### Topicality – 1nc

**Increase means to make greater – excludes extending duration**

**Martinez, 6** – Justice for the Supreme Court of Colorado (SUPREME COURT OF COLORADO, 129 P.3d 988; 2006 Colo. LEXIS 395, Plaintiff-Appellee: DOUGLAS BRUCE, v. Defendants-Appellants: CITY OF COLORADO SPRINGS and KATHRYN YOUNG, City Clerk, in her official capacity as election officer for the city, 2/27, lexis)

Turning, then, to the language of section (3), itself, we assess the plain meaning of "tax increase" as it appears in that section.

 [\*995]  In examining "tax increase" as it appears in Amendment 1, we look to the intent of the voter as it is an initiated constitutional provision. See In re Interrogatories Relating to the Great Outdoors Colo. Trust Fund, 913 P.2d 533, 538 (Colo. 1996)  ("[A] court's duty in interpreting a constitutional amendment is to give effect to the will of the people in adopting such amendment."). We also consider how the typical voter would interpret "tax increase," because our concern here is how the form of the election notice affects a voter's understanding of a proposed measure. Accordingly, we consider whether the practical, everyday meaning of "increase" is synonymous with "extension."

A tax "extension" suggests the continuation of a tax, whereas a tax "increase" suggests a greater amount will be taxed. Accordingly, a proposal to "extend" a tax implies that neither the amount nor rate of the tax will change from its current rate. Likewise, a tax "increase" indicates that the [\*\*22]  tax burden borne by an individual taxpayer will be greater than its present amount. The former indicates a continuation of the status quo, whereas the latter suggests a change that will impose a greater cost on the taxpayer.

**Infrastructure investment is capital spending on transportation projects**

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

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.

**The plan doesn’t increase capital spending – it just changes how current spending is financed. Congress has a statutory cap on highway spending that sets an upper limit regardless of the size of the HTF**

**Federal Highway Administration, 7** (“Financing Federal-Aid Highways”, March,

<http://www.fhwa.dot.gov/reports/financingfederalaid/financing_highways.pdf>)//DH

The financing cycle for the Federal-aid Highway Program (FAHP) begins when Congress develops and enacts surface transportation authorizing legislation, such as the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). For a specified period of years (the duration of coverage is not mandatory), the authorizing act not only shapes and defines programs, but also sets upper limits (authorizations) on the amount of funds that can be made available to the Secretary of Transportation, acting through the FHWA and other departmental agencies, to carry out these programs.

Once Congress has established these authorizations, the next question is when do they become available for obligation. The license to proceed with Federal programs is called “budget authority.” There are two types of budget authority: “contract authority,” which is available for obligation without further Congressional action, and “appropriated budget authority,” which cannot be distributed and used until a second piece of legislation, an appropriations act, is passed. Both concepts are described in the following paragraphs.

 Appropriated budget authority. Most Federal programs operate using appropriated budget authority, which requires a two-step process to implement. The congressional passage of authorizations is only the initial step. This, in itself, does not permit the program to begin, but only sets an upper limit on program funding. The program may start, i.e., the authorizations may be distributed and used, only after passage of a second piece of legislation, the appropriations act. In an appropriations act, the Congress makes available the amount that can actually be used for the program. It is at this point that the program can proceed. In other words, “budget authority”—the approval to distribute, spend, loan, or obligate funds—has been granted through the appropriations act at the level of the appropriations, which may be equal to or lower than the originally authorized level of funding.

An example of an appropriated budget authority program in the SAFETEA-LU is

Roadway Safety Improvements for Older Drivers and Pedestrians. SAFETEA-LU authorizes “such sums as may be necessary,” rather than specific dollar amounts, and funds will only be distributed for this program if subsequently provided in an appropriations act.

Figure 2 shows the typical procedural steps for appropriated budget authority programs.

 Contract authority. Most of FHWA’s programs, however, do not require this

two-step process. Through what is termed “contract authority” (a special type of budget authority), authorized amounts become available for obligation according to the provisions of the authorization act without further legislative action. With respect to the FAHP, funds authorized for a fiscal year are available for distribution via apportionment or allocation (both concepts will be discussed in a subsequent section of this report) on the first day of that fiscal year (October 1). The use of contract authority, first legislated for the highway program in the Federal-Aid Highway Act of 1921, gives the States advance notice of the size of the Federal-aid program at the time an authorization act is enacted and eliminates much of the uncertainty contained in the authorization-appropriation sequence.

The financial procedures for contract authority programs are shown in Figure 3.

To have contract authority, a Federal-aid highway program must meet the following

two criteria:

1) Chapter 1 reference. The authorization must be encompassed in Chapter 1 of Title 23, United States Code (U.S.C.), or its authorizing language must refer to Chapter 1. The primary wording conferring contract authority states that the Secretary of Transportation shall distribute funds that have been authorized 16 and the authorizations “shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.”17 As stated earlier, apportionments and allocations will be discussed later in this section.

2) Trust funded. The program must be financed from the Highway Trust Fund (HTF). This link between the HTF and contract authority programs has existed since enactment of the Congressional Budget and Impoundment Control Act of 1974. Because one of the main purposes of that act was to give Congress greater control over Federal spending, it sought to reduce the number of programs that received budget authority prior to passage of appropriations acts, the legislation through which Congress annually meters spending. However, Congress also realized that there were certain programs, such as the highway program, that required advance knowledge of the size of future funding commitments to do long-range planning and to operate smoothly from year to year. Thus, the 1974 Budget Act permits several exceptions to the standard two-step, authorization/appropriation process. One of these is for programs whose new budget authority is derived from trust funds, 90 percent or more of whose receipts are user-related taxes. 18 The FAHP falls into this category since it is supported by the HTF, and was thus allowed to continue to operate with contract authority.

It should be recognized that, by definition, contract authority is unfunded and a subsequent appropriations act is necessary to liquidate (pay) the obligations made under contract authority.

**Voting issue –**

**1. negative ground - all disad links and counterplan competition stem from requiring the aff to increase investment; they circumvent it by claiming to rearrange federal spending to allow deficit reduction by raising revenue**

**2. limits – specification of a funding mechanism creates unpredictable affs and advantages based purely on the funding mechanism. This aff isn’t conceptually distinct from a plan that cut the B-2 bomber and reallocated the money to the HTF**

### 2nc – highway spending is capped

**The obligation limitation is a hard ceiling on transportation expenditures – money above the limitation is carried over to future years**

**State of Washington, 12** (Federal Funds Work Group, 5/22, “FEDERAL HIGHWAY GRANT ANTICIPATION REVENUE BONDS, SERIES 2012F (GARVEE),” [http://www.leg.wa.gov/JTC/Documents/Studies/Fed%20Funds/FedFundsReferenceDoc.pdf)//DH](http://www.leg.wa.gov/JTC/Documents/Studies/Fed%20Funds/FedFundsReferenceDoc.pdf%29//DH)

Obligation Ceiling. Most of the Federal-Aid Highway Program does not receive budget authority through appropriations acts as do most other federal programs. Congressional appropriations committees use federal-aid highway revenues that states can obligate in a given year (Obligation Authority) as a means of balancing the annual level of highway spending with other federal budget priorities. Congress may, therefore, place a restriction or “ceiling” on the amount of federal assistance that may be obligated during a specified time period. The obligation limitation is the amount of authorized funding that Congress allows states to obligate in an individual year. This is a statutory budgetary control that does not affect the apportionment or allocation of funds. Rather, it controls the rate at which these funds can be used, and, in effect, can limit the amount of funds which can be used.

Although a ceiling on obligations restricts how much funding may be used in a Federal Fiscal Year, generally a state has flexibility within the overall limitation to transfer among certain apportioned highway programs, as long as it does not exceed the ceiling in total. Certain sums may be used only for special purposes once they are apportioned to the states. Generally, the unobligated balance of apportionments or allocations that the state has remaining at the end of any Federal Fiscal Year is carried forward into subsequent Federal Fiscal Years and is available for use, contingent upon the availability of Obligation Authority issued in each year. Generally, if a state does not obligate a particular year’s funding within the period of availability, the authority to obligate any remaining amount lapses.

**Annual appropriations prevent growth in highway spending despite the trust fund**

**CBO, 2** – Congressional Budget Office (“The Impact of Trust Fund Programs on

Federal Budget Surpluses and Deficits,” 11/4, <http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/39xx/doc3974/11-04-longrangebrief5.pdf>)

1. One exception is the Highway Trust Fund, which no longer earns interest on its balance. The various highway programs also are subject to limits set by annual appropriations (in addition to the limit established by the balance of the trust fund).

**Congress has placed a ceiling on highway spending**

**Federal Highway Administration, 7** (“Financing Federal-Aid Highways”, March,

<http://www.fhwa.dot.gov/reports/financingfederalaid/financing_highways.pdf>)//DH

Funds for contract authority programs can be obligated in advance of appropriations based upon the provisions of an authorization act. Although obligations are commitments to reimburse the States for the Federal share of a project’s cost, actual cash reimbursements by the Department of the Treasury cannot be made until they are appropriated. This, then, is the primary function of an appropriations act as it relates to the major part of the highway program—the provision of the cash to liquidate the Federal commitment. The act provides the bulk of this cash in one account, Federal-Aid Highways, which covers liquidating cash needs for most of the contract authority, trust-funded categories. Examples of programs included in the Federal-Aid Highways account are the Surface Transportation Program, Interstate Maintenance Program, Transportation, Community, and System Preservation Program, and High Priority Projects.

The $36.0 billion of liquidating cash provided by the FY 2006 DOT Appropriations Act in the Federal-aid highway account was based on an estimate of prior unpaid obligations plus new obligations incurred during FY 2006 for which vouchers are expected to be presented by the States for payment during the fiscal year. Therefore, this amount is the consequence of the authorization/obligation process but is not equivalent to either the amount authorized for FY 2006 or expected to be obligated in FY 2006. The liquidating cash amount will change from year to year. As discussed earlier, the liquidating cash provided in the accounts covering contract authority must come from the HTF because of the link established in the Budget and Impoundment Control Act between trust fund financing and contract authority

Since the nature of the highway program (i.e., contract authority and reimbursement) prevents direct Federal control of cash outlays in any year, Congress relies on limitations on obligations to control the program and make it more responsive to prevailing budget and economic policy. By placing a ceiling on obligations, future cash outlays are indirectly controlled. It is in the budget/ appropriations process that Congress concerns itself with overall Federal spending in terms of cash outflow; thus, a limitation on obligations will be included in an appropriations act.

**The HTF is limited by the appropriations process**

**Federal Highway Administration, 7** (“Financing Federal-Aid Highways”, March,

<http://www.fhwa.dot.gov/reports/financingfederalaid/financing_highways.pdf>)//DH

The foregoing discussion has described the routine procedures for financing the Federal-Aid Highway Programs (FAHP) that have contract authority: authorizing legislation, distribution of funds, obligations, and reimbursements. Again, because of contract authority, the flow of these program funds is not directly affected by the annual appropriations process. This permits a smooth and stable flow of Federal-aid to the States, but this very benefit can be a disadvantage to overall Federal budgeting. A major function of the appropriations process is to assess the current need for, and effect of, Federal dollars on the economy. The appropriations process has been the traditional way to control Federal expenditures annually. But the highway program, with multiple-year authorizations and multiple-year availability of funds, would appear to be exempt from this annual review. The question arises: how can the highway program be covered under annual Federal budget decisions?

The answer is to place a limit, or ceiling, on the total obligations that can be incurred for the FAHP during a year. By controlling obligations annually, the program may be made more responsive to budget policy. As was discussed in the previous section, once an obligation is made, the Federal government must reimburse the States when bills become due. That “promise” must be kept. Consequently, it is impossible to place direct controls on outlays. However, Congress can limit obligations, thereby preventing that promise—and the subsequent payment—from being made. It should be pointed out that a limitation on obligations in a given year does not affect the scheduled apportionment or allocation of Federal-aid highway funds after they are authorized. The obligation ceilings set in the SAFETEA-LU for fiscal years 2005 through 2009 are part of the guaranteed level of spending 58 (see discussion under “Appropriations”). Each year, the appropriations legislation will confirm or modify these ceilings.

A limitation on obligations acts as a ceiling on the sum of all obligations that can be made within a specified time period, usually a fiscal year. In general, a limitation is placed on obligations that can take place during a certain fiscal year, regardless of the year in which the funds were apportioned or allocated. A few, specific programs, however, have limitation which may only be used for that program, and which may be carried over for several years or until it is used. This will be discussed in more detail later in this section.

**Extra money in the HTF is just carried over to the next year – it won’t be spent on new projects, which require additional appropriations**

**Federal Highway Administration, 7** (“Financing Federal-Aid Highways”, March,

<http://www.fhwa.dot.gov/reports/financingfederalaid/financing_highways.pdf>)//DH

 Expenditures. As stated before, the HTF exists to support the highway, highway and motor carrier safety, intermodal and transit programs. Even though the programs do, for the most part, have contract authority, the cash to reimburse the States for the Federal share of project costs still must be released from the HTF by an appropriations act. In other words, the Federal government does not have the ability to pay the State without an appropriation of cash from the HTF. Any amounts that have been appropriated but not used during the year can be carried over for use in the next fiscal year. Conversely, legislation providing additional liquidating cash is enacted when the amounts appropriated in the annual DOT Appropriations Act are insufficient.

**State highway spending can’t exceed the federal obligation limit**

**Federal Highway Administration, 7** (“Financing Federal-Aid Highways”, March,

<http://www.fhwa.dot.gov/reports/financingfederalaid/financing_highways.pdf>)//DH

Although a ceiling on obligations restricts how much funding a State may use in a fiscal year, the ceiling does give States more flexibility than an outright funding reduction. Each State receives a single, overall ceiling for the fiscal year that covers all of its programs, except those that are either exempt or receive special or no-year limitations. Within this overall limitation, the State has the flexibility to determine the best combination of program funds to obligate in each category (e.g., STP, NHS, CMAQ) based on its individual needs, as long as it does not exceed the ceiling in total. Also, the unobligated balance of apportionments or allocations that the State has remaining at the end of any fiscal year is carried over for use by that State during the next fiscal year.

**The obligation ceiling controls the rate – even if they make the pool greater, the rate of disbursement is the same**

**FWHA, 11** (“Appendix A: Glossary,” 4/6, [http://www.fhwa.dot.gov/reports/financingfederalaid/appa.htm)//DH](http://www.fhwa.dot.gov/reports/financingfederalaid/appa.htm%29//DH)

**Obligation Limitation.** A restriction, or "ceiling" on the amount of Federal assistance that may be promised (obligated) during a specified time period. This is a statutory budgetary control that does not affect the apportionment or allocation of funds. Rather, it controls the rate at which these funds may be used.

**MAP 21 includes the same obligation limitation – total spending each year can’t increase without a new appropriation**

**Federal Highway Administration, 12** (Moving Ahead for Progress in the 21st Century Act (MAP-21) A Summary of Highway Provisions, 6/17, <http://www.fhwa.dot.gov/map21/summaryinfo.cfm>)//DH

Obligation limitation [1102]
MAP-21 establishes an annual obligation limitation of $39.699 billion for FY 2013 and $40.256 billion for FY 2014 for the purpose of limiting highway spending each year. Distribution of the limitation is similar to current law. The current requirement to annually recover unused obligation limitation and distribute it as formula limitation to States that can use it before the end of the fiscal year is also continued. Funding for the following programs is exempt from the limitation:

* Emergency Relief
* Demonstration projects from ISTEA and earlier authorization acts (specified)
* Minimum Allocation (pre TEA-21)
* $639 million per year of TEA-21 Minimum Guarantee
* $639 million per year of SAFETEA-LU (and extensions) Equity Bonus
* $639 million per year of National Highway Performance Program funds (MAP-21)

**MAP-21 included an obligation ceiling – outlays can’t exceed this**

Kotler, Head of Investor Relations at Balfour Beatty, an investment firm (Basak, “The US Senate passes the two-year surface transportation authorisation bill,” 7/2, <http://balfourbeatty.ir-group.com.akadns.net/index.asp?pageid=167&blogid=38)//DH>

On 29 June, the US Senate passed the two-year surface transportation authorisation bill, the aptly named MAP-21 - Moving Ahead for Progress in the 21st Century. The bill now goes to the President who is expected to sign it shortly.

This bill is the long-awaited successor to SAFETEA-LU which expired in September 2009 and includes US$82 billion for the highway programme and US$21.3 billion for the transit programme over two years – FY’13 and FY’14 (fiscal years ending 30 September 2013 and 2014).  The obligation ceiling for the highway programme would increase from US$39.14 billion in FY’12 to US$39.69 billion in FY’13 to US$40.25 billion in FY’14.

**No immediate increase – shortfalls in the HTF are made up with the general fund**

**Kile, 11** - Assistant Director for Microeconomic Studies at the Congressional Budget Office (Joseph, “The Highway Trust Fund and Paying for Highways,” Congressional Testimony, 5/17, [http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/121xx/doc12173/05-17-highwayfunding.pdf)//DH](http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/121xx/doc12173/05-17-highwayfunding.pdf%29//DH)

The United States spends about $160 billion annually on highways, with about one-fourth of that total, or roughly $40 billion, coming from the federal government. Federal highway spending is funded mainly through taxes on gasoline and other motor fuels that accrue to the Highway Trust Fund. In recent years, the Congress has spent more on highways than the revenues accruing to the fund for that purpose, and it has supplemented the trust fund’s balance with money from the general fund of the Treasury.

**HTF funding is limited by the Congressional authorization that determines how much can be spent on highways each year**

**Kile, 11** - Assistant Director for Microeconomic Studies at the Congressional Budget Office (Joseph, “The Highway Trust Fund and Paying for Highways,” Congressional Testimony, 5/17, [http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/121xx/doc12173/05-17-highwayfunding.pdf)//DH](http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/121xx/doc12173/05-17-highwayfunding.pdf%29//DH)

Spending from the Highway Trust Fund is determined by authorization acts that provide budget authority for highway programs, mostly in the form of contract authority (the authority to incur obligations in advance of appropriations). 2 Annual spending from the fund is largely controlled by limitations on the amount of contract authority that can be obligated in a particular year, and such obligation limitations are customarily set in annual appropriation acts. 3

### 2nc - Increase excludes duration

**Prefer our interpretation – theirs isn’t predictable. It requires deviating from the plain, ordinary meaning of increase. Liberal constructions create confusion.**

**Martinez, 6** – Justice for the Supreme Court of Colorado (SUPREME COURT OF COLORADO, 129 P.3d 988; 2006 Colo. LEXIS 395, Plaintiff-Appellee: DOUGLAS BRUCE, v. Defendants-Appellants: CITY OF COLORADO SPRINGS and KATHRYN YOUNG, City Clerk, in her official capacity as election officer for the city, 2/27, lexis)

After examining the various arguments for an expanded reading of "increase," we reject these arguments in favor of the plain language of section (3). We are not persuaded by Bruce's suggestion that section (4)(a) serves as a definitional provision for section (3), nor by his assertion that the plain meaning of "increase" should be liberally construed in place of its plain and ordinary meaning. In sum, we find no compelling reason to deviate from the plain language of Amendment 1 entailing the adoption of an expansive definition of the term "increase" to encompass "extension."

The election notice provisions serve to inform the voters, and an unnecessarily broad definition of "increase" would lead to potential confusion in contravention of that purpose.  [\*997]  Accordingly, we reject the trial court's legal determination that an extension of an expiring tax is equivalent to a tax increase. Consistent with this finding, the additional ballot title requirements of section (3) that apply to tax increases [\*\*28]  do not apply to Issue 1A. Therefore, we reverse the order of the trial court granting summary judgment for Bruce.

### 2nc - extratopicality

**Large portions of the HTF go to non-infrastructure items**

**Poole and Moore, 10 –** \* director of transportation policy and Searle Freedom Trust Transportation Fellow at Reason Foundation, the free market think tank he founded. Poole, an MIT-trained engineer, has advised the previous four presidential administrations on transportation and policy issues AND \*\*vice president of research at Reason Foundation, member of the Transportation Research Board, and in 2006 he was appointed by Congress to serve on the National Surface Transportation Infrastructure Finance Commission (Robert and Adrian, “Restoring Trust in the Highway Trust Fund”, August, <http://reason.org/files/restoring_highway_trust_fund.pdf>

Based on that prescription, this section seeks to estimate the amount of annual spending that would be shifted from non-highway to highway purposes under this new approach. To do this, we must identify all the non-highway activities currently being funded out of the Highway Trust Fund. Our starting point is a 2009 Government Accountability Office report analyzing highway and nonhighway expenditures from the Highway Trust Fund during the five-year period 2004-2008. 32 The task is to go through the various categories identified in this report, separating them into those that relate directly to the refocused FHWA and those that do not.

A. Enhancements and Miscellaneous

GAO’s Table 2 identifies $3.75 billion worth of “transportation enhancement” projects funded by highway users during the five-year period. Just over $2 billion of this is for pedestrian and bicycle projects, with other monies going for scenic beautification, historic preservation, transportation museums, rehabilitation of historic transportation buildings and facilities, etc. None of these activities fit the refocused federal highway program definition. In addition, the GAO’s Table 3 identifies a mixture of highway-related (though not strictly construction or maintenance) and nonhighway-related projects, totaling $24.2 billion over five years. To avoid confusion over how these items are treated, we reproduce here all the categories from GAO’s Table 3 and indicate which ones would remain as part of the refocused FHWA.