b. (as pronoun) each town claims its is the best

#### Its is possessive

Merriam-Webster 11(http://www.merriam-webster.com/dictionary/its, dictionary, June 1 2011, DA 6/21/11, OST)

of or relating to it or itself especially as possessor, agent, or object of an action

# Transportation

### Transportation = Items or People

#### Transportation is moving tangible items or people

Macmillan Dictionary (<http://www.macmillandictionary.com/dictionary/american/transportation>)

transportation - definition

NOUN [UNCOUNTABLE] /ˌtrænspərˈteɪʃ(ə)n/

1 the activity of moving people or things from one place to another, or the system used for doing this

rising transportation costs

transportation of: He was convicted of the possession and transportation of illegal drugs.

#### Transportation is limited to people or goods

Oxford Dictionaries

(http://oxforddictionaries.com/definition/transportation?region=us&q=transportation)

transportation (trans·por·ta·tion)

noun

1the action of transporting someone or something or the process of being transported:

the era of global mass transportation

a system or means of transporting people or goods:

transportation on the site includes a monorail

2 historical the action or practice of transporting convicts to a penal colony.

#### Must be related to passengers or goods

Merriam-Webster (http://www.learnersdictionary.com/search/transportation)

trans·por·ta·tion [isten to audio](http://www.learnersdictionary.com/search/transportation)/ˌtrænspɚˈteɪʃən/ noun

[noncount] 1 chiefly US : the act or process of moving people or things from one place to another   
▪ the transportation of troops overseas ▪ She arranged for the transportation of her furniture to her new apartment.

2 chiefly US a : a way of traveling from one place to another place   
▪ I was left without transportation [=(chiefly Brit) transport] when the car broke down. ▪ modern air transportation [=travel in airplanes, helicopters, etc.] ▪ The hotel offers free ground transportation to and from the airport. [=the hotel has vehicles that will take you to and from the airport for free]   
b : a system for moving passengers or goods from one place to another   
▪ high speed rail transportation ▪ He was the U.S. Secretary of Transportation under President Reagan. ▪You can go almost anywhere in New York City using public transportation. [=a system of trains, buses, etc., that is paid for or run by the government]

3 : a method of punishment used in the past especially in Britain in which criminals were sent to live in a distant country

#### U.S Law defines transportation as moving passengers or property

US Code, No Date 49 USCS § 10102: USC Subtitle IV- Interstate Transportation, Part A- Rail, Chapter 101- General Provisions, Section 10102- Definitions 49 USCS § 10102  
(9) "transportation" includes--  
(A) a locomotive, car, vehicle, vessel, warehouse, wharf, pier, dock, yard, property, facility, instrumentality, or equipment of any kind related to the movement of passengers or property, or both, by rail, regardless of ownership or an agreement concerning use; and  
(B) services related to that movement, including receipt, delivery, elevation, transfer in transit, refrigeration, icing, ventilation, storage, handling, and interchange of passengers and property;

# Infrastructure

### Infrastructure = Foundation/Substructure

#### **Infrastructure is substructure or underlying foundation**

EPA 9 (U.S. EPA, Office of Grants and Debarment, Definition of “Infrastructure” for purposes of the American Recovery and Reinvestment Act of 2009 <http://www.epa.gov/ogd/forms/Definition_of_Infrastructure_for_ARRA.pdf>) VZ

What does the term “infrastructure” mean for the purposes of applying the American Reinvestment and Recovery Act (ARRA) requirements specific to “infrastructure investments”? The Act itself does not define this term. Proposed Definition: The term infrastructure refers to the substructure or underlying foundation or network used for providing goods and services; especially the basic installations and facilities on which the continuance and growth of a community, State, etc., depend. Examples include roads, water systems, communications facilities, sewers, sidewalks, cable, wiring, schools, power plants, and transportation and communication systems. The term does not include green practices recipients can follow to reduce energy consumption and greenhouse gas emissions and improve air, water quality, and waste management.

# Transportation Infrastructure

### TI- Sectors

#### Transportation infrastructure is construction or repair in one of 9 sectors-

Chapman and Cutler 11 (organization of finance attorneys, “The American Jobs Act and Its Impact on a National Infrastructure Bank”, *Chapman and Cutler Client Alert*, <http://www.chapman.com/media/news/media.1081.pdf>)

Transportation Infrastructure: includes the construction, alteration, or repair, including the facilitation

of intermodal transit, of the following subsectors:

o Highways or roads

o Bridges

o Mass transit

o Inland waterways

o Commercial ports

o Airports

o Air traffic control systems

o Passenger rail, including high-speed rail

o Freight rail systems

### TI = Physical Assets to Move Goods/People

#### Transportation infrastructure is fixed physical assets for moving goods or people.

Orr and Keever 8 (Ryan, professor in engineering at Stanford who has hosted a variety of infrastructure conferences with federal officials, and Gregory, attorney, “Enabling User-Fee Backed

Transportation Finance in California”, *Collaboration for Global Research* (program at Stanford University), <http://crgp.stanford.edu/publications/working_papers/Orr_Keever_Enabling_User_Fee_Backed_Transportation_Finance_wp0041.pdf>) GSK

Here transportation infrastructure is defined as “any fixed physical asset designed for transporting people and goods including highways, arterial streets, bridges, tunnels, and mass transportation systems.” 1 An often overlooked aspect of transportation infrastructure, even of the most well constructed type, is that it is a consumable asset: it has a finite life, wears out with use, and needs periodic replacement.

### TI = Fixed Asset/Not Mobile

#### Transportation infrastructure is fixed physical assets only

Orr and Keever 8 (Ryan, professor in engineering at Stanford who has hosted a variety of infrastructure conferences with federal officials, and Gregory, attorney, “Enabling User-Fee Backed

Transportation Finance in California”, *Collaboration for Global Research* (program at Stanford University), <http://crgp.stanford.edu/publications/working_papers/Orr_Keever_Enabling_User_Fee_Backed_Transportation_Finance_wp0041.pdf>) GSK

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#### Transportation infrastructure can’t be mobile

ESCAP 6 (United Nations Economic and Social Commission for Asia and the Pacific—Macroeconomic Policy and Development Division, “Enhancing Regional Cooperation in Infrastructure Development Including that Related to Disaster Management”, *United Nations Economic and Social Commission for Asia and the Pacific—Macroeconomic Policy and Development Division*, p. 25, <http://www.unescap.org/pdd/publications/themestudy2006/9_ch3.pdf>) GSK

For the purpose of this study, transport infrastructure refers to “hardware”, including roads, railways, bridges, tunnels, ports (for maritime and inland water transport), airports, urban transport infrastructure (mass transit systems), dry ports and inland container depots (intermodal infrastructure). It also includes signage and traffic management systems. It does not include mobile equipment, except for trains. “Software” issues are discussed in the study only to the extent that they create an environment conducive to investment in infrastructure, make more efficient the utilization of existing infrastructure (for example, repairs and maintenance) or facilitate the movement of goods, vehicles and people, thereby supporting trade, growth and mobility objectives. In other words, they have a direct bearing on type or volume of investments for “hardware”.

### Includes Vehicles/People

#### Transportation infrastructure includes people and vehicles.

US Chamber of Commerce 10

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It is important to establish a definition of transportation infrastructure in order to establish the scope of the index. General Definition: Moving people and goods by air, water, road, and rail. Technical Definition: The fixed facilities―roadway segments, railway tracks, public transportation terminals, harbors, and airports―flow entities―people, vehicles, container units, railroad cars―and control systems that permit people and goods to traverse geographical space in a timely, efficient manner for an intended purpose. Transportation modes include highway, public transportation, aviation, freight rail, marine, and intermodal. Note that pipeline infrastructure is not included in this definition. For purposes of the Infrastructure Performance Index it is considered an element of energy infrastructure.

### Excludes Energy, Communication, Water

#### Transportation infrastructure investment excludes electricity, telecommunications, or waste disposal- those are utilities.

Congressional Budget Office 8 (“Issues and Options in Infrastructure Investment”, May, [http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/91xx/doc9135/05-16-infrastructure.pdf Accessed 7/10/12)](http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/91xx/doc9135/05-16-infrastructure.pdf%20%20Accessed%207/10/12))

Under any definition, “infrastructure investment” encompasses spending on a variety of projects. For present purposes, it is useful to distinguish transportation, which receives the bulk of federal support, from other types of infrastructure, such as utilities. Both types of assets promote other economic activities: An adequate road, for example, facilitates the transport of goods from one place to another and thereby promotes economic activity; utilities that provide such services as electricity, telecommunications, and waste disposal are also essential to modern economies. (Appendix A describes spending on research and development and on education. Those categories form the basis for supporting intellectual and human capital, respectively, and can provide benefits that are similar to those generated by infrastructure spending.)

#### Transportation infrastructure is a distinct category- doesn’t include communications, housing, or energy infrastructure.

Alshawi 9 (Mustafa, professor, asso. dean of research at the Un. of Salford, “CONCEPT AND BACKGROUND TO PUBLIC PRIVATE PARTNERSHIP (PPP) / PRIVATE FINANCE INITIATIVE (PFI)”, *UK Experience*, <http://www.oecd.org/dataoecd/50/33/47562550.pdf>) GSK

Infrastructure is defined as transportation infrastructure (roads, bridges, airports, ports, rail lines); communications infrastructure; housing; and electricity generation and distribution. Infrastructure projects can be “mega projects” (dams, coast-to‐coast highways, mega‐ports, large power plants) or much smaller projects that can include communication franchises or limited highway spurs.

#### Water and Energy aren’t transportation infrastructure- contextual evidence proves they are distinct categories of infrastructure investment.

Heintz, Pollin, and Garrett-Peltier 9 (James Heintz Associate Research Professor & Associate Director, Robert Pollin Professor of Economics & Co-Director, Heidi Garrett-Peltier Research Assistant, “How Infrastructure Investments Support the US Economy” Political Economy Research Institute, <http://americanmanufacturing.org/files/peri_aam_finaljan16_new.pdf>, 2009) VZ

In the previous section we looked at trends and patterns of public investment since 1950. We now examine what levels of infrastructure investment are required in the future to address expected needs and to fill the gap left by inadequate rates of past investment. We will then use this assessment of needs to develop policy scenarios and to estimate the employment impacts of an expanded infrastructure investment program. We will show, in later sections of the report, that a program of accelerated investment which aims to eliminate the country’s infrastructure deficit can generate millions of new jobs. In this section we focus on four broad categories of infrastructure and specific areas of investment within each category. The infrastructure categories are: 1. Transportation: the road system; railroads; aviation; mass transit; and inland waterways and levees; 2. Public school buildings; 3. Water infrastructure: drinking water, wastewater, and dams; 4. Energy: electrical transmission, through all sources, including renewables, and natural gas pipeline construction.

#### Energy and water are utilities infrastructure, not transportation.

Beeferman 8 (Larry W., Director, Pensions and Capital Stewardship Project, Labor and Worklife Program, Harvard Law School, “Pension Fund Investment in Infrastructure: A Resource Paper” <http://www.law.harvard.edu/programs/lwp/pensions/publications/occpapers/occasionalpapers3.pdf>, 12/08) VZ

A. Infrastructure: deﬁnitions The term infrastructure can be deﬁned in various ways. One approach is to describe it largely in functional terms; that is, in terms of the uses of the facilities and services involved. For example, some analysts use the category of economic infrastructure to describe essential services such as toll-roads, bridges, tunnels, airports, seaports, and rail networks, as well as common utilities such as gas distribution networks, electricity and renewable energy production and distribution, and water treatment and distribution facilities. 8 They distinguish those from social infrastructure such as schools, health care facilities, prisons and intra-city railroads. 9 A somewhat more detailed deﬁnition divides infrastructure into three categories: transportation, utilities, and social infrastructure. The ﬁrst category includes toll roads, bridges, tunnels, parking facilities, railroads, rapid transit links, airports, refueling facilities, seaports. The second encompasses electricity generation and transmission, gas and water distribution, sewage treatment, broadcast and wireless towers, telecommunication, cable networks, and satellite networks. The third covers courthouses, hospitals, schools, correctional facilities, stadiums, and subsidized housing. 10

### Excludes pipelines

#### Transportation infrastructure excludes pipelines- energy infrastructure is distinct

US Chamber of Commerce 10

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### Excludes Military

#### Transportation infrastructure investment is non-military

Congressional Budget Office 10 (“Public Spending on Transportation and Water Infrastructure,”

<http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/119xx/doc11940/11-17-infrastructure.pdf> Accessed 7/10/12)

Although different definitions of “infrastructure” exist, this report focuses on two types that claim a significant amount of federal resources: transportation and water. Those types of infrastructure share the economic characteristics of being relatively capital intensive and producing services under public management that facilitate private economic activity. They are typically the types examined by studies that attempt to calculate the payoff, in terms of benefits to the U.S. economy, of the public sector’s funding of infrastructure.

For the purposes of CBO’s analysis, “transportation infrastructure” includes the systems and facilities that support the following types of activities:

* Vehicular transportation: highways, roads, bridges, and tunnels;
* Mass transit: subways, buses, and commuter rail;
* Rail transport: primarily the intercity passenger service provided by Amtrak;
* Civil aviation: airport terminals, runways, and taxiways, and facilities and navigational equipment for air traffic control; and
* Water transportation: waterways, ports, vessels, and navigational systems.

The category “water infrastructure” includes facilities that provide the following:

* Water resources: containment systems, such as dams, levees, reservoirs, and watersheds; and sources of fresh water such as lakes and rivers; and
* Water utilities: supply systems for distributing potable water, and wastewater and sewage treatment systems and plants.

Consistent with CBO’s previous reports on public spending for transportation and water infrastructure, this update excludes spending that is associated with such infrastructure but does not contribute directly to the provision of infrastructure facilities or certain strictly defined infrastructure services. Examples of excluded spending are federal outlays for homeland security (which are especially pertinent to aviation), law enforcement and military functions (such as those carried out by the Coast Guard), and cleanup operations (such as those conducted by the Army Corps of Engineers following Hurricane Katrina in 2005).

### Includes Carbon sequestration

#### Transportation infrastructure includes carbon sequestration

US Department of Energy no date (“Carbon Dioxide Enhanced Oil Recovery”, *National Energy Technological Laboratory*, p. 20, http://www.netl.doe.gov/technologies/oil-gas/publications/EP/small\_CO2\_eor\_primer.pdf) GSK

At the same time, concluded ARI, the ensuing CO2 EOR boom would unlock an additional 39-48 billion barrels of oil prior to 2030, while building a CO2 transportation infrastructure suitable for subsequent transport of CO2 for sequestration in deep saline formations—which are likely to have the biggest ultimate CO2 storage potential of all underground options. The synergies between CO2 EOR and CO2 sequestration may be strong enough to help both efforts happen faster. And there are clear energy, environmental, and economic benefits for America in that kind of future.

### Includes Sidewalks and Bike Paths

#### **Transportation infrastructure includes sidewalks, trails and bike lanes.**

Delaney 11 (George, Manager of Public Works of the City and County of Denver, “Complete Streets” [http://www.completestreets.org/webdocs/policy/cs-co-denver-policy.pdf 05/17/11](http://www.completestreets.org/webdocs/policy/cs-co-denver-policy.pdf%2005/17/11)) VZ

Complete Streets is defined as a practice to promote safe and convenient access for all users along and across travel ways in the context of the overall transportation network, land use patterns, and community needs. Transportation infrastructure is defined as any facility designed for transporting people and goods including, but not limited to, sidewalks, trails, bike lanes, highways, streets, bridges, tunnels, railroads, mass transportation, and parking systems. All Users are defined as, but not limited to, pedestrians, bicyclists, transit users, emergency responders, freight haulers, motorists, and users of all ages, abilities, and incomes.

### Includes Signage/Traffic Management Systems

#### Transportation infrastructure includes signs and traffic management

ESCAP 6 (United Nations Economic and Social Commission for Asia and the Pacific—Macroeconomic Policy and Development Division, “Enhancing Regional Cooperation in Infrastructure Development Including that Related to Disaster Management”, *United Nations Economic and Social Commission for Asia and the Pacific—Macroeconomic Policy and Development Division*, p. 25, <http://www.unescap.org/pdd/publications/themestudy2006/9_ch3.pdf>) GSK

For the purpose of this study, transport infrastructure refers to “hardware”, including roads, railways, bridges, tunnels, ports (for maritime and inland water transport), airports, urban transport infrastructure (mass transit systems), dry ports and inland container depots (intermodal infrastructure). It also includes signage and traffic management systems. It does not include mobile equipment, except for trains. “Software” issues are discussed in the study only to the extent that they create an environment conducive to investment in infrastructure, make more efficient the utilization of existing infrastructure (for example, repairs and maintenance) or facilitate the movement of goods, vehicles and people, thereby supporting trade, growth and mobility objectives. In other words, they have a direct bearing on type or volume of investments for “hardware”.

### Includes Pipelines

#### Pipelines are transportation infrastructure

**Price 12** (Dawnthea, editor of North by Northwestern, McCormick’s ITI Keeps Roads and Rails Safe, North by Northwestern, May 24, 2012, <http://northbynorthwestern.com/story/mccormicks-iti-keeps-roads-rails-safe/>) PCS

Research Engineer David Kosnik (MEAS ‘99) describes it as applying research and technology in ways that improve the country’s transportation infrastructure. That includes all bridges, railroads, highways or interstates, boats and pipelines in the United States. Yes, the government includes pipelines as part of the country’s transportation infrastructure.

#### The DOT considers the pipeline system a component of transportation infrastructure

US DOT 11 (United States Department of Transportation, Executive Summary, U.S. Department of Transportation Call to Action To Improve the Safety of the Nation’s Energy Pipeline System, 2011, pg. 1, <http://www.phmsa.dot.gov/staticfiles/PHMSA/DownloadableFiles/110404%20Action%20Plan%20Executive%20Version%20_2.pdf>) PCS

In the wake of several recent serious pipeline incidents, U.S. DOT/PHMSA is taking a hard look at the safety of the nation’s pipeline system. Over the last three years, annual fatalities have risen from nine in 2008, to 13 in 2009 to 22 in 2010. Like other aspects of America’s transportation infrastructure, the pipeline system is aging and needs a comprehensive evaluation of its fitness for service. Investments that are made now will ensure the safety of the American people and the integrity of the pipeline infrastructure for future generations.

#### Transportation infrastructure includes pipelines and energy transportation

U.S. DOT Research and Innovative Technology Administration 5 (United States Department of Transportation Research and Innovative Technology Administration, *Road 2- Infrastructure Development and Deployment*, RITA, 2005, <http://www.rita.dot.gov/publications/hydrogen_roadmap/html/road_02.html>) PCS

Infrastructure is the backbone of the Nation’s transportation system. It includes the highways used by automobiles, trucks, and buses; the rail lines used by passenger and freight trains; the inland and coastal waterways; as well as long haul and local distribution pipelines. It also includes the National Airspace System (NAS) used by private and commercial airplanes. Essential components of the Nation’s transportation system include the collection of maintenance and refueling facilities used by individual vehicles, and the pipeline and energy transportation and distribution infrastructure.

#### Transportation infrastructure includes natural gas pipelines

Lewis 6 (Neal, attorney, “INTERPRETING THE ORACLE: LICENSING MODIFICATIONS, ECONOMICS, SAFETY, POLITICS, AND THE FUTURE OF NUCLEAR POWER IN THE UNITED STATES”, *Albany Law Journal of Science & Technology*) GSK

On February 3, 2005, Marvin S. Fertel, Senior Vice President of Nuclear Generation and Chief Nuclear Officer for Nuclear Energy Institute ("NEI"), n111 testified before the Energy and Natural [\*45] Resources Committee of the United States Senate. n112 Mr. Fertel claimed that these projections inaccurately reflect the likely increase in nuclear power production capacity in the U.S. n113 Additionally, he claimed that the projections of the EIA were based on uprates to existing facilities only, and not on additional construction. n114 Mr. Fertel also suggested that the cost of expanding the transportation infrastructure for natural gas, combined with high prices in the natural gas market, modifies the EIA's projections. n115 Furthermore, the EIA's capital cost projections were the limiting factor in developing additional new generation plants because the projections were based on historic licensing problems, rather than on the new, streamlined licensing process. n116

#### Government publications consider pipelines transportation infrastructure

Office of Electricity Delivery and Energy Reliability 11 (Office of Electricity Delivery and Energy Reliability, Year-in-Review 2010: Energy Infrastructure Events and Expansions, U.S. Department of Energy, August 2011, pg. 23, [http://energy.gov/sites/prod/files/Energy%20Infrastructure% 20Events%20and%20Expansions%20Year-in-Review%202010.pdf](http://energy.gov/sites/prod/files/Energy%20Infrastructure%25%2020Events%20and%20Expansions%20Year-in-Review%202010.pdf)) PCS

Although the EAD has a predominantly domestic focus, it also features stories on international energy events that directly impact the United States. In 2010, 15 percent of all EAD stories addressed international topics. Most of those stories fell into four basic categories: Disruptions along oil and gas transport infrastructure, energy production disruptions, new/proposed/discovered supplies, primarily crude oil and natural gas, new/proposed transport infrastructure, primarily oil and gas pipelines.

#### Transportation infrastructure includes pipelines—Congressional definitions

Parfomak 12 (Paul, Specialist in Energy and Infrastructure Policy, “Keeping America’s Pipelines Safe and Secure: Key Issues for Congress”, *Congressional Research Service*, March 13, p.3 <http://www.fas.org/sgp/crs/homesec/R41536.pdf>) GSK

As it oversees the federal pipeline safety program and the federal role in pipeline security, Congress may wish to assess how the various elements of U.S. pipeline safety and security fit together in the nation’s overall strategy to protect transportation infrastructure. Pipeline safety and security necessarily involve many groups: federal agencies, oil and gas pipeline associations, large and small pipeline operators, and local communities. Reviewing how these groups work together to achieve common goals could be an oversight challenge for Congress.

#### Transportation infrastructure includes natural gas pipelines

NaturalGas.org no date (educational website covering a variety of topics related to the natural gas industry, “The Transportation of Natural Gas”, <http://www.naturalgas.org/naturalgas/transport.asp>) GSK

As natural gas use increases, so does the need to have transportation infrastructure in place to supply the increased demand. This means that pipeline companies are constantly assessing the flow of natural gas across the U.S., and building pipelines to allow transportation of natural gas to those areas that are underserved.

#### Transportation infrastructure includes pipelines

BP no date (“Petroleum Pipelines in Your Community”, <http://www.bppipelines.com/neighbor_home.html>) GSK

To meet both household and industrial consumption, pipelines silently transport half of all the petroleum products shipped domestically. Pipelines provide an extensive and efficient transportation infrastructure that is virtually invisible. They are an underground transportation system which connect the nation's petroleum producing, refining and marketing areas. The use of pipelines helps keep the costs of gasoline and other petroleum products down. Pipelines are vital to our nation's economy.

#### Pipelines management is conducted by the Department of Transportation

Reuters 12 (“Obama seeks clean energy, pipeline funds in budget”, *MSNBC*, <http://www.msnbc.msn.com/id/46368051/ns/politics/t/obama-seeks-clean-energy-pipeline-funds-budget/>) GSK

The budget proposes to revamp the Department of Transportation's Pipeline Safety program after a series of high-profile oil pipeline spills last year. It seeks $248 million for the Pipeline and Hazardous Materials Safety Administration, up $76 million from last year.

### Includes Space

#### Space transportation infrastructure is topical

US Code (51 USC § 51101 – DEFINITIONS, <http://www.law.cornell.edu/uscode/text/51/51101>) Azimi

(2) “commercial space transportation infrastructure development” includes— (A) construction, improvement, design, and engineering of space transportation infrastructure in the United States; and (B) technical studies to define how new or enhanced space transportation infrastructure can best meet the needs of the United States commercial space transportation industry.

### AT: Can’t Repair/Maintain

#### Transportation infrastructure includes construction, maintenance, and enhancement projects.

DeLauro 11 (Rosa L, U.S. House of Representatives from the Third District of Connecticut, “112TH CONGRESS 1ST SESSION H. R. 402”, <http://www2.apwa.net//Documents/Advocacy/HR%20402.pdf>, 01/24/11) VZ

(25) TRANSPORTATION INFRASTRUCTURE PROJECT.—The term ‘‘transportation infrastructure project’’ means any project for the construction, maintenance, or enhancement of highways, roads, bridges, transit and intermodal systems, inland waterways, commercial ports, airports, high speed rail and freight rail systems.

# Investment

### Investment = $ that produces income

#### Investment creates future wealth

Investopedia 12 (<http://www.investopedia.com/terms/i/investment.asp>)

The purchase of goods that are not consumed today but are used in the future to create wealth

#### Investment is placing money that will produce income

Websters 6 (<http://www.websters-online-dictionary.org/definitions/investment>)

The placing of money so that it will increase in value and produce an income, either in an asset, such as a building, or by purchasing shares, placing money on deposit, etc

#### Investment is purchase of shares, bonds, or property to produce profit

Cambridge Online Dictionary 11 (<http://dictionary.cambridge.org/dictionary/business-english/investment?q=investment>)

 the act of buying shares, bonds, property, etc. in order to make a profit

### Investment = Effort

#### Investment refers to effort as well as money

Cambridge Dictionary of American English 8 (2nd ed., p. 460)

Invest: To put money or effort into something to make a profit or achieve a result.

### Infrastructure Investment must be Tangible- Not Education or R and D

#### Transportation infrastructure investment must be spending on physical capital, as opposed to education or R and D.

Congressional Budget Office 9 (“Subsidizing Infrastructure Investment with Tax-Preferred Bonds”, October 26, <http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/106xx/doc10667/10-26-taxpreferredbonds.pdf> Accessed 7/10/12)

In this analysis, investment in infrastructure is defined as capital spending on transportation, utilities (for example, water and power supply), environmental projects, and schools. 1 In addition, because they account for a significant share of the tax-exempt debt issued, health care facilities and hospitals are treated as infrastructure in this study, although they might not be classified as such for many other types of analyses. Capital spending under this study’s definition consists of investment in physical capital, such as structures and facilities, rather than intangible capital, which is formed by spending on educational programs or on research and development.

# In

### In = Within

#### In means within the limits of

Merriam-Webster Dictionary 12 (http://www.merriam-webster.com/dictionary/in)

1 a —used as a function word to indicate inclusion, location, or position within limits <in the lake> <wounded in the leg> <in the summer>

b : into 1 <went in the house>

#### In means within

Oxford English Dictionary Online

(<http://oed.com/view/Entry/92970> Accessed 7/10/12)

1 a. Of place or position in space or anything having material extension: Within the limits or bounds of, within (any place or thing).

### In = Throughout

In means throughout

Words and Phrases 8 (Words and Phrases Permanent Edition, p. 205)

Colo. 1887. In the act of 1861 providing that justices of the peace shall have jurisdiction “in” their respective counties to hear and determine all complaints, ect., the word “in” should be construed to mean throughout such counties.

# The United States

### US = 50 States and D.C.

#### United States is the 50 states and D.C.

Dictionary.com 12 (Based on the Random House Dictionary, <http://dictionary.reference.com/browse/United+States> Accessed 7/10/12)

noun a republic in the N Western Hemisphere comprising 48 conterminous states, the District of Columbia, and Alaska in North America, and Hawaii in the N Pacific. 267,954,767; conterminousUnited States, 3,022,387 sq. mi. (7,827,982 sq. km); with Alaskaand Hawaii, 3,615,122 sq. mi. (9,363,166 sq. km). Capital: Washington, D.C. Abbreviation: U.S., US

### US Includes Territories and Indian Reservations

#### US is all areas subject to jurisdiction of the United States.

Words and Phrases 6 (Words and Phrases Permanent Edition, “United States,” Volume 43A, p. 265)

C.A.5 (Fla.) 1974. Term “United States,” as used in Comprehensive Drug Abuse Prevention and Control act in a territorial sense, includes all the places and waters, continental or insular, subject to the jurisdiction of the United States, except the Canal Zone.

#### US includes Indian reservations

Words and Phrases 6 (Words and Phrases Permanent Edition, “United States,” Volume 43A, p. 265)

C.C.A.9 (Ariz) 1931. Indian reservation, within limits of which smuggled cattle were kept, is part of “United States,” and therefore smuggling was complete when cattle were brought onto reservation without payment of duty.

### United States = USFG

#### United States = USFG

Wordnet 6 (Version 3.0, Princeton University, <http://dictionary.reference.com/browse/United+States> Accessed 7/10/12)

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| 2. | the executive and legislative and judicial branches ofthe federal government of the United States [syn:[United States government](http://dictionary.reference.com/browse/United+States+government)] |