# Topicality – Dartmouth 2012

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

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# \*\*\*“Transportation Infrastructure Investment” – Negative

### 1NC – “Transportation Infrastructure Investment” = Private Investment

#### ( ) Transportation infrastructure investment requires private-sector participation

Khasnabis and Mishra ‘9

[Professor of Civil Engineering and Graduate Student of Engineering – Wayne State. “Developing and Testing a Framework for Alternative Ownership, Tenure and Governance Strategies for Proposed Detroit-Windsor River Crossing. Feb 2009. http://www.utoledo.edu/research/ututc/docs/UTUTC-IU-1\_Final\_Report1.pdf]

Transportation infrastructure investments typically undertaken by the public sector, has recently attracted private entities, thereby forming a joint participation commonly referred to as Public Private Partnership (PPP). Financing techniques are developed to provide various forms of ownership, tenure and governance (OTG) strategies. There are a number of reasons for the growing trend of private participation in public projects. These include, the scarcity of fiscal resources at the public sector level, the perception that the private sector is more efficient in managing (construct, operate, and maintain) large projects, and sharing risks and uncertainties with the private sector, thereby reducing exposure levels to financial losses for both entities. Most investment decisions share three important characteristics in varying degrees. First, the investment is partially or completely irreversible in that the funds invested are completely “sunk” in the project. Thus the agency or agencies responsible for managing the project, must be fully committed to the project once the investment is made. Second, there are uncertainties over the future outcome from the investment. One way to address this is to assess the probabilities of the alternative outcomes that can mean greater or smaller profit (or loss) for the investment. The third characteristic is related to timing of the investment. With proper planning, investment decisions can be postponed until credible information about future outcomes may be available. These three characteristics interact to determine the optimal decision of investors (Weston and Brigham 1976)*.*

#### Vote negative for limits and ground – private-sector participation sets a limit on the topic by trimming down the number of potential affirmatives and ensures stable market-based disadvantage ground.

### Ext. Must Be PPP

#### ( ) Investment must include public-private partnerships – anything else distorts the topic

Heller 9

(Peter S., Former Deputy Director of the Fiscal Affairs Department – International Monetary Fund and Currently Senior Adjunct Professor of International Economics – Paul H. Nitze School of Advanced International Studies at The Johns Hopkins University, “Public Investment: Vital for Growth and Renewal, But Should it be a Countercyclical Weapon?”, http://www.unctad.org/en/Docs/webdiae20091\_en.pdf)

While any capital outlay of a government would be defined as “public investment” in normal budgetary classification terms, this approach sidesteps a number of important conceptual issues. First, from a normative public finance perspective, the reason that governments spend on public assets is because some form of market failure is present that either leads to inefficient provision by the private sector or entails excess rents to a private producer. Specifically, the asset gives off externalities, positive or negative, or the asset is a “public good,” whose services are subject to “nonrivalness” in consumption or where it is difficult to exclude potential consumers. Or, there are economies of scale involved, such that a natural monopoly situation would be entailed, justifying either public provision or regulation of a private monopoly. Many kinds of infrastructural networks are subject to such natural monopoly conditions. Moreover, the public sector’s role in public investment is not limited to its own budgetary spending. A simple focus on government outlays may yield too narrow a picture of the level of public investments and more importantly, a too restricted perspective on the potential role played by governments with regard to the provision of public infrastructure. Most obviously, when the government collaborates in a public-private partnership (PPP), most outlays will normally be made by private sector entities. Yet the purpose of these outlays would be to provide goods or services for which there is justified public involvement. And the government’s role in relation to the PPP arrangement—in terms of monitoring, regulation, risk bearing, and ultimately purchaser of the asset (long in the future perhaps but part of the PPP contractual terms)—will still remain prominent. Similarly, in cases where the private sector invests in the production of goods characterized by natural monopoly conditions, government regulatory involvement is called for. In other spheres of private investment, a government regulatory or planning role may also be fundamental in order to take account of public policy objectives (in the case of externalities), though such investments would still be recognized as private. The challenge of classifying public investment is rendered even more complex in the context of privatization efforts, where the sale of a government asset is classified, in budgetary terms, as a “negative investment,” though in fact the transaction simply represents a reclassification of ownership. The complexities of measuring public investment and the changes in the definitions that have occurred over time has led the OECD, in its recent effort to analyze the linkage between public investment and growth, to rely on indicators of physical stock rather than measures of the financial value of public investment or the net value of its capital stock. Rather than being misled by a narrow budgetary classification, what is important to recognize are the ways in which governments have a responsibility in the creation of capital goods and their need to intervene, particularly when market failure leads to underspending on goods vital for the realization of public policy objectives.

#### ( ) More evidence – “infrastructure investment” is a term of art that excludes pubic investment

Kappeler and Valilia, 07

[Director of the Institute of East European Studies University of Vienna and \*\*Senior economist at the European Investment Bank ( 2007, \*Andreas and \*\*Timo, “ Economic Financial Report: Introduction,” http://www.eib.org/attachments/efs/efr\_2007\_v02\_en.pdf)

Public investment has received only limited academic attention as an aggregate variable, and its composition has to our knowledge received none at all, at least in the European context. This paper seeks to fill that gap at least in part by presenting some stylised facts about the composition of public investment in Europe and by presenting an empirical analysis of what drives different types of public investment, with a special focus on the impact of fiscal federalism. Perhaps because of lack of academic attention, misconceptions abound concerning the nature, drivers, and impact of public investment. Most notably, there is often confusion about what it is in the first place. Perhaps the most prominent example of this type of confusion is the customary synonymous use of “public investment” and “infrastructure investment” in much of economic literature. There is, however, a great deal of infrastructure investment that is not public, and there is a great deal of public investment that is not infrastructure investment. While it is well-known that many roads, water and sanitation networks, and municipal swimming pools are publicly funded and provided, neither economic theory nor empirical analyses have really distinguished between them when studying what determines “public investment” or how productive “public investment” is. As a starting point for a more nuanced analysis and understanding of public investment, we first break it down into different types with distinctly different economic characteristics in section 2. We then propose to use the traditional theory of fiscal federalism and some of its more recent extensions, reviewed in section 3, to derive hypotheses about the link between fiscal decentralisation and the composition of public investment. Section 4 seeks to articulate empirical tests of the hypotheses, and their results are interpreted from an economic perspective in section 5, before concluding in section 6. 3

### 1NC – “Transportation Infrastructure Investment” = Asset Networks

#### Transportation infrastructure investment must generate productive asset networks

Hulten ‘4

(Charles R. Hulten, Professor of Economics at the University of Maryland, Research Associate of the National Bureau of Economic Research, Member of the Advisory Committee of the Bureau of Economic Analysis, 08/2004, Revised 02/2005, <http://econweb.umd.edu/~hulten/WebPageFiles/Transportation%20Infrastructure,%20Productivity,%20and%20Externaliti.pdf>)

The idea that transportation infrastructure is a type of capital investment distinct from other forms of capital is an accepted part of the fields of economic development, location theory, urban and regional economics, and, of course, transport economics. In his classic treatise, Albert O. Hirschman (1958) classifies transport infrastructure systems as “social overhead capital (SOC)” to distinguish it from the type of capital that is used directly by industry to produce their goods and services (e.g., plant and equipment), which he calls “directly productive assets (DPA).” 1 Hirschman points to four characteristics that distinguish SOC from DPA: (1) SOC is basic to (and facilitates) a great variety of economic activities, (2) it is typically provided by the public sector or by regulated private agencies, (3) it cannot be imported, and (4) it is “lumpy” in the sense of technical indivisibilities. He also argues that the function of SOC investment is to “ignite” DPA, and that “Investment in SOC is advocated not because of its direct effect on final output, but because it permits, and in fact, invites, DPA to come in (page 84).” A more modern treatment of these issues would frame in terms of the economic theory of partial public goods, or “clubs,” modified to include network theory. Roads and highways, for example, are lumpy joint use networks with many different simultaneous users and uses. Unlike “private good” DPA investments, the conditions for optimal provision involve the summation of benefits across the different users (“members of the club”), adjusted for congestion effects. Moreover, the benefits associated with any one segment of the network (or ‘mini-club’) depend on the size and configuration of the entire network, and not just with that segment. Spillover externalities between network segments are therefore potentially important. So are Hirschman’s “igniting” effects, since the addition or expansion of key networks effects can have a magnified effect throughout the network. The example in the U.S. of the intercontinental railroads which opened up the western regions

# \*\*\*“Transportation Infrastructure Investment” – Affirmative

### “Transportation Infrastructure Investment” – General

#### ( ) Transportation Infrastructure Investment involves the purchase and construction of facilities

Department of Transportation 03 (U.S. Department of Transportation, Bureau of Transportation Statistics, "Transportation Investment-Concepts, Data and Analysis," draft, compiled based on data from U.S. Department of Commerce (USDOC), Bureau of Economic Analysis (BEA), "Fixed Assets and Consumer Durables," and personal communications with BEA; and USDOC, U.S. Census Bureau, "Value of Construction Put in Place Statistics," Detailed Construction Expenditure Tables, available at http://www.census. gov, as of February 2003. http://www.bts.gov/publications/transportation\_statistics\_annual\_report/2003/html/chapter\_02/figure\_109.html )

Investment in transportation infrastructure includes the purchase or construction value of transportation facilities and structures. Data on state and local transportation investment are not available separately. For rail infrastructure, only state and local investment from 1993 to 2000 are included. Government investment in pipeline infrastructure and federal investment spending on railroads are not covered due to lack of data. Investment in rolling stock consists of government outlays for motor vehicles only. Government spending on other rolling stocks (e.g., aircrafts, vessels, and boats) and other machinery and equipment used by federal, state, and local DOTs are not counted in the estimates due to lack of data. All dollar amounts are expressed in chained 1996 dollars, unless otherwise specified. Current dollar amounts (which are available in appendix B of this report

### AT//Must be PPP

#### ( ) Infrastructure investment is explicitly defined as solely government funded

EPA 9

(U.S. Environmental Protection Agency – Office of Grants and Debarment, “Definition of “Infrastructure” for Purposes of the American Recovery and Reinvestment Act of 2009”, 5-8, <http://www.epa.gov/ogd/forms/Definition_of_Infrastructure_for_ARRA.pdf>)

EPA does not consider remediation activities conducted with Brownfields supplemental funds by tribes, private sector developers, non-profit organizations (except non-profit organizations that are councils of governments or regional or interstate governmental entities per 40 CFR 31.3 Local government) or other non-governmental borrowers or subgrantees to be infrastructure investments for the purposes of the certification and reporting requirements.

#### ( ) Infrastructure investment doesn’t have to involve the private sector

DePonte 09

(Kelly DePonte, head of research and due diligence at Probitas Partners, former managing director at Pacific Corporate Group, MBA @ UCLA and BA @ Stanford, “The Definitive Guide to Infrastructure Fundraising,” Edited by Michael Halford, SJ Berwin LLP, September 2009, Chapter 1: “What are infrastructure funds?”, p. 1, <http://www.probitaspartners.com/pdfs/Chapter+1_DePonte+%282%29.pdf>)

Infrastructure investing covers a wide range of different project types with different risk-return profiles. These investment opportunities are capital-intensive and are either in heavily regulated industries (as with natural gas transmission) or are done under long-term concessions with public sector entities through public private partnerships (PPPs). Though most of the largest closed-end funds and publicly listed vehicles focused on infrastructure are diversified to some degree by project type and geography, it is useful to review in some detail the various sectors individually by project structure, industry sector and stage of development.

# \*\*\*“Transportation Infrastructure” – Negative

### 1NC – “Transportation Infrastructure” = Not Energy/Social/Communication Infrastructure

#### ( ) Transportation infrastructure is highways, roads, bridges, intermodal transit, inland waterways, ports, aviation, and rail systems.

**Congress ‘11**

[The US House of Representatives – the 112th Congress of the United States. “HR 402 – National Infrastructure Development Bank Act of 2011” 1/24/11 <http://www.govtrack.us/congress/bills/112/hr402/text//Cal-JV>]

(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.

#### [Insert Link, or…]

#### ( ) That’s distinct from water, energy, or social infrastructure

**Heintz ‘9**

(James, Associate Research Professor and Associate Director – Political Economy Research Institute, et al., “How Infrastructure Investments Support the U.S. Economy: Employment, Productivity and Growth”, January, http://americanmanufacturing.org/files/peri\_aam\_finaljan16\_new.pdf)

II. ASSESSMENT OF INFRASTRUCTURE NEEDS FOR THE U.S. 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. These categories constitute the most important components of U.S. economic infrastructure. In addition, public schools represent one of the most important pillars of the country’s social infrastructure, one with important implications for the long-run productivity of the economy’s human resources. Taken together, we capture the most important assets that collectively reflect the state of the nation’s infrastructure. In this section, we examine each of these areas in turn and then pull the information together to provide a more complete picture of infrastructure needs. Transportation Highways, Roads and Bridges The nation’s highways, roads, and bridges constitute the single most important transportation system for the U.S. population and economy. According to the Federal Highway Administration, the U.S. maintains 4 million miles of roads and nearly 600,000 bridges (Department of Transportation, 2006). In dollar terms, the Bureau of Economic Analysis estimates that the current value of public assets in road infrastructure totals $2.6 trillion. The Department of Transportation periodically evaluates the condition of the country’s roads, bridges, and transit systems in its report Status of the Nation’s Highways, Bridges, and Transit. According to the most report, 85 percent of roads are in ‘acceptable condition’ but only 44 percent were deemed to be in ‘good condition’. In 2004, 26.7 percent of bridges were considered to be structurally deficient and 13.6 percent were ‘functionally obsolete.’ The cost to maintain the U.S. road system in its current condition is estimated to be $78.8 billion a year. Current levels of annual investment are around $70.3 billion, a gap of $8.5 billion. The Department of Transportation has conducted research into the level of investment needed to minimize the costs associated with prolonged travel times, vehicle damage, accidents, and excessive emissions. Bringing the system up to this high-quality standard would require annual investment of $131.7 billion, an increase of $61.4 billion over current levels (Department of Transportation, 2006). Freight and intercity rail By 2035, demand for freight rail transportation is expected to double (AAR, 2007). Maintaining adequate infrastructure is essential if freight rail is to continue to provide a more environmentally benign alternative to long-distance trucking. Intercity passenger rail, mostly on trains operated by Amtrak, currently links over 500 cities nationwide and provides a viable alternative to air and road transport (Department of Transportation, 2007). Insufficient capital investment in freight and intercity rail would compromise the future contributions of railroads to the U.S. economy. In turn, these investment gaps would slow down the transition to a clean-energy economy. Unlike road transportation, rail infrastructure is largely financed by private companies. Since the railroads were deregulated in the late 1970s, securing the funds for ongoing capital improvements has been a challenge. It is unclear to what extent railroad companies will be able to finance future fixed capital requirements from ongoing revenues (ASCE, 2005). If railroads cannot finance sufficient capital improvements, the growth in demand for rail services would shift onto the road system—increasing congestion, road maintenance costs, as well as increasing greenhouse gas emissions. A recent study by the Association of American Railroads projects that infrastructure investment of $148 billion is required in the next 28 years to be able to meet the projected level of demand (AAR, 2007). This translates into a capital investment need of $5.3 billion per year. The American Society of Civil Engineers estimates that investment needs of freight rail and intercity systems would total $12-13 billion a year over the next 20 years (ASCE, 2005). However, this estimate includes investments that would have taken place anyway, given historical trends. Therefore, we use the $5.3 billion figure as the best available estimate of the need for additional rail infrastructure in the future. Aviation According to forecasts compiled by the Federal Aviation Administration, the number of passengers flying on commercial airlines is expected to increases at an annual rate of 3.0 percent a year from 2008 to 2025 (FAA, 2008). By the end of this period, annual passenger travel is expected to reach 1.3 billion. This increase in volume will require capital investments in airport capacity and air traffic control systems if congestion and delays are to be minimized and passenger safety maintained. Updating the traffic control system has been ongoing since the mid-1980s, but the process has taken longer and required more investment than initially thought (ASCE, 2005). According to the results of a survey administered to the nation’s 100 largest airports by the Airports Council International (North American branch), annual capital investment needs over the period 2007-2011 total $17.5 billion (ACI, 2007). This represents a $3.2 billion increase over the assessment of annual investment needs from 2005 to 2009. The FAA estimates the shortfall in investment funds available to be somewhat lower: $1 billion per year from 2006-2011, based on airport master plans and ACI estimates (GAO, 2007). However, neither set of estimates include capital investment for security improvements and air traffic control systems, as documented by the ASCE (2005). Therefore, we use $3.2 billion a year in additional infrastructure as a reasonable estimate of investment needs in the absence of more comprehensive data. Mass transit Increased usage of public transportation is one of the most efficient ways to promote energy conservation in the United States. It is therefore a positive development that public transportation has been growing steadily in recent years. The increase in demand for public transportation accelerated sharply over 2007-08, as gas prices at the pump rose as high as $4.00 a gallon. But more generally, over the decade 1996-2005, passenger miles traveled with various forms of public transportation increased by over 20 percent (Department of Transportation, 2007) and usage is expected to rise faster in the future. Capital investments in transit have increased in recent years, particularly at the state and local level (Department of Transportation, 2006). Despite these improvements, public investment must increase further if the transit system is to be maintained, and beyond this, if public transportation is to become an increasingly significant means of promoting energy conservation. According to the 2006 Status of the Nation’s Highways, Bridges, and Transit, transit investments must total $15.8 billion a year just to maintain the current operating system. This would represent an increase of $3.2 billion a year over current levels. But to meet government operational and performance targets by 2024, annual investments must grow to $21.8 billion, requiring an additional $9.2 billion. Inland waterways and levees Approximately 2.6 billion short tons of commodities are transported on U.S. navigable waterways each year—an extremely cost-efficient transportation system (Army Corps of Engineers, 2005). The Army Corps of Engineers maintains and operates the inland waterway system which includes 257 lock systems nationwide, the average age of which is 55 years. According to the American Society of Civil Engineers, by 2020 80 percent of the lock systems will be functionally obsolete without new infrastructure investments (ASCE, 2005). The estimated cost of updating all the lock systems is $125 billion. In addition, the Army Corps of Engineers assess the state of the nation’s levees and flood control systems, amounting to 2,000 levees totaling 13,000 miles, which include projects built and maintained by the Corps of Engineers; projects built by the Corps of Engineers and subsequently transferred to a local owner to maintain; and projects built by local communities. In 2007, the Corps identified 122 levees, across the country, which are in need of additional maintenance and repair.4 The investment needed to update the lock system combined with an additional $30 billion to improve the nation’s levees would total $155 billion, or about $6.2 billion annually over the next 25 years.

#### Vote negative for limits and ground – other forms of infrastructure like (whatever the aff does) self-evidently explode the topic and require a different and unrelated set of negative arguments – rejecting the plan is necessary to preserve a manageable negative research burden and preserve competitive equity.

### Ext. “TI” Excludes Other Forms (General)

#### ( ) Energy and water are distinct categories --- “transportation” is limited to roads, bridges, waterways, ports, air and rail

Chapman 11

(Chapman and Cutler LLP, “The American Jobs Act and Its Impact on a National Infrastructure Bank”, Client Alert, 9-29, http://www.chapman.com/media/news/media.1081.pdf)

Eligibility for financial assistance must be demonstrated to the satisfaction of AIFAʼs Board of Directors. Generally, the applicantʼs request must meet the Actʼs definition of a transportation infrastructure project, water infrastructure project, or energy infrastructure project. To be eligible, the project must have costs that are reasonably anticipated to equal or exceed $100 million. However, rural infrastructure projects need only have costs that are reasonably anticipated to equal or exceed $25 million. -- 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 -- Water Infrastructure: includes the construction, consolidation, alteration, or repair of the following subsectors: o Wastewater treatment facilities o Storm water management systems o Dams o Solid waste disposal facilities o Drinking water treatment facilities o Levees o Open space management systems -- Energy Infrastructure: includes the construction, consolidation, alteration, or repair of the following subsectors: o Pollution reduced energy generation o Transmission and distribution o Storage o Energy efficiency enhancements for public and commercial buildings.

#### ( ) Transportation infrastructure is distinct from water, energy, and military infrastructure-legislation proves

Katz ‘6

(Bruce Katz, Vice President and Director, Metropolitan Policy Program, Brookings, 2/22/09, Strengthening Our Infrastructure for a Sustainable Future, http://www.brookings.edu/research/speeches/2009/02/22-infrastructure-katz)

First, as we all know, the American Recovery and Reinvestment Act that the President signed into law last Tuesday provides a lot of money for infrastructure. It may not be as much as some governors had hoped for and most of the money does go to tax relief, but according to our analysis–which uses the broadest possible definition–we find that there is $152 billion going to infrastructure from the recovery package. Most of the money ($54 billion) is going to transportation infrastructure – roads, rails, and transit, mostly. There are also big chunks for water/sewer and the energy grid. The "other construction" category includes housing, military, health facilities and others.

#### ( ) “Infrastructure” is defined by function. The category of energy is distinct from transportation.

Beeferman 8

(Larry W., Director of the Pensions and Capital Stewardship Project in the Labor and Worklife Program – Harvard Law School, “Pension Fund Investment in Infrastructure: A Resource Paper”, Capital Matters, No. 3, December, http://www.law.harvard.edu/programs/lwp/pensions/publications/occpapers/occasionalpapers3. pdf)

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

#### ( ) Communication, water, and energy systems are regulated utilities, not “transportation infrastructure”

Quadrant 7

(Real Estate Investors, “Global Diversified Infrastructure Fund of Funds”, http://www.quadrantrealestateadvisors.com/investments/public/uploads/documents%5CGlobal%20Diversified%20Infrastructure%20Fund%20of%20Funds.pdf)

II. Defining Infrastructure Assets Starting with the failure of the levy systems in New Orleans, followed by the collapse of the Mississippi River Bridge in Minneapolis, Minnesota on August 1, 2007, American infrastructure capital needs were brought to the forefront of America. The aging stock of infrastructure continues to deteriorate and the demand for public and private investment continues to grow. The question now becomes, which entity is going to address this growing need? However, an even more fundamental question also exists, what are infrastructure assets? According to the American Heritage Dictionary, infrastructure comprises the “basic facilities, services and installations needed for the functioning of a community or society, such as transportation and communication systems, water and power lines, and public institutions including schools, post offices and prisons.” The dictionary also notes that the term infrastructure has been used since 1927 to refer to the public works required for an industrial economy to function or the installations necessary for the defence of a country. The expectation most have is that infrastructure assets primarily involve government regulated monopolies and governmentally maintained assets. Unfortunately, classification is not that simple. When defining infrastructure investments, the common definition accepted in the institutional investment management community is “the physical assets that are needed to provide essential services to society,” which has lead managers to have highly different interpretations of the definition of “essential.” In general, the infrastructure market is divided into two general sectors—economic infrastructure and social infrastructure. Economic infrastructure includes transportation assets and regulated utilities, which includes communication, water, and energy systems. Social infrastructure is more vaguely defined and may include any asset in which the government maintains control or assets that are necessary for the longevity of the population. Such assets include schools, prisons, hospitals, parks, and others.

#### ( ) Infrastructure is defined by specific physical characteristics --- this differentiates transportation from utilities, communication, and energy

Inderst 9

(Georg, Financial Affairs Division – Organisation for Economic Co-operation and Development, “Pension Fund Investment in Infrastructure”, OECD Working Paper, No. 32, January, http://www.oecd.org/dataoecd/41/9/42052208.pdf)

Definition of infrastructure assets The definition of infrastructure investment seems intuitive. The OECD uses a simple and general definition for infrastructure as the system of public works in a country, state or region, including roads, utility lines and public buildings. A standard dictionary‘s definition is: ―The basic facilities, services, and installations needed for the functioning of a community or society, such as transportation and communications systems, water and power lines, and public institutions including schools, post offices, and prisons.‖ (American Heritage Dictionary). Infrastructure assets are traditionally defined by their physical characteristics. One can split them into two main categories, and a range of sectors within those: Economic infrastructure  transport (e.g. toll roads, airports, seaport, tunnels, bridges, metro, rail systems)  utilities (e.g. water supply, sewage system, energy distribution networks, power plants, pipelines, gas storage)  communication (e.g. TV/ telephone transmitters, towers, satellites, cable networks)  renewable energy Social infrastructure  education facilities  health (hospitals and health care centres)  security (e.g. prisons, police, military stations)  others (e.g. parks). There is a lot of variety within infrastructure if it is defined by its physical nature, and people disagree what exactly should or should not count as infrastructure asset. For example, do utility companies count as infrastructure? When their activities span production, distribution and networks, where is the dividing line? More generally, where does public infrastructure end and private infrastructure start?

#### ( ) Transportation infrastructure excludes communications, housing, and electricity distribution

Alshawi 9

(Mustafa, Associate Dean – University of Salford and Chair – Iraq Institute for Economic Reforms, “Concept and Background to Public Private Partnership (PPP) / Private Finance Initiative (PFI)”, 11-20, http://www.oecd.org/dataoecd/50/33/47562550.pdf)

1 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.

#### ( ) Transportation infrastructure is defined as transit, highways, airports, railways, waterways and intermodal links

**Trimbath 2011**

(Susanne, Ph.D., former Senior Research Economist in Capital Market Studies at Milken Institute, Transportation Infrastructure: Paving the Way, STP Advisory Services, LLC, p. 9)

The strategy applied by the US Chamber of Commerce for the infrastructure performance index project presents a model for developing the way forward. A stakeholder-centric approach allows you to measure the right things, communicate to the people in a language they understand and get to ACTION faster. The process, detailed in the Technical Report last summer (US Chamber 2010), is basically this: 1. Clearly define “transportation infrastructure” as the underlying structures that support the delivery of inputs to places of production, goods and services to customers, and customers to marketplaces. The structures are: • Transit • Highways • Airports • Railways • Waterways (Ports) • Intermodal Links

#### ( ) Water supply and disposal, telecom, and power generation, transmission, and distribution aren’t topical

Snieska 9

(Vytautas, Professor – Kaunas University of Technology, and Ineta Simkunaite, Professor – Projectu Vadybos Centras, “Socio-Economic Impact of Infrastructure Investments”, Inzinerine Ekonomika-Engineering Economics, 3, p. 17)

Authors of scientific literature suggest many definitions of infrastructure sector and its components, they widely interpret the features and functions of infrastructure while the issue of measurement is based mainly on the available data for different regions. Infrastructure is defined as a complex of capital goods which are not consumed directly; they provide services only in combination with labour and other inputs. This description allows to distinguish a wide range of components and to analyse their direct impact on development issues and emphasises the need of specification of infrastructure sector in order to measure its impact. In this article infrastructure is defined as the core physical structure consisting of: transportation infrastructure, water supply and disposal infrastructure, telecommunications infrastructure and power infrastructure, consisting of sub sectors that are defined by a set of physical variables: transportation infrastructure (length of roads, rail tracks, etc.), water supply and disposal infrastructure (resident population connected to wastewater collection and treatment systems), telecommunications infrastructure (number of telephone lines), power infrastructure (power plants, transmission and distribution lines).

#### **( ) Transportation infrastructure laundry list – it’s distinct from communication and utilities**

FCEDC, 09

( June 2009, Fond Du Lac County Economic Development Corporation, “ Economic Development Glossary,” <http://www.fcedc.com/sft386/ed101.pdf> )

Infrastructure: Encompasses existing transportation, communication and utility networks. Infrastructure gets people to their jobs and goods and services to their markets. Transportation infrastructure includes: roads; light transit rail networks, inter city, state passenger railways; airports; waterways and ports; bus services. Communication infrastructure includes: copper wire for telecommunications, installed by telecommunications companies; high bandwidth and fiber optic cable capable for carrying voice, data and video streams; satellite communications and microwave antenna; mobile phone networks; the Internet; local area networks (LAN). Utility infrastructure includes: electric power; water and sewage treatment; natural gas lines.

#### ( ) Transportation infrastructure is distinct from other types of infrastructure

Neumann and Price ‘9

(James E. Neumann and Principle – Industrial Economics, and Jason C. Price, Senior Associate – Industrial Economics, RFF Report, June 2009, Adapting to Climate Change, http://www.rff.org/rff/documents/RFF-Rpt-Adaptation-NeumannPrice.pdf)

This paper assesses the threats and needs that multidimensional climate change imposes for public infrastructure, reviews the existing adaptive capacity that could be applied to respond to these threats and needs, and presents options for enhancing adaptive capacity through public sector investments in physical, planning, and human resources. The paper considers four types of infrastructure: transportation; energy generation and transmission; water, sewer, and telecommunications; and coastal defense. The main threats  presented by climate change to these assets include damage or destruction from extreme events, which climate change may exacerbate; coastal flooding and inundation from sea level rise; changes in patterns of water availability; effects of higher temperature on  operating costs, including effects in temperate areas and areas currently characterized by permafrost conditions; and demand‐induced effects.

#### ( ) It’s not an arbitrary distinction – the *literature agrees* that distinguishing between types of infrastructure is crucial

Neumann and Price ‘9

(James E. Neumann and Principle – Industrial Economics, and Jason C. Price, Senior Associate – Industrial Economics, RFF Report, June 2009, Adapting to Climate Change, http://www.rff.org/rff/documents/RFF-Rpt-Adaptation-NeumannPrice.pdf)

Throughout this paper, we organize our presentation by referring to four major categories of infrastructure: •transportation; •energy utility provision, including electric, natural gas, gasoline, and oil pipeline networks;  •nonenergy utility provision, including water, sewer, communication, and solid waste management networks; and • coastal and flood defense networks

### AT//Water

#### ( ) “Water infrastructure” is distinct from “transportation” --- only ports and waterways are topical, not containment or supply systems

Musick 10

(Nathan, Microeconomic and Financial Studies Division – United States Congressional Budget Office, Public Spending on Transportation and Water Infrastructure, p. 2)

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 service provided by Amtrak;\* ■ Civil aviation: airport terminals, runways, and taxi-ways, and facilities and navigational equipment for air traffic control: and ■ Water transportation: waterways, ports, vessel\*, 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.

#### ( ) Water infrastructure is…

White House ‘11

(Office of the Press Secretary, 9/12/11, The American Jobs Act,

http://www.whitehouse.gov/sites/default/files/omb/legislative/reports/american-jobs-act.pdf)

WATER INFRASTRUCTURE PROJECT- The term `water infrastructure project' means the construction, consolidation, alteration, or repair of the following subsectors:

(i) Waterwaste treatment facility.

(ii) Storm water management system.

(iii) Dam.

(iv) Solid waste disposal facility.

(v) Drinking water treatment facility.

(vi) Levee.

(vii) Open space management system.

#### ( ) The transportation of water is water infrastructure

EPA ‘12

(Environmental Protection Agency, Sustainable Infrastructure for Water Programs, 4/12/12

http://www.epa.gov/region7/water/si.htm)

Water infrastructure includes drinking water and wastewater treatment plants, drinking water distribution systems and sewer lines. Built to provide the public with access to water and sanitation, much of the water infrastructure in the U.S. was installed more than 30 years ago and is in need of replacement or rehabilitation.

### AT//Coastal Defense

#### ( ) Coastal defense infrastructure is distinct from transportation

Neumann ‘9

(James E., Principle – Industrial Economics, and Jason C. Price, Senior Associate – Industrial Economics, “Adapting to Climate Change: The Public Policy Response Public Infrastructure”, June, http://www.rff.org/rff/documents/RFF-Rpt-Adaptation-NeumannPrice.pdf)

This paper assesses the threats and needs that multidimensional climate change imposes for public infrastructure, reviews the existing adaptive capacity that could be applied to respond to these threats and needs, and presents options for enhancing adaptive capacity through public sector investments in physical, planning, and human resources. The paper considers four types of infrastructure: transportation; energy generation and transmission; water, sewer, and telecommunications; and coastal defense. The main threats presented by climate change to these assets include damage or destruction from extreme events, which climate change may exacerbate; coastal flooding and inundation from sea level rise; changes in patterns of water availability; effects of higher temperature on operating costs, including effects in temperate areas and areas currently characterized by permafrost conditions; and demand‐induced effects.

### AT//Farming / Agriculture

#### ( ) Agricultural infrastructure is categorized as industrial infrastructure – NOT transportation

**ARB ‘8**

(State of California Air Resources Board, “Public Health and Environmental Benefits of Draft Scoping Plan Measures”, September, http://www.arb.ca.gov/cc/scopingplan/document/ph\_statewide\_a.pdf)

2. TRANSPORTATION AND GOODS MOVEMENT Regulatory Background The transportation sector includes personal transportation vehicles (like cars and trucks) as well as vehicles that transport goods (such as heavy trucks, ships, planes and trains). The transportation sector does not include off-road sources like bulldozers and forklifts, which are included in the industrial sector. Farm equipment, like tractors, is included in the agricultural sector. Emissions from recreational off-road equipment like all-terrain vehicles and recreational boats are relatively small, and their emissions are counted in the industrial sector. In 2006, onroad mobile sources6 emitted the most NOx and ROG (ozone precursors) statewide. Exhaust emissions from mobile sources contributed only a very small portion of directly emitted PM2.5 emissions, but were a major source of the ROG and NOx that contribute to the secondary formation of PM2.5. ARB’s control programs will continue to focus on meeting more stringent ozone and PM standards as well as reducing the risk associated with diesel particulate.

#### ( ) Agricultural infrastructure are defined by their primary use – agricultural vehicles are industry

**DoE ‘8**

(United States Department of Energy – Energy Intense Indicators in the U.S., “Terminology and Definitions”, 4-22, http://www1.eere.energy.gov/ba/pba/intensityindicators/trend\_definitions.html)

Transportation sector An end-use sector that consists of all vehicles whose primary purpose is transporting people and/or goods from one physical location to another. Included are automobiles; trucks; buses; motorcycles; trains, subways, and other rail vehicles; aircraft; and ships, barges, and other waterborne vehicles. Vehicles whose primary purpose is not transportation (e.g., construction cranes and bulldozers, farming vehicles, and warehouse tractors and forklifts) are classified in the sector of their primary use. (see the EIA glossary). Industrial sector An end-use sector that consists of all facilities and equipment used for producing, processing, or assembling goods. The industrial sector is comprised of: manufacturing; agriculture, forestry, and fisheries; mining; and construction. Establishments in this sector range from steel mills, to small farms, to companies assembling electronic components. Overall energy use in this sector is largely for process heat and cooling and powering machinery, with lesser amounts used for facility heating, air conditioning, and lighting. Fossil fuels are also used as raw material inputs to manufactured products. (see the EIA glossary).

### AT//Timber / Forests / Desalination

#### ( ) Timber and desalinization aren’t “transportation” infrastructure

**Brookfield ‘12**

(Brookfield Industrial Partners, LLP, “Operations”, http://www.brookfieldinfrastructure.com/content/operations-3313.html)

We define infrastructure as long-life, physical assets that are the backbone for the provision of essential products or services for the global economy. Due to their nature, infrastructure assets are critical to support sustainable economic development. Infrastructure assets are typically characterized by some or all of the following attributes: strong competitive positions with high barriers to entry; high margins and stable cash flow; and, upside from economic growth and/or inflation. Examples of infrastructure assets include the following: Energy. Energy infrastructure includes the networks that provide basic services such as gas and electricity. Transportation. Transportation infrastructure supports the transport of passengers or cargo via air, land or sea and includes infrastructure such as toll roads, bridges, tunnels, airports, ports, railway lines, urban rail, ferries and other transport-related facilities. Timber. Timber is a vital component of the global economy, and is used to produce lumber, paper and other wood products. Other. Other infrastructure includes social infrastructure (such as health, justice, and education), industrial infrastructure, desalination plants.

### AT//Communication Infrastructure

#### ( ) “Communications” is a distinct category of infrastructure --- it’s massive

Faulkenberry 11

(Ken, MBA – University of Southern California, “Infrastructure Investment: Energy, Transportation, Communications, & Utilities”, Arbor Asset Allocation Model Portfolio Blog, September, http://blog.arborinvestmentplanner.com/2011/09/infrastructure-investment-energy-transportation-communications-utilities/)

Transportation Infrastructure Over the last several decades America’s infrastructure spending has been less than one-half other developed nations and only a quarter of emerging market countries. Civil engineers give our transport structures low marks. Our roads, railways, ports, and airports are all judged mediocre. It has become well recognized that we must invest more in upgrading our transportation infrastructure. But because of the years of neglect, substantial increases in operation and maintenance budgets will also be required. The above engineering and construction firms could also benefit from transportation infrastructure spending. Communications Infrastructure Communications infrastructure would include items we take for granted everyday, such as the internet, telephone, television (including cable TV), and satellite technology. Individual companies such as Cisco (CSCO) (internet) AT&T (T) and Verizon (VZ) (telephone), Comcast (CMCSA) (television), Boeing (BA) and Loral Space & Communications (LORL) (satellites), all play major roles in developing the communications infrastructure.

### AT//Space

#### **( ) Only part of the topic that they could meet is aviation**

**Kahn ‘6**

(Ely, Director for Cybersecurity Policy at the National Security Staff – White House, and Roger Shoemaker, “Transportation Sector Specific Plan”, Chemical Security Summit, 6-28, http://www.ppt2txt.com/r/f892b8c5/)

The Transportation Sector is a vast, far-reaching, complex and diverse network system consisting of six distinct modes: Aviation: 450 commercial airports and 19,000 additional airfields Highway: 4 million miles of roads and supporting infrastructure (bridges, tunnels, etc.) Maritime: 41,300 vessels; 655 billion ton-miles of domestic commerce Mass Transit: 6,000 public transportation systems; 21 billion passenger-miles Pipeline Systems: Oil- 177,000 miles; 623 billion ton-miles; Natural Gas- 1.3 million miles of pipeline Rail: 193,000 miles of track; 1.4 million freight cars, 1.4 trillion revenue ton-miles; 8 Class 1 and 552 additional firms

#### ( ) But they don’t – aviation is limited to activity within Earth’s atmosphere – space affirmatives extend beyond that; (and any affirmative that does “aviation in space” wouldn’t solve)

**Vogt ‘12**

(Crystal, MS in Journalism – Boston University and BA in English – University of California, Santa Barbara, “The Difference Between the Aviation Industry and the Aerospace Industry”, Houston Chronicle, http://smallbusiness.chron.com/difference-between-aviation-industry-aerospace-industry-26208.html)

Though there is some overlap between the aviation and aerospace industries, there are key differences between the two. While aviation has been around since the invention of the kite in the 5th century BC, according to the Global Aircraft Organization, the aerospace industry truly took off in the United States near the middle of the 20th century, when NASA was established in 1958 and President John F. Kennedy later made a strong push to put men on the moon. Airspace The aviation and aerospace industries cover different airspace. The aviation industry deals with all-things aircraft-related within the earth's atmosphere. These dealings include the design, manufacture and operation of many types of aircraft within this airspace. While the aerospace industry also designs and manufactures various forms of aircraft, the industry, as a whole, extends beyond operations within the earth's atmosphere and conducts aircraft operations in space. Demand There is different demand for goods and services in the aviation and aerospace industries. For example, in the aviation industry there is demand from travelers or shipping services to access aircraft and pilots that can transport people and goods internationally. The aerospace industry, on the other hand, has different demands on it from a different type of consumer base that includes more military and industrial clientele with an eye toward space travel or space communications. Spending Spending can vary between the aviation and aerospace industries. During certain years, for instance, economic factors like decreased government spending can scale back projects in the aerospace industry and stall work until funds are made available. This can affect how much space travel is conducted during a specific time period. In the aviation industry, economic factors like nationwide or multi-country recessions can impact how much discretionary income the general population has to spend on air travel. This can affect how many commercial jets are in use or to be manufactured, and how many pilots are needed to fly these jets. Work Requirements There can be varying requirements to work in either industry. For example, to fly in the aviation industry, the Bureau of Labor Statistic states that "most airlines require at least two years of college and prefer to hire college graduates," along with fulfilling commercial licensing requirements. Flying in the aerospace industry, however, categorizes most pilots as astronauts. Astronauts undergo rigorous requirements that most aviation pilots are not exposed to, including higher levels of college coursework in physics and mathematics, military jet test piloting, and buoyancy and weightlessness training. Engineers in each industry also focus on different areas of study. For example, aerospace engineers learn more about the design, manufacture and in-service engineering support of such systems as satellites and spacecraft. Aviation engineers focus more on aircraft operation, commercial or military aircraft design and air traffic management.

### AT//Satellites

#### ( ) Satellites are communication infrastructure, not transportation

IEDC 12

(International Economic Development Council, “Economic Development Reference Guide”, http://www.iedconline.org/?p=Guide\_Infrastructure)

Infrastructure Infrastructure encompasses existing transportation, communication and utility networks. Rebuilding the physical infrastructure of a community improves the local business climate and is critical to the redevelopment of distressed neighborhoods. Infrastructure gets people to their jobs and goods and services to their markets. Many distressed neighborhoods suffer from inadequate infrastructure, decreasing their access to economic opportunities and their ability to integrate into wider city, national, and international markets. Programs to build roads, provide water and waste removal, and offer telecommunications services all bestow substantial economic benefits such as job and business creation and retention to a community. Additionally, modernizing physical infrastructure can help improve the image of a distressed neighborhood. Transportation infrastructure includes: Roads Light transit rail networks, inter city, state passenger railways Airports Waterways and ports Bus services Communication infrastructure includes: Copper wire for telecommunications, installed by telecommunications companies High bandwidth and fiber optic cable capable of carrying voice, data and video streams Satellite communications and microwave antenna Mobile phone networks Local area networks (LAN)

### AT//Postal Services

#### ( ) Postal services are “communication infrastructure”, not “transportation”

Akinwale 10

(Akeem Ayofe, Professor of Sociology – Covenant University (Nigeria), “The Menace of Inadequate Infrastructure in Nigeria”, African Journal of Science, Technology, Innovation, and Development, 2(3), p. 209-210)

3. The Concept of Infrastructure Research on infrastructure dwells on different issues such as education, roads, water supply, power grids, telecommunications, and hospitals (Abosedra et al, 2009; Mandel, 2008; Frischmann, 2007; CBN, 2003; Pendse, 1980). Major infrastructures can be classified into the following categories: 1. Energy/Power Infrastructure: electricity, gas and petroleum pipelines 2. Transportation Infrastructure: surface roads, rail system, ports, and aviation 3. Water Infrastructure: Piped water and irrigation 4. Communication Infrastructure: mass media, internet, phones, and postal services 5. Health Infrastructure: primary, secondary and tertiary heath care services 6. Education Infrastructure: all categories of schools and higher institutions

### AT//Energy Infrastructure

#### ( ) Your affirmative is energy infrastructure

Chapman and Cutler ‘11

(Chapman and Cutler, Attorneys at law, Client Alert, 09/29/11, The American Jobs Act and Its Impact on a National Infrastructure Bank http://www.chapman.com/media/news/media.1081.pdf)

Energy Infrastructure: includes the construction, consolidation, alteration, or repair of the following

subsectors:

o Pollution reduced energy generation

o Transmission and distribution

o Storage

o Energy efficiency enhancements for public and commercial buildings

#### ( ) That explodes the topic

Faulkenberry 11

(Ken, MBA – University of Southern California, “Infrastructure Investment: Energy, Transportation, Communications, & Utilities”, Arbor Asset Allocation Model Portfolio Blog, September, http://blog.arborinvestmentplanner.com/2011/09/infrastructure-investment-energy-transportation-communications-utilities/)

Energy Infrastructure Energy Infrastructure would include electricity generation and the transmission grid, oil refineries and pipelines, and natural gas pipelines. The United States has an antiquated electrical transmission grid with constraints that limit power flows. Increases in demand for oil and natural gas, and changes in where it needs to go, means a need for more investment in pipelines. Engineering and construction companies such as Flour (FLR), Shaw Group (SHAW), and Foster Wheeler AG (FWLT) are individual companies which might benefit from future energy infrastructure spending. Transportation Infrastructure Over the last several decades America’s infrastructure spending has been less than one-half other developed nations and only a quarter of emerging market countries. Civil engineers give our transport structures low marks. Our roads, railways, ports, and airports are all judged mediocre. It has become well recognized that we must invest more in upgrading our transportation infrastructure. But because of the years of neglect, substantial increases in operation and maintenance budgets will also be required. The above engineering and construction firms could also benefit from transportation infrastructure spending.

### AT//Electricity Generation

#### ( ) Only electricity transmission and distribution are topical --- not generation

Antonatos 12

(Larry, Director of Global Equities – Brookfield Asset Management, “What Constitutes ‘Infrastructure’?”, Dow Jones Blog – Indexology, 1-17, http://blog.djindexes.com/index.php/what-constitutes-infrastructure/)

Antonatos: Interesting question. Yes, during our deliberations, we decided that there were types of companies that we would exclude. We included electricity transmission and electricity distribution companies, however excluded electricity generation companies. Un-regulated electricity generation companies are often exposed to commodity price risk and to volatile demand, resulting in earnings and cash flow that are less predictable than we seek from “pure play” infrastructure. Conversely, regulated electricity generation utilities tend to be so overly regulated that they may not deliver the meaningful earnings growth we seek from “pure play” infrastructure. Indexology: To be a component of the indexes, a company has to derive 70% of its cash flows from the categories we’ve discussed. Why is 70% the magic number? Why not 51% or 90%? Antonatos: (laughs) No, there was no magic to that number. We came up with a percentage of cash flows from “pure play” infrastructure that would make it undoubtedly “substantial.” That was the term we were shooting for: substantial. We thought that a figure like 90% would be too high and would limit the stock universe. Conversely, if you lowered it to a number like 51%, it would open the indexes up to too many companies that aren’t substantially infrastructure-based. Indexology: How does your definition of infrastructure compare with others out there? Antonatos: Our definition of infrastructure is much broader than just utilities, yet also more selective regarding the types of utilities we include. For example, we include transportation infrastructure such as airports, seaports and toll roads, as well as communications infrastructure such as towers. Yet we exclude regulated electricity generation as we discussed a moment ago, as well as cell phone carriers and telephone landline providers.

### AT//Pipelines

#### ( ) Pipelines are not “transportation infrastructure” --- they’re “energy”

Commerce 10

(United States Chamber of Commerce, “Transportation Performance Index – Summary Report”, 9-23, <http://www.uschamber.com/sites/default/files/lra/files/LRA_TPI%20_Summary_Report%20Final%20092110>. pdf)

Step 1 – Definition: Transportation Infrastructure 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.

#### ( ) Pipelines aren’t topical – they’re a separate category of infrastructure

Babson ‘11

[Adam – Senior Analyst at Russell Research. “Structuring a Listed Infrastructure Portfolio” May 2011, http://www.openworldinvesting.com/files/ow\_listed\_infra\_article.pdf]

While the global infrastructure universe can be analyzed in a variety of ways, the space can be disaggregated into the following categories: transportation infrastructure, utilities, pipelines and communications infrastructure. Transportation infrastructure assets include toll roads, bridges, ports (sea and air) and rail. Utilities infrastructure includes electricity distribution and generation, gas distribution and storage, water and renewable energy. The pipelines sector comprises companies involved in the storage and transportation of oil and gas. Communications infrastructure features cable networks and satellite systems. Some subsectors—such as power generation—may be ignored altogether by “orthodox” investors looking to minimize volatility and correlations to global equities, while other sectors that are only indirectly related to infrastructure—such as mobile telecom companies—may be attractive to “thematic” managers looking for enhanced returns (managers willing to invest in higher-beta, competitively exposed companies).

#### ( ) Pipelines fall into a category of *Energy* infrastructure – which is distinct from transportation

Akinwale ‘10

(Akeem Ayofe, Professor of Sociology – Covenant University (Nigeria), “The Menace of Inadequate Infrastructure in Nigeria”, African Journal of Science, Technology, Innovation, and Development, 2(3), p. 209-210)

3. The Concept of Infrastructure Research on infrastructure dwells on different issues such as education, roads, water supply, power grids, telecommunications, and hospitals (Abosedra et al, 2009; Mandel, 2008; Frischmann, 2007; CBN, 2003; Pendse, 1980). Major infrastructures can be classified into the following categories: 1. Energy/Power Infrastructure: electricity, gas and petroleum pipelines 2. Transportation Infrastructure: surface roads, rail system, ports, and aviation 3. Water Infrastructure: Piped water and irrigation 4. Communication Infrastructure: mass media, internet, phones, and postal services 5. Health Infrastructure: primary, secondary and tertiary heath care services 6. Education Infrastructure: all categories of schools and higher institutions

#### ( ) Including pipelines as *transportation* de-limits – brings in a host of *utilities* infrastructure Affs.

Inderst ‘9

(Georg, Financial Affairs Division – Organisation for Economic Co-operation and Development, “Pension Fund Investment in Infrastructure”, OECD Working Paper, No. 32, January, http://www.oecd.org/dataoecd/41/9/42052208.pdf)

Definition of infrastructure assets The definition of infrastructure investment seems intuitive. The OECD uses a simple and general definition for infrastructure as the system of public works in a country, state or region, including roads, utility lines and public buildings. A standard dictionary‘s definition is: ―The basic facilities, services, and installations needed for the functioning of a community or society, such as transportation and communications systems, water and power lines, and public institutions including schools, post offices, and prisons.‖ (American Heritage Dictionary). Infrastructure assets are traditionally defined by their physical characteristics. One can split them into two main categories, and a range of sectors within those: Economic infrastructure  transport (e.g. toll roads, airports, seaport, tunnels, bridges, metro, rail systems)  utilities (e.g. water supply, sewage system, energy distribution networks, power plants, pipelines, gas storage)  communication (e.g. TV/ telephone transmitters, towers, satellites, cable networks)  renewable energy Social infrastructure  education facilities  health (hospitals and health care centres)  security (e.g. prisons, police, military stations)  others (e.g. parks). There is a lot of variety within infrastructure if it is defined by its physical nature, and people disagree what exactly should or should not count as infrastructure asset. For example, do utility companies count as infrastructure? When their activities span production, distribution and networks, where is the dividing line? More generally, where does public infrastructure end and private infrastructure start?

#### ( ) Pipelines are energy infrastructure – distinct from transportation

Faulkenberry 11

[Ken Faulkenberry earned an MBA from the University of Southern California (USC) Marshall School of Business with an emphasis in investments. “Infrastructure Investment: Energy, Transportation, Communications, & Utilities”, Arbor Asset Allocation Model Portfolio Blog, September, http://blog.arborinvestmentplanner.com/2011/09/infrastructure-investment-energy-transportation-communications-utilities/]

Energy Infrastructure Energy Infrastructure would include electricity generation and the transmission grid, oil refineries and pipelines, and natural gas pipelines. The United States has an antiquated electrical transmission grid with constraints that limit power flows. Increases in demand for oil and natural gas, and changes in where it needs to go, means a need for more investment in pipelines. Engineering and construction companies such as Flour (FLR), Shaw Group (SHAW), and Foster Wheeler AG (FWLT) are individual companies which might benefit from future energy infrastructure spending. Transportation Infrastructure Over the last several decades America’s infrastructure spending has been less than one-half other developed nations and only a quarter of emerging market countries. Civil engineers give our transport structures low marks. Our roads, railways, ports, and airports are all judged mediocre. It has become well recognized that we must invest more in upgrading our transportation infrastructure. But because of the years of neglect, substantial increases in operation and maintenance budgets will also be required. The above engineering and construction firms could also benefit from transportation infrastructure spending.

### AT//Social / Soft Infrastructure

#### ( ) Social infrastructure is distinct from transportation – including it makes health, education, and cultural affs topical

**Fourie ‘6**

(Johan, Chief Operating Officer – ArcelorMittal South Africa, “Economic Infrastructure: A Review of Definitions, Theory, and Empirics”, South African Journal of Economics, 74(3), September, Wiley Online Library)

Economic and social infrastructure Both economists and urban planners do, however, distinguish between economic (or hard) infrastructure and social (or soft) infrastructure. Economic infrastructure is defined as infrastructure that promotes economic activity, such as roads, highways, railroads, airports, sea ports, electricity, telecommunications, water supply and sanitation. Social infrastructure is defined as infrastructure that promotes the health, education and cultural standards of the population – activities that have both a direct and indirect impact on the quality of life (DBSA, 1998:4). Broadly defined, thus, social infrastructure may include various institutions such as schools, libraries, universities, clinics, hospitals, courts, museums, theatres, playgrounds, parks, fountains and statues. All of these institutions entail capital goods that have some public use.

#### ( ) The link to our limits DA is especially large for social infrastructure – it’s the “catch-all” category

**Quadrant ‘7**

(Real Estate Investors, “Global Diversified Infrastructure Fund of Funds”, http://www.quadrantrealestateadvisors.com/investments/public/uploads/documents%5CGlobal%20Diversified%20Infrastructure%20Fund%20of%20Funds.pdf)

II. Defining Infrastructure Assets Starting with the failure of the levy systems in New Orleans, followed by the collapse of the Mississippi River Bridge in Minneapolis, Minnesota on August 1, 2007, American infrastructure capital needs were brought to the forefront of America. The aging stock of infrastructure continues to deteriorate and the demand for public and private investment continues to grow. The question now becomes, which entity is going to address this growing need? However, an even more fundamental question also exists, what are infrastructure assets? According to the American Heritage Dictionary, infrastructure comprises the “basic facilities, services and installations needed for the functioning of a community or society, such as transportation and communication systems, water and power lines, and public institutions including schools, post offices and prisons.” The dictionary also notes that the term infrastructure has been used since 1927 to refer to the public works required for an industrial economy to function or the installations necessary for the defence of a country. The expectation most have is that infrastructure assets primarily involve government regulated monopolies and governmentally maintained assets. Unfortunately, classification is not that simple. When defining infrastructure investments, the common definition accepted in the institutional investment management community is “the physical assets that are needed to provide essential services to society,” which has lead managers to have highly different interpretations of the definition of “essential.” In general, the infrastructure market is divided into two general sectors—economic infrastructure and social infrastructure. Economic infrastructure includes transportation assets and regulated utilities, which includes communication, water, and energy systems. Social infrastructure is more vaguely defined and may include any asset in which the government maintains control or assets that are necessary for the longevity of the population. Such assets include schools, prisons, hospitals, parks, and others.

### AT//Military Infrastructure

#### ( ) “Transportation infrastructure” is strictly defined as facilities of transport --- this excludes security, law enforcement, and military support

**Musick ‘10**

(Nathan, Microeconomic and Financial Studies Division – United States Congressional Budget Office, Public Spending on Transportation and Water Infrastructure, p. 2)

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 service provided by Amtrak;\* ■ Civil aviation: airport terminals, runways, and taxi-ways, and facilities and navigational equipment for air traffic control: and ■ Water transportation: waterways, ports, vessel\*, 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'% 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).

#### ( ) U.S. law defines “infrastructure” as only non-military

National Infrastructure Improvement Act 7

(National Infrastructure Improvement Act of 2007 – Passed by the Senate, http://uspolitics.about.com/od/legislation/l/bl\_s775.htm)

(4) INFRASTRUCTURE(A) IN GENERAL- The term `infrastructure' means a nonmilitary structure or facility and equipment associated with that structure or facility. (B) INCLUSIONS- The term `infrastructure' includes-(i) a surface transportation facility (such as a road, bridge, highway, public transportation facility, and freight and passenger rail), as the Commission, in consultation with the National Surface Transportation Policy and Revenue Study Commission established by section 1909(b)(1) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109-59; 119 Stat. 1471), determines to be appropriate; (ii) a mass transit facility; (iii) an airport or airway facility; (iv) a resource recovery facility; (v) a water supply and distribution system; (vi) a wastewater collection, treatment, and related facility; (vii) waterways, locks, and dams; (viii) a levee and any related flood-control facility; (ix) a dock or port; and (x) a solid waste disposal facility.

#### ( ) The topic excludes military structures

El Makhloufi 11

(A El Makhloufi ,Department of Economics at the University of Amsterdam, <http://www.sesric.org/imgs/news/image/541-full.pdf>, April 2011)

2. Infrastructure investment and economic growth: A review of the literature Existing literature concerned with the study of the relationship between infrastructure investment and economic growth show a wide variety of point of view concerning the definition of the concept 'infrastructure' (Lakshmanan, 1989). Although the literature is generally clear in the way in which specific public goods are categorized, the general tendency is the association of infrastructure to particular characteristics of physical features (e.g. large and costly installations) or public services (educational buildings, hospitals, information flows, water and power supply, etc.). Some authors define infrastructure in a broader way without making any distinction between physical and non-physical infrastructure (Hirschman, 1958 for example). Others restrict the definition of infrastructure to core infrastructure consisting of railways, airports, and utilities such as sewerage and water facilities, information flows and particular cases of externalities of public goods (Aschauer, 1990; Anderson, 1991). Gramlich (1994, p. 1177) for example, defines infrastructure capital from an economic point of view as "large capital intensive natural monopolies such as highways, other transportation facilities, water and sewer lines, and communications systems." More generally, most studies employ a narrow definition of public capital that includes the tangible capital stock owned by the public sector, excluding military structures and equipment and infrastructure capital based on private ownership. Other studies use a broad definition of public capital by including human capital investment (e.g., Garcia-Mila and McGuire 1992) or health and welfare facilities (e.g., Mera 1973). The latter components are hard to measure, which explains why most authors focus on narrowly defined public capital.

# \*\*\*“Transportation Infrastructure” – Affirmative

### General Inclusive Definitions of “Transportation Infrastructure”

#### ( ) Transportation infrastructure refers to one of 9 subsectors – water and energy are topical

**American Jobs Act, 11**

(112 H. Doc. 53, legislation submitted to the House by Obama, 9/13, lexis)

(9) Infrastructure project.-- (A) In general.--The term ``eligible infrastructure project'' means any non-Federal transportation, water, or energy infrastructure project, or an aggregation of such infrastructure projects, as provided in this Act. (B) Transportation infrastructure project.--The term ``transportation infrastructure project'' means the construction, alteration, or repair, including the facilitation of intermodal transit, of the following subsectors: (i) Highway or road. (ii) Bridge. (iii) Mass transit. (iv) Inland waterways. (v) Commercial ports. (vi) Airports. (vii) Air traffic control systems. (viii) Passenger rail, including high-speed rail. (ix) Freight rail systems. (C) Water infrastructure project.--The term ``water infrastructure project'' means the construction, consolidation, alteration, or repair of the following subsectors: (i) Waterwaste treatment facility. (ii) Storm water management system. (iii) Dam. (iv) Solid waste disposal facility. (v) Drinking water treatment facility. (vi) Levee. (vii) Open space management system. (D) Energy infrastructure project.--The term ``energy infrastructure project'' means the construction, alteration, or repair of the following subsectors: (i) Pollution reduced energy generation. (ii) Transmission and distribution. (iii) Storage. (iv) Energy efficiency enhancements for buildings, including public and commercial buildings.

#### ( ) “Transportation infrastructure” is anything related to the sector

**BLD ‘10**

[Ballentine’s Law Dictionary. “T” 2010, <http://www.citizenlaw.com/pdf/t.pdf> ]

1. The carriage of persons or property from one point to another. Removing a person from the country by way of punishment upon his conviction of an offense against the laws of the country. Fong Yue Ting v United States, 149 US 697, 709, 37 L Ed 905, 911, 13 S Ct 1016. As used in the Interstate Commerce Act: -- not only the physical instrumentalities, but all services in connection with the receipt, delivery, elevation, transfer in transit, ventilation, refrigeration or icing, storage, and handling of the property transported.

#### ( ) Here’s a list – and repairs/alterations are T

**Congress ‘11**

[The US Senate – the 112th Congress of the United States. “Full Text of S. 652: Building and Upgrading Infrastructure for Long-term Development” 3/17/11 http://www.govtrack.us/congress/bills/112/s652/text]

(B) TRANSPORTATION INFRASTRUCTURE PROJECT- The term ‘transportation infrastructure project’ means the construction, alteration, or repair, including the facilitation of intermodal transit, of the following subsectors: (i) Highway or road. (ii) Bridge. (iii) Mass transit. (iv) Inland waterways. (v) Commercial ports. (vi) Airports. (vii) Air traffic control systems. (viii) Passenger rail, including high-speed rail. (ix) Freight rail systems.

#### ( ) “Transportation Infrastructure” is the construction, alteration, repair or facilitation of the list

Chapman and Cutler ‘11

(Chapman and Cutler, Attorneys at law, Client Alert, 09/29/11, The American Jobs Act and Its Impact on a National Infrastructure Bank 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

#### ( ) Includes roadway lighting, rights of way, and landscaping

Larsen 12

(Hans F., Rules Committee – City of San Jose, “Local Government Transportation Projects Special Taxes: Voter Approval”, 4-18, <http://www.sanjoseca.gov/clerk/CommitteeAgenda/Rules/20120418/rules20120> 418\_g2.pdf)

Transportation Infrastructure continues to be the program within the City that identifies the largest unfunded need. As reported at the April 2012 Transportation & Environment meeting, the five-year unfunded needs for Transportation Infrastructure is $443.8 million with annual ongoing unfunded needs is identified at approximately $89 million. Transportation infrastructure includes the street network, roadway lighting and right of way, and landscaping assets. Of that infrastructure, street pavement is the largest portion of the need. San Jose’s estimated backlog of deferred pavement maintenance has increased from $250 million (in 2010) to $293 million (in 2012) with the quantity of streets in poor condition increasing from 425 miles (18 percent) to 500 miles (21 percent). Along with the funding needed to address the pavement backlog, additional funds are needed to meet the needs of other areas including: ADA Curb Ramps - $63 million; Signals/Signs/Markings/Street Lights - $38 million; Bridge Rehabilitation - $30 million; and, Trees/Landscaping - $19 million. If funding levels are not increased, the backlog will continue to escalate. In addition to the needs highlighted by the City, there are also transportation infrastructure needs regionally and statewide that need to identify funding sources.

#### ( ) Includes protection of hazardous waste transit

Noronha 3

(Val, Professor – University of California, Santa Barbara, “Critical Transportation Infrastructure”, 12-2, http://www.ncgia.ucsb.edu/ncrst/meetings/20031201SBA-CTI2003/first.html)

There are many classes of infrastructure — a background page on CIP enumerates these. Our focus is on transportation infrastructure, recognizing that algorithmically, methods developed for one class of infrastructure may be adaptable to another. There is also a focus on spatial attributes of the transportation system, i.e. geographic and topological characteristics of the transportation links and the places (nodes) served by them, and an emphasis on spatial technologies such as remote sensing and GIS. Transportation infrastructure includes for our purposes road, rail, air and waterway infrastructure pipelines terminals, intermodal facilities and warehouses delivery systems control systems infrastructure provisions to serve needs of critical hazardous/non-hazardous materials in transit

#### ( ) “Transportation infrastructure” promotes public safety, economic growth, national defense, pipelines, and disaster relief.

**DOT ‘10**

[US Dept of Transportation – a Research Agenda Collaboration by the Universities of Iowa, Florida, Wisconsin, and California. “Spatial Information Technologies in Critical Infrastructure Protection” 2010, <http://www.ncgia.ucsb.edu/ncrst/research/cip/CIPAgenda.pdf> ]

Although no universally agreed upon definition of or criteria for the Critical Transportation Infrastructure (CTI) exists, most observers would agree that the CTI is composed of those transportation facilities whose removal from service would significantly affect public safety, national security, economic activity or environmental quality. Some commentators suggest that only those facilities that are essential to national defense or global economic activity be designated as “critical.” Any facility falling short of these measures can be labeled “important” [Everett]. In the absence of a formal CTI designator, federal, state and local officials have the latitude to designate CTI facilities of varying degrees of importance. That is, what is deemed critical to a particular state or city may not be critical from a national perspective and vice versa. A related but distinct concept involves “transportation lifelines,” transportation facilities providing essential accesses for emergency services to disaster sites and allowing for the evacuation of at-risk persons and property from those sites. Transportation lifelines are primarily local in nature and are defined by the location, type, and severity of the disaster and by the demographics and land use of the region in which the disaster occurs. Again, designated local and regional lifelines may not coincide with national ones Examples of Critical Transportation Infrastructure (CTI) 1. Major arterial highways and bridges comprising the National Highway System (NHS), including the Strategic Highway Network (STRAHNET) and National Intermodal Connectors. 2. International marine harbors, ports and airports. 3. Major railroads, including depots, terminals and stations. 4. Oil and natural gas pipelines. 5. Transportation Control Systems (e.g., air traffic control centers, national rail control centers) [Everett]. 3 However, most of the threats, disaster management functions, information needs and technology opportunities presented in this discussion apply equally to critical facilities and to transportation lifelines. Moreover, since the requirements for defining and developing a comprehensive system of disaster are independent of the specific facilities designated, both critical facilities and transportation lifelines will be referred to as critical transportation infrastructure (CTI).

#### ( ) “Transportation infrastructure” is a *broad term* – categorizing is arbitrary and doesn’t reflect the literature

Quadrant ‘7

(Quadrant, a group of real estate investors, 2007, Global Diversified Infrastructure Fund of Funds, http://www.quadrantrealestateadvisors.com/investments/public/uploads/documents%5CGlobal%20Diversified%20Infrastructure%20Fund%20of%20Funds.pdf)

The expectation most have is that infrastructure assets primarily involve government regulate monopolies and governmentally maintained assets. Unfortunately, classification is not that simple. When defining infrastructure investments, the common definition accepted in the institutional investment management community is “the physical assets that are needed to provide essential services to society,” which has lead managers to have highly different interpretations of the definition of “essential.”

#### ( ) Transportation infrastructure is any fixed asset that moves people or goods

Orr and Keever ‘8

(Dr. Ryan J. Orr is executive director at the Collaboratory for Research on Global Projects, serves on the editorial review board of the Journal of Public Works Management and Policy, was recently involved in policy formation for a US$300 billion program of infrastructure renewal in California and portfolio construction for a $500 million globally diversified infrastructure fund of funds, and holds a PhD in Engineering from Stanford; Gregory Keever is a California admitted attorney with experience in private revenue bonds, infrastructure planning with governmental participation and extensive joint venture experience, between governmental agencies and private firms, “Enabling User-Fee Backed

Transportation Finance in California,” <http://crgp.stanford.edu/publications/working_papers/Orr_Keever_Enabling_User_Fee_Backed_Transportation_Finance_wp0041.pdf>)

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.

#### ( ) Land acquisition’s T

**FBCC ‘12**

[The Florida Board of County Commissioners. “Imposition of Infrastructure Surtax” 2012, http://fl-pascocounty.civicplus.com/DocumentCenter/Home/View/6399]

4. 40% of the County's 45% share of the proceeds shall be used for transportation infrastructure. For the purpose of this Ordinance "transportation infrastructure" means: any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of roads and transportation facilities, and any land acquisition, land improvement, design, permitting, and engineering costs related thereto. Also included in the term “transportation infrastructure” are public transportation vehicles.

#### ( ) Modern, evolving definitions of “transportation” are most educational

Georgia Tech 10

(School of Civil & Environment Engineering, Georgia Institute of Technology, “Lesson 1 – The Transportation Sector”, http://transportation.ce.gatech.edu/node/1961)

The Transportation Sector Lesson 1– The Transportation Sector, provides an introduction to a variety of components that constitute the transportation sector. The first of task of this lesson is to define the terms “transportation” and “transportation engineering”. Once a working definition of these terms has been established, the lesson then invites the students to navigate the history of the transportation through the various transportation modes while following the evolution of technology and it application throughout the transportation sector. Modes of Transportation [1][2][3][4][5] In defining what transportation is and how the transportation sector has evolved into what it is today, from what it was centuries ago, students will not only gain a greater appreciation for the importance of transportation is our society but also understand that the evolution of the transportation sector is continuous. Throughout this lesson, it is imperative to underscore the fact that this generation of engineers and scientists are responsible for continuing the evolution of the transportation sector as limitations of current systems and technologies, as well as new challenges and societal problems will need to be address in order to maintain and increase the world’s standard of living. The Evolution of Transportation – the Motor Car Having a solid grasp of what transportation is, its history and the our responsibility to its future, Lesson 1 also introduces how transportation projects get from being a concept to what is built to get persons from Point A to Point B. This process is referred to as the transportation process. In illustrating this process, five stages were identified and used as points of departure to facilitate a fundamental understanding of the transportation process. These five stages included 1) Problem Identification, 2) Project Development, 3) Construction/Implementation, 4) Operation, and 5) Maintenance. In guiding students through these various stages of the transportation process, it is the goal that students walk away with a few key realizations. These realization include 1) that they are already are a part of the transportation process by way of being able to identify problems within the transportation sector and 2) as they navigate through the transportation system they are a part of its operation and 3) as a transportation engineer they are further involved with the process at most, if not at all, stages. The transportation process modules seek to underscore these realizations through formal instruction as well as through guided interaction with the students.

#### ( ) Transportation Infrastructure includes the preservation of nature and natural processes

Bryce 8 (James Bryce, Engineer from the University of Missouri, “Developing Sustainable Transportation Infrastructure Exploring the Development and Implementation of a Green Highway Rating System”, <http://www.wise-intern.org/journal/2008/JamesBryceFinal.pdf>, August 7th, 2008)

Currently, house bill H.R. 5161 is in committee review, and was last updated April 10, 2008. The bill defines green transportation infrastructure as infrastructure that: (1) preserves and restores natural processes, landforms (such as floodplains), natural vegetated stream side buffers, wetlands, or other topographical features that can slow, filter, and naturally store storm water runoff and floodwaters for future water supply and recharge of natural aquifers9; (2) uses natural design techniques to manage stormwater9; and (3) minimizes lifecycle energy consumption and air pollution9

### Pipelines = “Transportation Infrastructure”

#### ( ) Transportation infrastructure includes pipelines even though energy is a distinct sector

Moteff et al, 2

[Congressional Research Service. John, “Critical Infrastructures: What Makes an Infrastructure Critical?,” 8/30, <http://fpc.state.gov/documents/organization/13839.pdf>]

The Commission’s report also defined the infrastructures of each of the sectors mentioned in this EO. *Banking and Finance*: Entities such as retail and commercial organizations, investment institutions, exchange boards, trading houses, and reserve systems, and associated operational organizations, government operations, and support activities that are involved in all manner of monetary transactions, including its storage for saving purposes, its investment for income purposes, its exchange for payment purposes, and its disbursement in the form of loans and other financial instruments. Electric Power Systems: Generation stations, transmission and distribution networks that create and supply electricity to end-users so that end-users achieve and maintain nominal functionality, including the transportation and storage of fuel essential to that system. *Emergency Services*: Medical, police, fire, and rescue systems and personnel that are called upon when an individual or community is responding to emergencies. These services are typically provided at the local level. In addition, state and federal response plans define emergency support functions to assist in the response and recovery. Gas and Oil Production Storage and Transportation: The production and holding facilities for natural gas, crude and refined petroleum, and petroleum-derived fuels, the refining and processing facilities for these fuels and the pipelines, ships, trucks, and rail systems that transport these commodities from their source to systems that are dependent upon gas and oil in one of their useful forms. *Information and Communications*: Computing and telecommunications equipment, software, processes, and people that support: the processing, storage, and transmission of data and information; the processes and people that convert data into information and information into knowledge; and, the data and information themselves. Transportation: Physical distribution systems critical to supporting the national security and economic well-being of this nation, including the national airspace systems, airlines, and aircraft, and airports; roads and highways, trucking and personal vehicles; ports and waterways and the vessels operating thereon; mass transit, both rail and bus; pipelines, including natural gas, petroleum, and other hazardous materials; freight and long haul passenger rail; and delivery services. *Water Supply System*: Sources of water, reservoirs, and holding facilities, aqueducts and other transport systems, the filtration, cleaning and treatment systems, the pipelines, the cooling systems and other delivery mechanisms that provide for domestic and industrial applications, including systems for dealing with water runoff, waste water, and firefighting.

#### ( ) Pipelines are transportation infrastructure

CTI ‘3

(Critical Transportation Infrastructure, specialist meeting on transportation infrastructure, Critical Transportation Infrastructure, 12/1-2/03, Meetings—CTI 03)

There are many classes of infrastructure — a background page on CIP enumerates these. Our focus is on transportation infrastructure, recognizing that algorithmically, methods developed for one class of infrastructure may be adaptable to another. There is also a focus on spatial attributes of the transportation system, i.e. geographic and topological characteristics of the transportation links and the places (nodes) served by them, and an emphasis on spatial technologies such as remote sensing and GIS. Transportation infrastructure includes for our purposes road, rail, air and waterway infrastructure, pipelines terminals, intermodal facilities and warehouses delivery systems control systems infrastructure provisions to serve needs of critical hazardous/non-hazardous materials in transit

#### ( ) Energy infrastructure is a subset of TI

NEPDG ‘1

[The National Energy Policy Development Group. “Reliable, Affordable, and Environmentally Sound Energy for America’s Future” “Chapter 7 – America’s Energy Infrastructure” 2001, Pg 15]

Energy Transportation Infrastructure The infrastructure used to transport energy products includes ocean tankers; inland barges; specialized trucks for oil and refined products, such as gasoline and heating oil; railroad tank cars and coal cars; and the waterways, highways, and railroads upon which they travel. There is also a substantial inventory of river and oceanside port facilities that are used for moving energy materials.

#### ( ) TI includes pipelines and waste management

Church, 03

Professor at UCSB specializing in analysis of transportation (December 2003, Rick Church, Bruce Ralston, Benjamin Zhan, Director of Infrastructure Security DOT Jeff Western, <http://www.ncgia.ucsb.edu/ncrst/meetings/20031201SBA-CTI2003/first.html>)

Critical Infrastructure Protection (CIP) has recently become a popular area of research interest. An important prerequisite in CIP is to define what is meant by critical, and to do this objectively and automatically. In an on-line consultation we held in early 2002, many respondents cited definition and identification of Critical Transportation Infrastructure (CTI) as a high research priority. There are many classes of infrastructure — a background page on CIP enumerates these. Our focus is on transportation infrastructure, recognizing that algorithmically, methods developed for one class of infrastructure may be adaptable to another. There is also a focus on spatial attributes of the transportation system, i.e. geographic and topological characteristics of the transportation links and the places (nodes) served by them, and an emphasis on spatial technologies such as remote sensing and GIS. Transportation infrastructure includes for our purposes road, rail, air and waterway infrastructure pipelines terminals, intermodal facilities and warehouses delivery systems control systems infrastructure provisions to serve needs of critical hazardous/non-hazardous materials in transit This meeting brings together a small group (about 35) of public/private sector experts and academics. Over two days of presentations, demonstrations and discussions, we shall explore a variety of perspectives, with the aims of (a) broadening participants' appreciation of the many facets of the issue, (b) stimulating cross-cutting research, and (c) synthesizing problem/research approaches into a framework. Following the meeting we will publish a web-based and/or printed compilation of papers. Three speakers will be selected for a special CTI-CIP session of the Transportation Research Board (TRB) annual meeting in Washington DC, 2004 January 11-15.

#### ( ) “Transportation Infrastructure” includes power cables and gas pipelines

Mills 11

(Dr Anthony, CEO – AfriCarbon (Pty) Ltd and C4 EcoSolutions (Pty) Ltd, et al., “Peri-Urban Bamboo Planting Around South African Townships”, Voluntary Carbon Standard Project, 8-24)

2.2 Justification of the choice of the methodology and why it is applicable to the project activity: The project meets the specification criteria for the nominated methodology, namely:  project activities are implemented on human settlements, defined as: “Residential and commercial lawns (rural and urban), gardens, golf courses, athletic fields, parks, provided such land is functionally or administratively associated with particular cities, villages or other settlement types and is not accounted for in another land-use category” or transportation infrastructure, defined as “Land strips along streets, country roads, highways, railways, waterways, overhead power cables, gas pipelines, provided such land is functionally or administratively associated with the transportation infrastructure and is not accounted for in any other land-use category”

#### ( ) Transportation infrastructure includes pipelines

Slack, Rodrigue, and Comtois 2009 (Brian – professor emeritus in the Department of Geography at Concordia University, Jean-Paul – professor of global studies and geography at Hofstra University, and Claude – professor of geography at the Université de Montréal, The Geography of Transport Systems, Chapter 3, p. <http://people.hofstra.edu/geotrans/eng/ch3en/conc3en/ch3c1en.html>)

Transport modes are the means by which people and freight achieve mobility. They fall into one of three basic types, depending on over what surface they travel – land (road, rail and pipelines), water (shipping), and air. Each mode is characterized by a set of technical, operational and commercial characteristics:

#### ( ) Transportation infrastructure includes international marine harbors and piplines

Department of Transportation 2 (Department of Transportation, “Critical Infrastructure Protection”, <http://www.ncgia.ucsb.edu/ncrst/research/cip/CIPAgenda.pdf>, 2002)

Examples of Critical Transportation Infrastructure (CTI) 1. Major arterial highways and bridges comprising the National Highway System (NHS), including the Strategic Highway Network (STRAHNET) and National Intermodal Connectors. 2. International marine harbors, ports and airports. 3. Major railroads, including depots, terminals and stations. 4. Oil and natural gas pipelines. 5. Transportation Control Systems (e.g., air traffic control centers, national rail control centers) [Everett].

#### ( ) Infrastructure is inclusive of transporting energy products

National Energy Policy Development Group 2001 (Reliable, Affordable, and Environmentally Sound Energy for America’s Future, <http://www.ne.doe.gov/pdfFiles/nationalEnergyPolicy.pdf>, Chapter Seven: America’s Energy Infrastructure, p. 15)

The infrastructure used to transport energy products includes ocean tankers; in land barges; specialized trucks for oil and refined products, such as gasoline and heat ing oil; railroad tank cars and coal cars; and the waterways, highways, and railroads upon which they travel. There is also a sub stantial inventory of river and oceanside port facilities that are used for moving en ergy materials.

#### ( ) Pipelines are used to transport goods

**Inspecta**, 4/27/20**11** (Testing of Pipelines, p. http://www.inspecta.com/en/Our-Services/Testing/Testing-of-pipelines/)

Pipelines have a simple purpose; to transport goods. However, keeping pipelines in good condition throughout the years is not that simple.

#### ( ) Transportation infrastructure includes highways, bridges, ports, airports, railroads, and pipelines.

**Goodchild et. al,** 20**02** (Michael – director of University of California, Santa Barbara’s Center for Spatial Studies, Richard L. Church, and Val Noronha, Spatial Information Technologies in Critical Infrastructure Protection, National Consortium on Remote Sensing in Transportation, p. 2)

Examples of Critical Transportation Infrastructure (CTI)

1. Major arterial highways and bridges comprising the National Highway System (NHS), including the Strategic Highway Network (STRAHNET) and National Intermodal Connectors.

2. International marine harbors, ports and airports.

3. Major railroads, including depots, terminals and stations.

4. Oil and natural gas pipelines.

5. Transportation Control Systems (e.g., air traffic control centers, national rail control centers) [Everett].

#### ( ) More contextual evidence

**D**epartment **o**f **T**ransportation 20**11** (U.S. Department of Transportation Call to Action to Improve the Safety of the Nation’s Energy Pipeline System, p. http://www.phmsa.dot.gov/staticfiles/PHMSA/DownloadableFiles/110404%20Action%20Plan%20Executive%20Version%20\_2.pdf)

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 modes to carry energy.

**N**ational **E**nergy **P**olicy **D**evelopment **Group** 20**01** (Reliable, Affordable, and Environmentally Sound Energy for America’s Future, Chapter Seven: America’s Energy Infrastructure, p. 15)

Energy Transportation Infrastructure

The infrastructure used to transport energy products includes ocean tankers; inland barges; specialized trucks for oil and refined products, such as gasoline and heating oil; railroad tank cars and coal cars; and the waterways, highways, and railroads upon which they travel. There is also a substantial inventory of river and oceanside port facilities that are used for moving energy materials.

#### ( ) Contextual definitions include oil and gas pipelines.

**Borisocheva**, November 20**07** (Ksenia, Analysis of the Oil- and Gas-Pipeline-Links between EU and Russia: An account of intrinsic interests, Centre for Russia and Eurasia, Athens, Greece, p. 3)

The transportation infrastructure, i.e. oil- and gas-pipelines, plays a vital role in this relationship of interdependence. The existing and projected routes offer the possibility of uninterrupted, secure supply energy. However, they are also a subject of a great deal of political and economic power-play, which, in turn, potentially undermines or endangers their efficiency. This work intends to bring to light the current state of affairs regarding the energy supply transportation infrastructure between the EU member states and Russia. Part One presents an overview of the existing transport infrastructure, both overland and sea routes, between the EU and Russia. Part Two introduces the concept of ‘Diversification’ and its divergent meanings for the producer and supplier states. Projected new routes and the rationale behind them, including their economic viability and political motivations, are presented in Part Three. Part Four attempts to make policy recommendations that could be useful in the attempt to improve the levels of trust between EU and Russia, or in other words, which could lead to an advancement of ‘energy security’ between the regions. Conclusion offers a summary.

#### ( ) Pipelines are a means to transport products.

**D**epartment **o**f **T**ransportation, 8/29/20**07** (Safe Pipelines FAQs, Pipeline and Hazardous Materials Safety Administration, p. http://phmsa.dot.gov/portal/site/PHMSA/menuitem.ebdc7a8a7e39f2e55cf2031050248a0c/?vgnextoid=2c6924cc45ea4110VgnVCM1000009ed07898RCRD&vgnextchannel=f7280665b91ac010VgnVCM1000008049a8c0RCRD&vgnextfmt=print)

Pipelines are the safest and most cost-effective means to transport the extraordinary volumes of natural gas and hazardous liquid products that fuel our economy. To move the volume of even a modest pipeline, it would take a constant line of tanker trucks, about 750 per day, loading up and moving out every two minutes, 24 hours a day, seven days a week. The railroad-equivalent of this single pipeline would be a train of seventy-five 2,000-barrel tank rail cars everyday. These alternatives would require many times the people, clog the air with engine pollutants, be prohibitively expensive and ? with many more vehicles on roads and rails carrying hazardous materials ? unacceptably dangerous.

#### ( ) Transportation includes roads, railways, pipelines, maritime, air and intermodal transportation.

**Slack, Rodrigue, and Comtois** 20**09** (Brian – professor emeritus in the Department of Geography at Concordia University, Jean-Paul – professor of global studies and geography at Hofstra University, and Claude – professor of geography at the Université de Montréal, The Geography of Transport Systems, Chapter 3, p. http://people.hofstra.edu/geotrans/eng/ch3en/conc3en/ch3c1en.html)

Transport modes are the means by which people and freight achieve mobility. They fall into one of three basic types, depending on over what surface they travel – land (road, rail and pipelines), water (shipping), and air. Each mode is characterized by a set of technical, operational and commercial characteristics: Road transportation (Concept 2). Road infrastructures are large consumers of space with the lowest level of physical constraints among transportation modes. However, physiographical constraints are significant in road construction with substantial additional costs to overcome features such as rivers or rugged terrain. Road transportation has an average operational flexibility as vehicles can serve several purposes but are rarely able to move outside roads. Road transport systems have high maintenance costs, both for the vehicles and infrastructures. They are mainly linked to light industries where rapid movements of freight in small batches are the norm. Yet, with containerization, road transportation has become a crucial link in freight distribution. Rail transportation (Concept 3). Railways are composed of a traced path on which are bound vehicles. They have an average level of physical constrains linked to the types of locomotives and a low gradient is required, particularly for freight. Heavy industries are traditionally linked with rail transport systems, although containerization has improved the flexibility of rail transportation by linking it with road and maritime modes. Rail is by far the land transportation mode offering the highest capacity with a 23,000 tons fully loaded coal unit train being the heaviest load ever carried. Gauges, however, vary around the world, often complicating the integration of rail systems. Pipelines (Concept 3). Pipeline routes are practically unlimited as they can be laid on land or under water. The longest gas pipeline links Alberta to Sarnia (Canada), which is 2,911 km in length. The longest oil pipeline is the Transiberian, extending over 9,344 km from the Russian arctic oilfields in eastern Siberia to Western Europe. Physical constraints are low and include the landscape and pergelisol in arctic or subarctic environments. Pipeline construction costs vary according to the diameter and increase proportionally with the distance and with the viscosity of fluids (from gas, low viscosity, to oil, high viscosity). The Trans Alaskan pipeline, which is 1,300 km long, was built under difficult conditions and has to be above ground for most of its path. Pipeline terminals are very important since they correspond to refineries and harbors. Maritime transportation (Concept 4). Because of the physical properties of water conferring buoyancy and limited friction, maritime transportation is the most effective mode to move large quantities of cargo over long distances. Main maritime routes are composed of oceans, coasts, seas, lakes, rivers and channels. However, due to the location of economic activities maritime circulation takes place on specific parts of the maritime space, particularly over the North Atlantic and the North Pacific. The construction of channels, locks and dredging are attempts to facilitate maritime circulation by reducing discontinuity. Comprehensive inland waterway systems include Western Europe, the Volga / Don system, St. Lawrence / Great Lakes system, the Mississippi and its tributaries, the Amazon, the Panama / Paraguay and the interior of China. Maritime transportation has high terminal costs, since port infrastructures are among the most expensive to build, maintain and improve. High inventory costs also characterize maritime transportation. More than any other mode, maritime transportation is linked to heavy industries, such as steel and petrochemical facilities adjacent to port sites. Air transportation (Concept 5). Air routes are practically unlimited, but they are denser over the North Atlantic, inside North America and Europe and over the North Pacific. Air transport constraints are multidimensional and include the site (a commercial plane needs about 3,300 meters of runway for landing and take off), the climate, fog and aerial currents. Air activities are linked to the tertiary and quaternary sectors, notably finance and tourism, which lean on the long distance mobility of people. More recently, air transportation has been accommodating growing quantities of high value freight and is playing a growing role in global logistics. Intermodal transportation (Concept 6). Concerns a variety of modes used in combination so that the respective advantages of each mode are better exploited. Although intermodal transportation applies for passenger movements, such as the usage of the different, but interconnected modes of a public transit system, it is over freight transportation that the most significant impacts have been observed. Containerization has been a powerful vector of intermodal integration, enabling maritime and land transportation modes to more effectively interconnect. Telecommunications. Cover a grey area in terms of if they can be considered as a transport mode since unlike true transportation, telecommunications often does not have a physicality. Yet, they are structured as networks with a practically unlimited capacity with very low constraints, which may include the physiography and oceanic masses that may impair the setting of cables. They provide for the instantaneous movement of information (speed of light in theory). Wave transmissions, because of their limited coverage, often require substations, such as for cellular phone networks. Satellites are often using a geostationary orbit which is getting crowded. High network costs and low distribution costs characterize many telecommunication networks, which are linked to the tertiary and quaternary sectors (stock markets, business to business information networks, etc). Telecommunications can provide a substitution for personal movements in some economic sectors.

### Green Infrastructure = “Transportation Infrastructure”

#### ( ) Green infrastructure is transportation infrastructure

House of Representatives ‘8

(House of Representatives, U.S. Government Printing Office, 4/10/08,

GREEN TRANSPORTATION INFRASTRUCTURE RESEARCH AND TECHNOLOGY TRANSFER ACT

http://www.gpo.gov/fdsys/pkg/CRPT-110hrpt576/html/CRPT-110hrpt576-pt1.htm)

‘(f) Definition- In this section, the term ‘green transportation infrastructure’ includes infrastructure that-- ‘(1) preserves and restores natural processes, landforms (such as flood plains), natural vegetated streamside buffers, wetlands, or other topographical features that can slow, filter, and naturally store stormwater runoff and floodwaters for future water supply and recharge of natural aquifers; ‘(2) utilizes natural design techniques that infiltrate, filter, store, evaporate, and detain water close to its source; ‘(3) minimizes the use of impervious surfaces in order to slow or infiltrate precipitation; ‘(4) minimizes life-cycle energy consumption, including during construction, maintenance, use by vehicles, and destruction and recycling; and ‘(5) minimizes life-cycle air pollution.’

### Military = “Transportation Infrastructure”

#### ( ) “Transportation” includes the military

Kim 9

(Brian, Wyle Laboratories, Inc., et al., “Guidebook on Preparing Airport Greenhouse Gas Emissions Inventories”, Airport Cooperative Research Program – Report 11, http://onlinepubs.trb.org/onlinepubs/acrp/acrp\_rpt\_011.pdf)

Transportation Sector: Consists of private and public passenger and freight transportation, as well as government transportation, including military operations.

#### ( ) “Transportation infrastructure” includes vehicles that transport peoples and goods

Oswald 11

(Michelle, Professor – Bucknell University, et al., “Measuring Infrastructure Performance: Development of a National Infrastructure Index”, Public Works Management & Policy, 16(4), p. 378)

Defining the Infrastructure Sector A more technical definition of the transportation sector is The fixed facilities (roadway segment, railway track, transit terminals, harbors, and airports), flow entities (people, vehicles, container units, railroad cars), and control systems that permit people and goods to transverse geographical space efficiently and in a timely manner in some desired activity. Transportation is provided by modes—highway, rail, air, waterway, and pipeline. (U.S. Chamber of Commerce, 2010a)

#### ( ) Military structures are an instance of capital infrastructure

Snieska and Simkunaite 9

(Professors at Kaunas University of Technology,“Socio-Economic Impact of Infrastructure Investments”, <http://www.ktu.edu/lt/mokslas/zurnalai/inzeko/63/1392-2758-2009-3-63-16.pdf>, 2009)

Economists and urban planners distinguish two types of infrastructure: economic infrastructure and social infrastructure. Economic infrastructure is defined as the infrastructure that promotes economic activity, such as roads, highways, railroads, airports, sea ports, electricity, telecommunications, water supply and sanitation. Social infrastructure (such as schools, libraries, universities, clinics, hospitals, courts, museums, theatres, playgrounds, parks, fountains and statues) is defined as the infrastructure that promotes the health, education and cultural standards of the population – activities that have both direct and indirect impact on the welfare. All of these institutions entail capital goods that have some public use (Fourie, 2006). The author also argues that infrastructure consists of two elements – “capitalness” and “publicness”. According to this specification, infrastructure would include goods that have a capital character, but are not necessarily public. Thus, a common feature of infrastructure seems to be that infrastructure goods are strongly used by public. Economists label such goods physical infrastructure, or infrastructure capital.

#### ( ) Infrastructure includes the military

The Free Online Dictionary 2000

(The Free Online Dictionary, <http://www.thefreedictionary.com/infrastructure>, 2000)

The term infrastructure has been used since 1927 to refer collectively to the roads, bridges, rail lines, and similar public works that are required for an industrial economy, or a portion of it, to function. The term also has had specific application to the permanent military installations necessary for the defense of a country.

# \*\*\*“Infrastructure Investment” – Negative

### 1NC – “Infrastructure Investment” = Physical Assets / No Repairs

#### ( ) Infrastructure Investment includes only the support for large infrastructure projects – repairs, maintenance, and minor projects aren’t topical

Chang, et. al. 10

(Diana Chang, Sheryl Pankhurst, Matthew Schneer, and Daniel Schreiner, Monitoring and State Improvement Planning Division Recovery Act Facilitators “MSIP ARRA Monitoring and Technical Assistance” leadershipmega-conf-reg.tadnet.org/.../original\_S3-105-ARRA\_Technical-RAF.ppt)

Financial support for a physical asset or structure needed for the operation of a larger enterprise. Therefore, infrastructure investments include support for tangible assets or structures such as roads, public buildings (including schools), mass transit systems, water and sewage systems, communication and utility systems and other assets or structures that provide a reliable flow of products and services essential to the defense and economic security of the United States, the smooth functioning of government at all levels, and society as a whole. However, an infrastructure investment does not include “minor remodeling” as defined in 34 CFR §77.1(c).’

#### Vote negative for limits and ground – they expand the topic by allowing affirmatives that alter transportation instead of increasing it – destroys ground because it makes the topic bidirectional and jacks DA links

### Ext. Must Be Physical Assets

#### ( ) Infra investment is the financial support for physical transportation assets

US DOE ‘9

[The US Dept of Education. “The American Recovery and Reinvestment Act: Saving And Creating Jobs And Reforming Education.” 2009, media.ncrtm.org/presentations/RSA\_TA.../ARRACIL121409.doc]

An infrastructure investment is financial support for a physical asset or structure needed for the operation of a larger enterprise. Therefore, infrastructure investments include support for tangible assets or structures such as roads, public buildings (including schools), mass transit systems, water and sewage systems, communication and utility systems and other assets or structures that provide a reliable flow of products and services essential to the defense and economic security of the United States, the smooth functioning of government at all levels, and society as a whole.

#### ( ) Infrastructure investments support projects used for larger organizations

ARRA 10

(June, American Recovery and Reinvestment Act ”American Recovery and Reinvestment Act of 2009 (ARRA) Section 1511 Certification Reporting Requirements for Local Education Authorities in the Expenditure Reporting System” www.tea.state.tx.us/WorkArea/linkit.aspx?LinkIdentifier=id...)

This document was created as a guide on how to submit and certify the ARRA Section 1511 infrastructure investments data into the modified pages in the Expenditure Reporting (ER) system. An infrastructure investment is financial support for a physical asset or structure needed for the operation of a larger enterprise. For a complete definition of infrastructure investment for each applicable ARRA grant, please review the TEA guidance associated with the appropriate grant.

#### ( ) Infrastructure Investment means spending on specific sectors

Joint Committee on Taxation 08

(October, Congressional Budget Office and Joint Committee on Taxation “Subsidizing Infrastructure Investment with Tax-Preferred Bonds” www.cbo.gov/sites/default/files/.../10-26-taxpreferredbonds.pdf)

Unless otherwise indicated, all years in this report are federal fiscal years. Numbers in the text and tables of this report may not add up to totals because of rounding. In this analysis, investment in infrastructure is defined as capital spending on transportation, utilities (such as water and power supply), environmental projects, and schools. In addition, because they account for a significant share of the tax-exempt debt issued, health care facilities and hospitals are also treated as infrastructure. Under this study’s definition, capital spending 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.

#### ( ) Infrastructure is the building and rebuilding of physical structures

Copeland, et. al, 11

Specialist in Resources and Environmental Policy (September 21, Linda Levine, Specialist in Labor Economics, William J. Mallett, Specialist in Transportation Policy, “The Role of Public Works Infrastructure in Economic Recovery” www.fas.org/sgp/crs/misc/R42018.pdf)

During the recent recession, policymakers took a number of monetary and fiscal policy actions to stimulate the economy. Notably, Congress enacted the American Recovery and Reinvestment Act (ARRA) that provided increases in federal spending and reduction in taxes in order to increase demand for goods and services. However, as the economy is only slowly emerging from the recession, interest in using federal government spending to boost U.S. economic recovery has again intensified. There is widespread desire to accelerate job creation and economic recovery, although consensus on how to do so is not apparent. Policymakers at all levels of government are debating a range of options to address these problems. This report is an overview of policy issues associated with one approach that also was included in ARRA: using accelerated investments in the nation’s public infrastructure as a mechanism to benefit economic recovery. When most people think about infrastructure, they probably have in mind systems that are publicly provided and are important to the productive capacity of the nation’s economy. Today, policymakers define the term more broadly to include both publicly and privately owned systems and facilities and categories that vary considerably in the degree of historic federal investment in building or rebuilding physical structures. Academics, economists, and policymakers debate two issues concerning the contribution of infrastructure investment to the economy. One issue is the effects of infrastructure investment on productivity and growth. The second related issue is the role of infrastructure spending, which is typically a long-term activity, as a short-term mechanism to invigorate a sluggish economy. Research conducted over time has resulted in a general consensus that there can be positive returns on productivity of investing in infrastructure. Many experts now argue that infrastructure spending could be an important source of stimulating labor demand and enhancing U.S. productivity through investments in roads, bridges, water systems, etc. Still, some analysts are cautious about the effectiveness of this type of fiscal stimulus because of one key issue: timing. By definition, the goal of stimulus spending is to get money into the economy swiftly, but infrastructure spending is different. The reality is that large infrastructure projects typically are multiyear efforts with slow initial spendout that continues over a period of time. Spending advocates contend that to the extent that recovery from a lengthy recession is slow—as it is now—projects with extended timeframes can still contribute to the economy’s recovery. A key question in debating infrastructure as part of job creation to aid economic recovery is, what will the increased spending buy? Two important considerations are, will it produce short-term or long-term benefit, and will it produce a significant economic boost, relative to its budgetary cost. A commonly asked question is, how many jobs will be created? Setting priorities for infrastructure spending is based on a combination of factors, often including estimates of funding needs. Determining “need” is complicated by differences in purpose, criteria, and timing. In the context of evaluating job creation plans, a further complication is whether funds are targeted to true need, and whether “need” is defined by engineering assessments, by economic measures such as unemployment, or a program’s effectiveness in leveraging private capital.

#### ( ) Only long-term asset management – not short-term fixes – are topical instances of infrastructure investment

OECD 11

(OECD, International Futures Programme, Project on Strategic Transport Infrastructure to 2030, “Pension Funds Investment in Infrastructure: A Survey,” September 2011, p. 15-16, <http://www.oecd.org/dataoecd/59/33/48634596.pdf>)

The OECD general definition of infrastructure is the system of public works in a country, state or region, including roads, utility lines and public buildings. Infrastructure is typically used for performing long term capital activities which provide essential services to the public. Infrastructure investments are expected to produce predictable and stable cash flows over the long term. Infrastructure assets normally operate in an environment of limited competition as a result of natural monopolies, government regulation or concessions. Investments are usually capital intensive and include a tangible asset that must be operated and maintained over the long term.

### AT//Green Projects

#### ( ) “Infrastructure investment” is increasing physical assets themselves – “green practices” aren’t topical

EPA 9

(U.S. Environmental Protection Agency – Office of Grants and Debarment, “Definition of “Infrastructure” for Purposes of the American Recovery and Reinvestment Act of 2009”, 5-8, http://www.epa.gov/ogd/forms/Definition\_of\_Infrastructure\_for\_ARRA.pdf)

Issue: 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.

### AT//Environmental Cleanup Projects

#### ( ) Cleanup projects aren’t infrastructure

EPA 9

(U.S. Environmental Protection Agency – Office of Grants and Debarment, “Definition of “Infrastructure” for Purposes of the American Recovery and Reinvestment Act of 2009”, 5-8, <http://www.epa.gov/ogd/forms/Definition_of_Infrastructure_for_ARRA.pdf>)

1) Leaking Underground Storage Tanks – The Recovery Act provides funding for cleanup activities that do not generally meet the definition of infrastructure. However, a limited amount funding under the program is occasionally used to install piping to connect households and businesses to public water systems or replace public water system supply well(s) and associated piping due to groundwater contamination. These connection/replacement activities fall into the category of an infrastructure investment.

#### ( ) More evidence – cleanup projects aren’t infrastructure

EPA 9

(U.S. Environmental Protection Agency – Office of Grants and Debarment, “Definition of “Infrastructure” for Purposes of the American Recovery and Reinvestment Act of 2009”, 5-8, <http://www.epa.gov/ogd/forms/Definition_of_Infrastructure_for_ARRA.pdf>)

2) Brownfields – The Recovery Act provides funding for site assessment, job training, and cleanup activities that do not generally meet the definition of infrastructure. However, a limited amount of funding may fall into the category of infrastructure where the principal purpose of the activity is to construct a cap to be directly incorporated into a public building or public work as defined in 2 CFR 176.140(a). It may also apply where funds are used to install piping to connect households or businesses to public water systems or replace public water system supply well(s) and associated piping due to groundwater contamination.

### 1NC – “Infrastructure Investment” = Sector-Specific Investment

#### ( ) “Infrastructure investment” is limited to investment in a specific sector – the affirmative’s *resulting* in new infrastructure investment is an example of noninfrastructure, which is effectually topical.

Chakraborty ‘7

[Senior economist at the National Institute of Public Finance and Policy ( October 2007, Lekha, “Nonhomogeneity of Public Interest,” http://www.levyinstitute.org/pubs/wp\_518.pdf]

The public capital formation in India is nonhomogeneous in nature and can be broadly divided into infrastructure and noninfrastructure investment. Following Parker (1995), public infrastructure investment is defined as the aggregate of capital formation in agriculture, electricity, water supply, oil and transport, and communication. While the 0 2 4 6 8 10 12 70 75 80 85 90 95 00 Public Pr ivate Cor por ate9 public noninfrastructure is defined as capital formation in manufacturing, mining and quarrying, trade, hotels and restaurant, finance and insurance, etc Based on this classification, it is noted that the gap between both series widened in mid-1980s; however, both series showed a declining trend during the 1990s (Figure 2). It is interesting to note that the decline in public capital formation is more in the case of noninfrastructure investment than infrastructure investment since 1980s. In terms of crowding out, public investment—both infrastructure and noninfrastructure investment—is the most significant determinant of private capital formation. It is important to analyze whether different types of public investment are likely to have conflictive or mutually reinforcing effects on private capital formation; public investment in infrastructure, prima facie, tends to attract private investment, while public investment in noninfrastructural activities where public enterprises do what private firms can also do might have substitution effects. The comovements of public infrastructure and noninfrastructure investment with private corporate investment are given in Figure 3.

#### Vote negative:

#### ( ) Limits – any action or number of actions could eventually result in superior transportation infrastructure investment – preparing for and researching this caselist makes it impossible to be negative.

#### ( ) Ground – Effectually-topical affirmatives make the aff conditional – they lack the certainty necessary to generate counterplan competition and stable disad links.

### Ext. Must Be a Specific Sector

#### **( ) The investment must occur in the sector - capital expenditures that claim to result in increased transportation infrastructure are effectually topical.**

Jimenez 95

(Immanuel, Appointed Director of Public Sector Evaluations – Independent Evaluation Group of the World Bank Group, “Human and Physical Infrastructure: Public Investment and Pricing Policies in Developing Countries”, Handbook of Development Economics, Vol. III, Ed. Behrman and Srinivasan, p. 2774)

1. Introduction and overview Almost by definition, infrastructure is the basis for development. 1 For an economy, it is the foundation on which the factors of production interact in order to produce output. This has been long recognized by development analysts, and infrastructure, often termed "social overhead capital," is considered to include: •.. those services without which primary, secondary and tertiary production activities cannot function. In its wider sense it includes all public services from law and order through education and public health to transportation, communications, power and water supply, as well as such agricultural overhead capital as irrigation and drainage systems [Hirschman (1958) p. 83]. These seemingly diverse services share some common traits that are important in economic analysis. They are generally not tradeable. Although they may affect final consumption directly, their role in enhancing output and household welfare can also be indirect - in facilitating market transactions or in making other economic inputs more productive. Finally, and perhaps most importantly, the many infrastructure services share characteristics, such as scale economies in production, consumption externalities and non-exclusivity, that have been used to justify a large role for public policy in their provision and financing. This chapter will focus not only on what has traditionally been considered the "core" infrastructure sectors, which enhance the productivity of physical capital and land (mainly transportation and power). It will also include human infrastructure- or those services that raise the productivity of labor (health, education, nutrition). This is a broadening of the definition that was given great prominence by Schultz (1963) and Becker (1964) and that has since been widely accepted by both scholars and practitioners. Public investment will be defined broadly to include all government spending in these sectors, rather than just capital expenditures as traditionally defined in official statistics. This is to ensure that the economic issues regarding recurrent as well as capital spending are covered, since both have been the focus of the recent iiterature. Moreover, the chapter will emphasize recent policy debates, but will not present in detail the basic theoretical concepts underlying them.

### 1NC – “Infrastructure Investment” = Environmentally Friendly

#### ( ) Infrastructure Investment must be environmentally friendly

**EFTE ‘2k**

[The European Federation for Transport and Environment. “Towards more Sustainable Freight Transport: 10 Crucial Points to Show how Freight Transport will become more Sustainable” Dec 2000. Dopravniklub.ecn.cz/texty/transit\_eu/1Sustainable\_Freight\_EN.pdf]

Making freight transport more sustainable is complex, but feasible if a bundle of instruments is applied to achieve this objective. Complex issues demand complex solutions. One single instrument cannot be sufficient on its own, but can contribute to making freight transport more sustainable as part of a package of measures. The integration of single instruments into a comprehensive and coherent whole is a basic step towards sustainable freight transport. Objectives Instruments and measures must always serve a certain objective. The general objective is sustainability of freight transport, which includes, according to the Amsterdam Treaty, economic, environmental and social sustainability. Translating this general objective into detailed objectives must have first priority. (For example reducing energy consumption per ton-kilometre, stopping the increase of ton-kilometre of environmentally less sustainable transport modes, increasing modal split of rail and inland water transport, defining an upper limit to environmental impact in sensitive areas) Priorities All the instruments and measures have to contribute to achieve the objectives. Priorities must be given to measures favouring such environmentally less harmful transport modes as railways and inland waterways. The wider use of these transport modes can contribute to making freight transport more sustainable if they manage to maintain or even increase their environmental advantage. Level playing field The environmentally less harmful transport modes must be put into a position where they can successfully compete with other modes, especially road. Therefore, the creation of a level playing field for all transport modes is a condition of making freight transport more sustainable. Levelling the playing field means abolishing competitive distortions and ensuring fair competition among transport modes. Competitive distortions, which must be removed, exist with regard to taxation, pricing, entrepreneurial freedom, legal requirements, infrastructure investments and subsidies. Pricing Getting the prices right for the use of transport infrastructure is on the top of the priorities as the existing pricing system is a major reason for the lack of sustainability in the freight transport system. Getting the prices right means applying the user pays principle, which is common for the majority of goods also for the use of infrastructure. Pricing should be based on equal principles for all transport modes, preferably on social marginal costs. However, pricing should also contribute to achieve the defined objectives. ￼￼￼￼￼￼￼￼Services In all transport modes, freight services should be supplied in a similarly open and competitive environment. Therefore, entrepreneurial freedom should also be given to rail freight operators. Rail infrastructure has to be opened for rail freight operators, and institutional barriers in international rail freight transport must be abolished in order to make it more competitive with road freight transport. There is an ongoing political responsibility to ensure that liberalising rail infrastructure provides incentives to improve rail freight services by intramodal competition and also leads to an improvement of rail freight’s position in intermodal competition. Infrastructure Existing transport infrastructure should be optimised by increasing its capacity through technical and operational improvements. Conventional rail systems have to become interoperable throughout Europe and the implementation of modern technology as traffic management and control systems should be applied for all transport modes. Additional infrastructure has to be built to remove bottlenecks, after economical and strategic environment assessments have been made. Investment Infrastructure investment policy has to support the defined objectives, giving priority on investments in environmentally less harmful transport modes, such as railways and inland waterways. Putting the priorities on railways and inland waterways also rebalances the historical emphasis on road infrastructure investment. Standards Equal standards for all transport modes are required with regard to environment, safety and social regulation. These standards must be upgraded to bring them on a equal level within all transport modes, to best protect the environment, citizens and employees. Furthermore, existing regulation must be consistently enforced and any abuse effectively fined in all transport modes. State aid Until the playing field has been levelled, direct public support for environmentally less harmful freight transport services may be necessary to reach the defined objectives. This would give environmentally sensible services the opportunity to survive in the absence of economical opportunity for these services. Such state aids must be seen as a second-best solution and should be applied for a limited period only.

#### Vote negative for limits – capping the list of topical affirmatives at affirmatives that help or do not harm the environment is vital to pare down an otherwise-massive topic for which no meaningful topicality literature exists.

# \*\*\*“Infrastructure Investment” – Affirmative

### General Inclusive Definitions of “Infrastructure Investment”

#### ( ) “Infrastructure Investment” is not a limiting term – only has to entice investors

MCO Financial 05

(March, Respected Australian Financial Group “Infrastructure Investments” www.mcofinancial.com/​Dictionary/​Infrastructure%​20Investments.pdf)

In addition to the regular revenue stream, some infrastructure assets can generate long-term capital growth. This comes from revenue growth built into the management contract, added value as the asset moves through its life cycle and away from the upfront risks, and also from strategic management of the asset by the managers through improvements such as the introduction of electronic tollbooths or more airport retail space. Infrastructure investments do not have a long history in Australia, but like many listed managed investments, such as listed property trusts, they are generally characterized as behaving like a hybrid of an equity and a bond. The correlations between infrastructure and other asset classes are also hard to assess, so at present most asset consultants usually include infrastructure investments within the equity allocation of a portfolio. Early stage projects usually have a greater level of risk, higher growth potential and lower yield, so they may be more suitable for younger or more risk-tolerant investors, while mature projects with lower growth and higher yields may be more suitable for investors seeking a stable income stream. What about tax? The income streams or distributions from infrastructure investments are usually tax advantaged and often provide investors with attractive after-tax returns. Like property trusts, these funds usually pay regular distributions that can include a tax-deferred component, so investors do not pay tax on a portion of their income until the investment is sold. What are listed infrastructure funds? Most listed infrastructure funds are managed by specialist fund managers. They generally seek to diversify across different assets, industries or geographic regions. Many listed funds are structured as stapled securities, so that the investor owns two or more securities related and bound together through one vehicle. Typically these are a unit in a trust that holds the portfolio of assets, together with a share in a funds management company that carries out the asset management or development activities. The two components cannot be traded separately. The tax impact of stapling depends on the specific terms of each stapling arrangement, but generally, each individual security retains its own legal character and is treated separately for tax purposes. This means that dividends from each security are included separately in an income tax return and each security is listed as an individual capital gains tax asset. How do unlisted funds work? Investors can also access infrastructure through unlisted investment funds. While traditionally these have been the province of institutional investors, these assets are now being marketed to retail investors. Several of the current offerings include infrastructure assets outside Australia and they are often diversified across a number of infrastructure asset sectors and different industries. Unlisted investments are often heavily marketed on their lack of correlation with equity markets and their potential for good returns during periods of low inflation and bearish markets. They are often based on green field projects that fact high initial construction and operational risks in return for better returns. As these assets mature, they usually have a declining risk profile and substantial capital appreciation. An important consideration in investing in unlisted infrastructure vehicles is that they are usually relatively illiquid with no secondary market for the units, and investors cannot redeem funds. While some funds offer a small liquidation facility to buy back units, many do not. Investors usually receive an illiquidity premium to compensate them for this characteristic. According to Macquarie Investment Management, this illiquidity premium can be worth an additional 0.5 per cent to 2 per cent return a year. ￼￼￼Benefits of infrastructure funds ￼￼￼￼￼￼￼￼According to the Australian Stock Exchange, the key benefits of investing in infrastructure assets are: ??Low correlation to price fluctuations in other asset classes ??Diversification of the portfolio ??Earnings stability from essential good and services ??Access to unique assets ??Returns from capital appreciation and income ??Tax-effective income streams with tax deferred components. ￼￼￼“Many investors may still remember what happened back in the late 1680s/early 1990s when a lot of unlisted property trusts got frozen because the funds could not sell the underlying property quickly enough to fund investor redemptions.”

#### ( ) Infrastructure Investments benefit economy and job market

Department of Treasury with Council of Economic Advisors 12

(March 23, “A New Economic Analysis of Infrastructure Investment: A Report Prepared by the Department of Treasury with the Council of Economic Advisors” www.treasury.gov/resource.../20120323InfrastructureReport.pdf)

President Obama’s FY 2013 Budget proposes a bold plan to renew and expand America’s infrastructure. The plan includes a $50 billion up-front investment connected to a $476 billion six-year reauthorization of the surface transportation program and the creation of a National Infrastructure Bank. In support of this commitment, the Department of the Treasury, with the Council of Economic Advisers, has updated our analysis of the economic effects of infrastructure investment. The new data and analyses confirm and strengthen our finding that now is an ideal time to increase our investment in infrastructure for the following four key reasons:  Well-designed infrastructure investments have long-term economic benefits and create jobs in the short run;  This economic activity and job creation is especially timely as there is currently a high level of underutilized resources that can be used to improve and expand our infrastructure;  Middle-class Americans would benefit disproportionately from this investment through both the creation of middle-class jobs and by lowering transportation costs for American households; and  There is strong demand by the public and businesses for additional transportation infrastructure capacity.

#### ( ) Infrastructure Investment policies ensure employment options

International Labour Organization 03

(International Labour Conference, 91st Session, “Working Out of Poverty” http://www.ilo.org/public/english/standards/relm/ilc/ilc91/pdf/rep-i-a.pdf)

Spending on infrastructure represents about 20 per cent of total investment in developing countries, and from 40 to 60 per cent of public investment, according to the World Bank. A reorientation of policies on infrastructure investment to ensure that technically viable and cost-effective employment-intensive options are used speeds the reduction of poverty by generating productive and decent employment. The challenge is to develop the appropriate mix of capital- and employment-intensive investment techniques according to each country’s needs and resources. The employment-creating and poverty-reducing impacts of employmentintensive infrastructure investment depend to a great extent on the design of the programmes and local conditions. A distinction needs to be drawn between employment-based safety nets, sometimes termed workfare, and labour-based productive and cost-effective infrastructure programmes aimed at offering fair work. The ILO is increasingly focusing on programmes aimed at developing poor regions and communities in a sustained fashion. But safety net projects, often run in collaboration with the World Food Programme, are also useful as an emergency mechanism for counteracting food shortages, as was the case during the drought in southern Africa in 2002, and following disasters like the floods in Mozambique in 2000 and Hurricane Mitch in Central America in 1999. Building on this work, the ILO emphasizes community-based approaches to infrastructure investment by developing the organizational and negotiating capacities of local communities, producers and service providers. Community organizations formed around infrastructure projects remain in place for their management and maintenance and have often prompted other collective initiatives, such as health insurance. The approach is particularly useful in addressing the needs of women in poverty. By promoting the objectives of equal pay for work of equal value and equal access to jobs and training, it combats discrimination. Involvement of women in the technical and supervisory functions of projects can help overcome biases against the recruitment of unskilled women workers. Special criteria for the selection of investment schemes target concerns of women, such as access to productive resources, land development, water, firewood, rehabilitation of health centres and schools. In this connection, emphasis is also placed on the inclusion of women on decision-making committees, such as those of community-based organizations, village development committees and economic interest groups. Pilot and large-scale labour-based infrastructure programmes carried out in countries as varied as Cambodia, Ghana, Lao People’s Democratic Republic, Lesotho, Madagascar, Rwanda, Thailand and Zimbabwe show that labour-based approaches: are between 10 and 30 per cent less costly in financial terms than more equipment-intensive techniques; reduce foreign exchange requirements by between 50 and 60 per cent; and create between three and five times as much employment for the same investment. The typical worker on a labour-based infrastructure programme is an underemployed casual labourer. Care is taken to ensure that the wage is set at a level to help lift workers’ families out of severe poverty but avoid attracting employed workers away from other income-generating activities. In this and other aspects of the design of the project, consultation with local communities has proved the most effective way of targeting the creation of job opportunities on those most in need, as well as ensuring that the infrastructure built meets local priorities. Embedding such projects in the community is vital to future maintenance, which can also be designed to use labour intensive techniques. Poverty is reduced in the short term by the increased incomes of workers on the project and in the longer term through the provision of public goods vital to increasing income-earning prospects for the community as a whole. The average employment period is often around 100 days; with an estimated average daily wage level of US$1.50, this implies a transfer of $150 per participant. In rural areas during the “hungry” season, this is a sizeable income transfer to households on the poverty line. By improving the infrastructure of communities, labour-intensive infrastructure investments boost the growth of the local economy and enhance access to social services. For example, the economic benefits of a rural road linking a village to a local market town are savings in transport time and costs, which translate directly into higher farm incomes. Water supply or drainage schemes, schools and health posts lead to an improvement in the health and skills of the whole area. An evaluation of the impact of upgrading drains in poor informal urban settlements in Uganda found that the completion of a main channel, in addition to the employment and income generated, brought about a reduction of waterborne diseases, an improvement in housing and latrines and important increases in land and rental values. After 25 years of pioneering work in the promotion of employment-intensive infrastructure investment, the ILO has learnt a number of important lessons. First and foremost, a sustained impact on poverty depends on good policy design and local capacity building. The ILO concentrates on developing training systems for government ministries, project consultants, small contractors and communities. This has helped to spread knowledge and skills so that the large number of national and international agencies involved in infrastructure work are aware of the labour-based option and its developmental advantages. Second, a key phase is the drafting of procurement conditions. Such documents can determine whether or not small national contractors have a chance in competition with international companies. Third, the impact on poverty is enhanced when local communities are fully involved in deciding what is being built, how and by whom. Fourth, a national strategy, involving the relevant departments and the social partners, and backed by international development agencies, is needed to garner the full potential for poverty reduction of the labourintensive approach to infrastructure investment. Fifth, labour-intensive investment can open doors for community development and provide a temporary boost to the incomes of people living in poverty, but sustaining progress requires linked action to promote longer term employment opportunities, for example in micro and small enterprises.

# \*\*\*“Investment” – Negative

### 1NC “Investment” = Capital Expenditure

#### ( ) “Investment” requires capital expenditure

Anderson 6

(Edward, Lecturer in Development Studies – University of East Anglia, et al., “The Role of Public Investment in Poverty Reduction: Theories, Evidence and Methods”, Overseas Development Institute Working Paper 263, March, http://www.odi.org.uk/resources/docs/1786.pdf)

1.3 Definitions We define (net) public investment as public expenditure that adds to the public physical capital stock. This would include the building of roads, ports, schools, hospitals etc. This corresponds to the definition of public investment in national accounts data, namely, capital expenditure. It is not within the scope of this paper to include public expenditure on health and education, despite the fact that many regard such expenditure as investment. Methods for assessing the poverty impact of public expenditure on social sectors such as health and education have been well covered elsewhere in recent years (see for example, van de Walle and Nead, 1995; Sahn and Younger, 2000; and World Bank, 2002).

#### ( ) That means you have to be new infrastructure – repair and maintenance affs aren’t topical

Law Depot 8

(“Capital Expenditure”, 2-6, http://wiki.lawdepot.com/wiki/Capital\_Expenditure)

Definition of "Capital Expenditure" Capital expenditure is money spent to acquire or upgrade (improve) long term assets such as property, buildings and machinery. Capital expenditure does not include the cost to merely repair such assets.

#### Vote negative for limits and ground – their interpretation makes any spending topical and allows the negative to defend minor-repair affirmatives for which no meaningful link uniqueness exists.

### Ext. “Investment” = Capital Expenditures

#### ( ) Not all spending is investment. Only capital expenditure is topical and requires new projects

**Becker ‘8**

(Werner, Deutsche Bank Research, et al., “Improving the Quality of Public Finances – The Road Ahead”, 2-5, http://www.dbresearch.com/PROD/DBR\_INTERNET\_EN-PROD/PROD0000000000220498.PDF)

With regard to the effects of public spending on growth, a distinction is traditionally made between current government consumption expenditure (on, say, the compensation of government employees) and capital expenditure geared to the future (on infrastructural projects such as transport, utility supply and communications systems). Government consumption spending is frequently generalised as unproductive, whereas public capital expenditure is regularly labelled as growth-enhancing investment in the future. When assessing the growth effects of public spending, however, this simplistic approach needs reexamining. There are some kinds of public spending that, while reported as capital expenditure, do not count as productive investment in the economic sense. Empirical surveys show that substantial growth effects can normally be expected only from infrastructure investment. But over the past 25 years this has accounted for a mere quarter to a third of total government investment.13 Ultimately, the simple equation “more public investment equals more growth” has been undermined in Germany by the very broad interpretation of the debt rule in Article 115 of the Basic Law.14 Although the rule stipulates that net new borrowing by the Federal government must not exceed public investment expenditure, in many years the government has departed from this principle – most recently in each of the years from 2002 to 2006 –, taking as its justification the disturbance in macroeconomic equilibrium. Public spending and public debt rose, but in most cases growth remained anaemic. A problem here is the relatively broad definition of public investment.

#### ( ) This applies to transportation investment as well

Berechman 2

(Yossi, Professor of Public Policy – Tel Aviv University, Transport and Economic Development, p. 114)

4.1. Basic definitions In the present context, "transportation investment" is defined as a capacity improvement or addition to an existing network of roads, rail, waterways, huh terminals, tunnels, bridges, airports and harbors. The concept of "resultant economic growth" is further considered to mean the long-run increase in economic activity in a given geographical area, which can be ascribed to a specific transport investment and which confers welfare improvements to the area's residents. Additionally, as explained later, it is also required that the growth benefits will be in addition to the direct transportation benefits from the investment and not merely their capitalised value. Tin's latter condition is a fundamental one. fully discussed in section 5.2.

#### ( ) Only capital expenditure is “investment”. Spending on current capabilities is maintenance revenue expenditure. Distinguishing clearly between the two is critical to precision and topic education

Mtetwa 10

(Munya, ACCA and IFA Qualified Accountant with Over Ten Years Financial Management and Accounting Experience, “Revenue and Capital Expenditure”, Accounting – Suite 101, 3-21, http://munya-mtetwa.suite101.com/revenue-and-capital-expenditure-a212507)

In accounting there are two main mandatory financial statements and these report the financial position and the financial performance of a company. These two financial statements are known as the balance sheet and the profit and loss account. The balance sheet is the home to all capital expenditures and all revenue expenses are recorded in the profit and loss account. Failure to distinguish the difference between revenue expenses and capital expenses can lead to a misleading picture of both the financial performance and financial position being reported or presented to the users of accounting information. In book-keeping and accounting there is a type of error known as the error of principle. This error occurs when capital expenditure is treated as revenue expenditure in the books of accounts and vice versa. When a firm deliberately misclassifies revenue expenditure as capital expenditure this may be viewed as creative accounting, which is morally and ethically wrong. Below these two concepts are explored further. Revenue Expenses Revenue expenditure is outlay or expenses incurred in the day to day running of a company. In most cases revenue expenditure involves the procurement of services and goods that will be used within a financial year. Revenue expenditure does not improve or increase the income generating abilities of a company; at best it leads to the maintenance of the current organisational revenue generating capacity. All expenses of a revenue nature are recorded in the profit and loss account as either operating expenses, marketing and selling expenses and administrative expenses. Revenue expenses play a role in determining the profit earned or a loss by a company. Revenue expenses are routine and recurring in nature and some examples of revenue expenditure include payments in staff wages and salaries, heating and lighting, depreciation, legal and professional fees, travel and subsistence, insurance, administrative expenses, most of marketing and public relations expenses, audit fees, office supplies, staff training costs, staff recruitment costs and minor or immaterial items of equipment. Capital Expenses Capital expenditure represents outlay on fixed assets. Capital expenditure can be outlay of resources on the investment of long-term income generating capability of the company. Investment in fixed assets will lead to an increase or improvement in the investing company’s revenue generating capacity. Capital expenditure can also be in the form of significant acquisitions or purchases of more expensive items of equipment that will last longer than a financial year.

### Ext. Capital Expenditure = New Assets

#### ( ) The affirmative is an instance of maintenance expenditure – which is distinct from the creation of a new asset

**Transpower ‘10**

(Transpower New Zealand Limited Business Guidance, “Accounting Guidance Notes for Revenue and Capital Expenditure”, Issue 2, November, http://ebookbrowse.com/transpower-accounting-guidance-notes-for-revenue-and-capital-expenditure-issue2-pdf-d284331433)

7.3 Maintenance Expenditure (Revenue Expenditure) Maintenance expenditure is expenditure that satisfies one or more of the these criteria: (i) It restores an asset to its original expected operating capability or condition; (ii) It provides only minor or incidental improvement(s) to the features, functionality or EOL of the asset; (iii) It maintains an asset in good working condition. In other words, Maintenance Expenditure enables the asset to achieve its original expected operational life (EOL) through regular and/or preventive maintenance. 7.4 Capital Expenditure Capital expenditure is expenditure that satisfies one or more of these criteria: (i) It results in the creation of a new asset or assets2; (ii) It provides a to significant improvement an existing asset with respect to capability or EOL.

#### ( ) Plan’s revenue expenditure

Chennai 5

(Corporation of Chennai Tax-Free Bonds 2005, “Offer Document”, 3-31, http://www.bseindia.com/BSEdata/ipo\_downloads/Corporation%20of%20Chennai.pdf)

THE MAJOR TYPES OF REVENUE EXPENDITURE ARE 1. Salaries to the Corporation employees. 2. Terminal and Retirement benefits to the Corporation pensioners/family pensioners. 3. Operating expenses like, Power charges, Stores Consumption, Medicines, Fuel charges. 4. Repairs and maintenance like storm water drains and culverts, repair charges for vehicles, electrical installation, etc. 5. Programme expenses like Family Welfare Programme, Noon Meal, Tree Planting, etc. 6. Administration Expenses like telephone charges, audit fees, printing and stationeries, etc. 7. Interest on loan.

#### ( ) That excludes maintenance and repair

360 Capital 12

(“Investor Information”, http://www.360capital.com.au/investor-information/glossary-of-terms/)

Capital expenditure (Capex): Those items that are significant replacements or additions to properties, as distinguished from expense items that are considered to be recurring items. Capital expenditure does not include general maintenance and repair items. For example the replacement of an air conditioning unit at a property would be an item of capital expenditure. However, the replacement of its fan-belt would not.

### AT//Training / R&D

#### ( ) Capital expenditure excludes training and R&D --- both affect only human capital

Creel 6

(Jérôme, Professor of Economics – ESCP-EAP European School of Management, and Gwenaëlle Poilon, Ph.D. Student in Economic Management, “Is Public Capital Productive in Europe?”, May, <http://papers.ssrn.com/> sol3/papers.cfm?abstract\_id=935209&http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=19&ved=0CHcQFjAIOAo&url=http%3A%2F%2Fpapers.ssrn.com%2Fsol3%2FDelivery.cfm%3Fabstractid%3D935209&ei=EYeuT9a4NdDAtgfx5PCRCQ&usg=AFQjCNHuMwXvINRHxgPSNeVKajIqQu6sqw&sig2=JBFNdTaYwpibLNPs9dG8Gw )

Besides public debt’s growth or the cost/benefits analysis, other criticisms to the adoption of a “golden rule” in the Euro area are worth mentioning. Balassone and Franco (2000) consider that the “golden rule”, as it is promoting public investment, will result in a bias in favour of physical assets, at the expense of health and education expenditures. Hence, the definition of “public investment” in national account statistics includes transactions that lead to changes in the stock of physical capital (like the construction of infrastructures or the purchase of computer hardware), but excludes large amounts of expenditures related to the accumulation of human capital, like training or R&D.

### AT//Maintenance / Repairs

#### ( ) Maintaining or repairing is distinct – that’s construction, not infrastructure investment

Roberts 10

(Ivan, Economist – Economic Analysis Department of the Reserve Bank of Australia, and Anthony Rush, Analyst – RBA, “Sources of Chinese Demand for Resource Commodities”, Reserve Bank of Australia – Research Discussion Paper, November, http://www.rba.gov.au/publications/rdp/2010/pdf/rdp2010-08.pdf)

Our definition of manufacturing is the same as that of Barnett and Brooks from 2004 onwards, since it is given as a complete category in the FAI by industry data. Prior to 2004, we define manufacturing as ‘secondary industry’ less ‘energy’ and ‘construction’. Barnett and Brooks define ‘infrastructure’ investment as the sum of FAI in electricity, gas & water; transport, storage & post; water conservancy & environmental management; education; health, social security & welfare; and public administration & social organisations. From 2004, we follow the definition of Barnett and Brooks, except that we omit public administration & social organisations and include culture, sport & entertainment. Given the higher level of aggregation in the pre-2004 data, before 2004 we define infrastructure as the sum of ‘industry: energy’, transport, storage & telecommunications; culture, education & health care; and ‘other’ (since infrastructure-related categories that did not exist prior to 2004 such as water conservancy & environmental management were included in this category). Including investment in the ‘construction’ industry itself would make little difference to the calculation as it is small (around 1 per cent of total FAI), but we omit it as it is not clear that it constitutes ‘infrastructure’ investment as such. Since a (discontinued) urban real estate investment category is available prior to the 2004 reclassification, we use this series to extend the real estate FAI series back to 1996.19

### AT//Short-Term Fixes

#### ( ) The aff has to have a durability of more than a year – otherwise it isn’t investment

HECFE, 10

(9/30/10 Higher Education Funding Council for England, “What is meant by the term “infrastructure investment?,” <http://www.hefce.ac.uk/pubs/year/2010/cl172010/faqoncif2/#gen5>)

By infrastructure investment we mean expenditure of sufficient scale that it would normally be eligible for capitalisation on the balance sheet. Infrastructure comprises items with a life of greater than 12 months and includes buildings, equipment, software development and campus infrastructure such as IT, roadways and utility services.

# \*\*\*“Investment” – Affirmative

### Investment = Spending

#### ( ) “Investment” is direct spending on infrastructure and grants to support private sector asset creation

Scotland 5

(Government of Scotland, “Infrastructure Investment Plan: Investing in the Future of Scotland”, February, http://www.scotland.gov.uk/Publications/2005/02/20756/53558)

Appendix A: Technical Definitions of Infrastructure Investment The public expenditure system uses different definitions of capital for budgeting purposes than for accounting purposes - both of which exclude elements of infrastructure investment in the wider sense used elsewhere in this publication. For accounting purposes, capital spending is those resources used to create a fixed asset which goes on a Government Department's balance sheet. Assets are classified as fixed if they are owned by an organisation and have an ongoing benefit (generally over more than one year). If spending is not classified as being on fixed assets then it is treated as revenue expenditure. For budgeting purposes, what scores within Capital Delegated Expenditure Limits (capital DEL) is everything that scores as capital for accounting purposes, as well as capital grants to and supported borrowing by local authorities and spending by Non-Departmental Public Bodies that will be included as capital in their accounts. For public corporations such as Scottish Water, capital DEL is the net lending to the relevant public corporation by the department and not the public corporation's own self-financed capital spending. Net Investment - The Scottish Executive's definition of net investment for purposes such as the net investment rule incorporates spending within capital DEL as well as grants made to support capital spending (asset creation or enhancement) by private sector organisations such as Higher and Further Education Institutions. It does not include the capital element of PPP deals.

#### ( ) Investment requires spending money

Lynton ‘95

**(**Jonathon S. Lynton, , Ballentine’s Legal Dictionary and Thesaurus, 1995, “investment”, pg. 339 (2))

n. 2. A property or a deal into which money is put for the purpose of producing income or revenue

#### ( ) “Investment” is spending government resources to develop infrastructure

LMPI ‘10

(Laos Ministry of Planning and Investment, “Manual For Public Investment Program (PIP) Program Management”, August, <http://www.jica.go.jp/project/laos/0700667/materials/pdf/ProgramManual/ProgramMa> nual\_eng.pdf)

Public investment is defined as investment from government resources, domestic or foreign, with the objective of development in the sector and/or region. Domestic PIP projects, ODA in forms of grant, technical assistance and loan are main components. Provision of public infrastructure (ex. roads, bridges, irrigation systems, public hospitals and schools, rural electrification etc.) and technical promotion (ex. training) is generally done using public investment.

#### ( )“Investment” is disbursement of public funds

Perez 10

(Perez, Bustamonte, and Ponce (Law Firm), “Executive Summary of the Organic Code on Public Planning and Finance”, Legal Newsletter, 11-4, http://www.pbplaw.com/boletines/2010/20101104\_boletinPBP\_bl\_en.pdf)

Public investment is defined as “… a set of disbursements and/or transactions made out of public funds to maintain or increase social and State wealth and capacities for the purpose of achieving the planned objectives”. And Article 77 of the Code referred to herein provides that the State General Budget is an instrument used “to determine and manage income and disbursements of all the entities comprised in the different State branches.”

#### ( ) “Investment” is an expenditure to produce revenue

Black’s Law ‘4

[Black’s Law Dictionary – Bryan A. Garner, et al. “Eighth Edition” 2004, Pg 845] L//Shen

Investment. 1. An expenditure to acquire property or assets to produce a revenue; a capital outlay.

### Investment – Can Be Nonprofit

#### ( ) “Investment” is allocation to public sectors --- their evidence assumes private investment

VNN 7

(Viet Nam News Agency, “New Law Regulates Government Investment in Public Projects”, 8-30, http://www.unescap.org/tid/tisnet/news1007.asp)

New law regulates Government investment in public projects. Viet Nam News Agency, 30 August 2007.

The Ministry of Investment and Planning has introduced a draft Law on Public Investment. The Law on Public Investment will complete the country’s legal system on investment. It defines public investment as any funds not for trading purposes but money that the State allocates from its budget to invest in industries and areas which serve the public interest. It contains many new clauses about investment management as well as project supervision and appraisal, which until now have not been regulated in legal documents. It also outlines roles and responsibilities over public investments for State offices at different levels. The document will be amended for submission to the Government in September after offices and research units have provided their opinions on the draft.

# \*\*\*Infrastructure – Definitions

### Infrastructure – General Definitions

#### ( ) Infrastructure includes communication

CBO ‘7

( Congressional Budget Office, United States Congressional Budget Office, August 2007, Trends in Public Spending on Transportation and Water Infrastructure from 1956-2004, http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/85xx/doc8517/08-08-infrastructure.pdf)

Broader definitions of infrastructure might include such things as energy generation and distribution facilities and telecommunications networks—or schools and research labs. Those types of infrastructure, however, are often primarily provided by either state and local governments or the private sector, and they are not included in this paper.

#### ( ) Infrastructure includes water, electricity generation, communications, and transport

Neumann and Price ‘9

(James E. Neumann and Principle – Industrial Economics, and Jason C. Price, Senior Associate – Industrial Economics, RFF Report, June 2009, Adapting to Climate Change, http://www.rff.org/rff/documents/RFF-Rpt-Adaptation-NeumannPrice.pdf)

Public infrastructure is vital to the smooth functioning of the U.S. economy and encompasses a wide range of assets. For the purposes of this paper, we begin by narrowing our definition of public infrastructure to the physical structures that form the foundation of development in the United States. Within our definition, infrastructure includes wastewater and waterworks systems, electric power generation and transmission systems, communications networks, road and rail networks, transit and transportation facilities and ports, and oil and gas pipelines and associated facilities. In the climate change context, our scope includes both current infrastructure that  may be at risk (e.g., transportation, energy, water and communications, utilities) and new infrastructure that may be needed to  effectively and efficiently aapt to climate risks (e.g., seawalls). The purpose of this paper is therefore to assess the threats and needs  that multidimensional climate change imposes for these physical assets, review the existing adaptive capacity that could be applied to respond to these threats and needs, and present options or enhancing adaptive capacity through public sector investments in physical,  planning, and human resources.

#### ( ) “Infrastructure” includes military installations

Dictionary.com ‘12

(“Infrastructure” <http://dictionary.reference.com/browse/infrastructure?s=t&ld=1086>)

in·fra·struc·ture    [in-fruh-struhk-cher]  Show IPA noun 1. the basic, underlying framework or features of a system or [organization](http://dictionary.reference.com/browse/organization). 2. the fundamental facilities and systems serving a country,city, or area, as transportation and communication systems,power plants, and schools. **3.** the military installations of a country.

# \*\*\*“In the United States” – Definitions

### “In the United States” – General Definitions

#### ( ) The United States includes the native American people and the various island territories

American Heritage Dictionary 9 (American Heritage Dictionary, <http://www.thefreedictionary.com/United+States>, 2009)

A country of central and northwest North America with coastlines on the Atlantic and Pacific oceans. It includes the noncontiguous states of Alaska and Hawaii and various island territories in the Caribbean Sea and Pacific Ocean. The area now occupied by the contiguous 48 states was originally inhabited by numerous Native American peoples and was colonized beginning in the 16th century by Spain, France, the Netherlands, and England. Great Britain eventually controlled most of the Atlantic coast and, after the French and Indian Wars (1754-1763), the Northwest Territory and Canada.

#### ( ) The US includes the territories and land over which it has jurisdiction

Dictionary of Military and Associated Terms 5 (Dictionary of Military, <http://www.thefreedictionary.com/United+States>, 2005)

Includes the land area, internal waters, territorial sea, and airspace of the United States, including the following: a. US territories, possessions, and commonwealths; and b. Other areas over which the US Government has complete jurisdiction and control or has exclusive authority or defense responsibility.

#### ( ) In the United States is not inclusive of the territories

Audio English No Date (Audio English, <http://www.audioenglish.net/dictionary/united_states_of_america.htm>, No Date)

North American republic containing 50 states - 48 conterminous states in North America plus Alaska in northwest North America and the Hawaiian Islands in the Pacific Ocean; achieved independence in 1776

#### The United States includes the 50 states

Dictionary.com No Date (Dictionary.com, <http://dictionary.reference.com/browse/United+States>, No Date)

United States  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; conterminous United States, 3,022,387 sq. mi. (7,827,982 sq. km); with Alaska and Hawaii, 3,615,122 sq. mi. (9,363,166 sq. km). Capital: Washington, D.C. Abbreviation: U.S., US

### “United States” – General Definitions

#### **( ) “United States” is anywhere that the US exercises sovereign power**

Lynton ‘95

(Jonathon S. Lynton, , Ballentine’s Legal Dictionary and Thesaurus, 1995, “investment”, pg. 689 (3))

n. 3. The territory over which this sovereign nation called the “United States” exercises sovereign power

#### **( ) “United States” means all of the states**

EPA 6

(EPA, US Environmental Protection Agency Terminology Reference System, 2-1-2006, <http://iaspub.epa.gov/trs/trs_proc_qry.alphabet?p_term_nm=U>)

United States When used in the geographic sense, means all of the States. [Office of Pollution Prevention and Toxics](http://iaspub.epa.gov/trs/trs_proc_qry.org_info?P_REG_AUTH_ID=1019&P_LIST_OPTION_CD=ORG) : [Commercial Chemical Control Rules](http://iaspub.epa.gov/trs/trs_proc_qry.org_info?P_REG_AUTH_ID=1&P_DATA_ID=11722&P_VERSION=1&P_LIST_OPTION_CD=INFO) [Term Detail](http://iaspub.epa.gov/trs/trs_proc_qry.navigate_term?p_term_id=292529&p_term_cd=TERMDIS)

#### ( ) “United States” is the 50 states in North America

Webster’s 61

(Third New International Dictionary, p. 2501)

Of or from the United States of North America

#### ( ) “United States” includes all areas under U.S. jurisdiction

Rainey 95

(John, U.S. District Judge, “Donald Ray Looper, Individually and On Behalf of His Firm's Clients, Plaintiff, v. William C. Morgan, Department of the Treasury United States Customs Service, and All Unknown Individuals and Agencies Involved in the Search of a Briefcase at Inter-Continental Airport in Houston, Texas, Defendants”, 1995 U.S. Dist. LEXIS 10241, Lexis)

The term "United States" means the United States and all areas under the jurisdiction or authority thereof.

#### ( ) United States includes territories and possessions

US Code 7

(2 USCS § 1966, lexis)

(f) Definition of United States. As used in this section, the term "United States" means each of the several States of the United States, the District of Columbia, and territories and possessions of the United States.

### “In” – Throughout

#### ( ) “In” means “throughout”

Words and Phrases 8

(Permanent Edition, vol. 20a, p. 207)

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, the word “in” should be construed to mean “throughout” such counties. Reynolds v. Larkin, 14, p. 114, 117, 10 Colo. 126.

### “In – Within

#### ( ) “In” means within --- this is the core meaning

Encarta 7

[Encarta World English Dictionary, 7 (“In (1)”, 2007, <http://encarta.msn.com/encnet/features/dictionary/DictionaryResults.aspx?refid=1861620513>]

in [ [in](http://encarta.msn.com/encnet/features/dictionary/Pronounce.aspx?search=in) ] CORE MEANING: a grammatical word indicating that something or somebody is within or inside something. 1. preposition indicates place: indicates that something happens or is situated somewhere He spent a whole year in Russia. 2. preposition indicates state: indicates a state or condition that something or somebody is experiencing The banking industry is in a state of flux. 3. preposition after: after a period of time that will pass before something happens She should be well enough to leave in a week or two. 4. preposition during: indicates that something happens during a period of time He crossed the desert in 39 days. 5. preposition indicates how something is expressed: indicates the means of communication used to express something I managed to write the whole speech in French. 6. preposition indicates subject area: indicates a subject or field of activity She graduated with a degree in biology. 7. preposition as consequence of: while doing something or as a consequence of something In reaching for a glass he knocked over the ashtray. 8. preposition covered by: indicates that something is wrapped or covered by something The floor was covered in balloons and toys. 9. preposition indicates how somebody is dressed: indicates that somebody is dressed in a particular way She was dressed in a beautiful suit. 10. preposition pregnant with: pregnant with offspring The cows were in calf. 11. adjective fashionable: fashionable or popular always knew which clubs were in 12. adjective holding power or office: indicates that a party or group has achieved or will achieve power or authority voted in overwhelmingly.

#### ( ) This is a limiting term

Cambridge ‘11

(Cambridge Dictionary of American English, “in”, 2011, ) <http://dictionary.cambridge.org/dictionary/american-english/in_3>)

positioned inside or within the limits of something, or contained, surrounded, or enclosed by something:

There’s a cup in the cabinet. Anne is still in bed. Don’t stand in the driveway. He’s always looking at himself in the mirror. Clarice lives in Orlando. He was in prison (= a prisoner). Erika is still in school (= still a student). He has a pain in his shoulder.

#### ( ) “In” is legally restrictive – the plan must be regulated by *American* laws

FindLaw ‘96

[Find Law – Merriam-Webster’s Dictionary of Law. “In” 1996 - http://dictionary.lp.findlaw.com/scripts/results.pl?co=dictionary.lp.findlaw.com&topic=da/da02d6181717444877b3a35c79e4255b )

#### ( ) “In” means inclusion within --- “investment” must occur within the United States

Random House 12

(Unabridged Dictionary, “in”, http://dictionary.reference.com/browse/in?s=t)

in   [in] Show IPA preposition, adverb, adjective, noun, verb, inned, in·ning. preposition 1. (used to indicate inclusion within space, a place, or limits): walking in the park. 2. (used to indicate inclusion within something abstract or immaterial): in politics; in the autumn. 3. (used to indicate inclusion within or occurrence during a period or limit of time): in ancient times; a task done in ten minutes. 4. (used to indicate limitation or qualification, as of situation, condition, relation, manner, action, etc.): to speak in a whisper; to be similar in appearance. 5. (used to indicate means): sketched in ink; spoken in French.

#### ( ) “In” means “under the law”

Gardner ‘99

(Bryan A. Gardner, J.D., Editor in Chief of Black’s Law Dictionary, Black’s Law Dictionary Deluxe Seventh Edition, “in”, pg.782, 1999)

Prep. Under or based on the law of <to bring an action in contract>.

#### ( ) “In” means within the limits of

Webster’s 6

[Merriam Webster Online Dictionary, 06 (<http://www.m-w.com/cgi-bin/dictionary?book=Dictionary&va=in>]

Main Entry: 1in Pronunciation: 'in, &n, &n Function: preposition Etymology: Middle English, from Old English; akin to Old High German in in, Latin in, Greek en 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>

#### ( ) “In” means “within”

Macmillian ‘5

(Macmillian American English Dictionary, “in” (1b), 2005, <http://www.macmillandictionary.com/dictionary/american/in>)

ADJECTIVE, ADVERB, PREPOSITION /in/¶ 1. used for showing where someone or something is¶ a. inside a container, room, building, vehicle, etc.¶ He had left his passport in his coat pocket. She's downstairs in the living room. If cIf convicted, Goldman faces 20 years in prison. There's room for all of us in Dad's car. Have you seen a bag with some tools in it?¶ b. within an area, city, or country¶ The books are printed in Hong Kong.¶ the largest stadium in the world¶ a picnic in the park

### “The” – General Definitions

#### ( ) “The” means all parts

Webster’s 8

(Merriam-Webster's Online Collegiate Dictionary, 08, http://www.merriam-webster.com/dictionary/the)

4 -- used as a function word before a noun or a substantivized adjective to indicate reference to a group as a whole <the elite>

# \*\*\*“Should” – Definitions

### Should – General Definitions

#### ( ) “Should” means desirable --- this does not have to be a mandate

AC 99

(Atlas Collaboration, “Use of Shall, Should, May Can,” http://rd13doc.cern.ch/Atlas/DaqSoft/sde/inspect/shall.html)

shall¶ 'shall' describes something that is mandatory. If a requirement uses 'shall', then that requirement \_will\_ be satisfied without fail. Noncompliance is not allowed. Failure to comply with one single 'shall' is sufficient reason to reject the entire product. Indeed, it must be rejected under these circumstances. Examples: # "Requirements shall make use of the word 'shall' only where compliance is mandatory." This is a good example. # "C++ code shall have comments every 5th line." This is a bad example. Using 'shall' here is too strong.¶ should¶ 'should' is weaker. It describes something that might not be satisfied in the final product, but that is desirable enough that any noncompliance shall be explicitly justified. Any use of 'should' should be examined carefully, as it probably means that something is not being stated clearly. If a 'should' can be replaced by a 'shall', or can be discarded entirely, so much the better. Examples: # "C++ code should be ANSI compliant." A good example. It may not be possible to be ANSI compliant on all platforms, but we should try. # "Code should be tested thoroughly." Bad example. This 'should' shall be replaced with 'shall' if this requirement is to be stated anywhere (to say nothing of defining what 'thoroughly' means).

#### ( ) “Should” is mandatory

Nieto ‘9

[Henry. Judge in the CO Court of Appeals. People v. Munoz 240 P.3d 311, 2009. Ln]

**"**Should" is "used . . . to express duty, obligation, propriety, or expediency." Webster's Third New International Dictionary 2104 (2002). Courts [\*\*15] interpreting the word in various contexts have drawn conflicting conclusions, although the weight of authority appears to favor interpreting "should" in an imperative, obligatory sense. HN7A number of courts, confronted with the question of whether using the word "should" in jury instructions conforms with the Fifth and Sixth Amendment protections governing the reasonable doubt standard, have upheld instructions using the word. In the courts of other states in which a defendant has argued that the word "should" in the reasonable doubt instruction does not sufficiently inform the jury that it is bound to find the defendant not guilty if insufficient proof is submitted at trial, the courts have squarely rejected the argument. They reasoned that the word "conveys a sense of duty and obligation and could not be misunderstood by a jury." See State v. McCloud, 257 Kan. 1, 891 P.2d 324, 335 (Kan. 1995); see also Tyson v. State, 217 Ga. App. 428, 457 S.E.2d 690, 691-92 (Ga. Ct. App. 1995) (finding argument that "should" is directional but not instructional to be without merit); Commonwealth v. Hammond, 350 Pa. Super. 477, 504 A.2d 940, 941-42 (Pa. Super. Ct. 1986). Notably, courts interpreting the word "should" in other types of jury instructions [\*\*16] have also found that the word conveys to the jury a sense of duty or obligation and not discretion. In Little v. State, 261 Ark. 859, 554 S.W.2d 312, 324 (Ark. 1977), the Arkansas Supreme Court interpreted the word "should" in an instruction on circumstantial evidence as synonymous with the word "must" and rejected the defendant's argument that the jury may have been misled by the court's use of the word in the instruction. Similarly, the Missouri Supreme Court rejected a defendant's argument that the court erred by not using the word "should" in an instruction on witness credibility which used the word "must" because the two words have the same meaning. State v. Rack, 318 S.W.2d 211, 215 (Mo. 1958). [\*318] In applying a child support statute, the Arizona Court of Appeals concluded that a legislature's or commission's use of the word "should" is meant to convey duty or obligation. McNutt v. McNutt, 203 Ariz. 28, 49 P.3d 300, 306 (Ariz. Ct. App. 2002) (finding a statute stating that child support expenditures "should" be allocated for the purpose of parents' federal tax exemption to be mandatory).

#### ( ) “Should” means must – its mandatory

Foresi 32

(Remo Foresi v. Hudson Coal Co., Superior Court of Pennsylvania, 106 Pa. Super. 307; 161 A. 910; 1932 Pa. Super. LEXIS 239, 7-14, Lexis)

As regards the mandatory character of the rule, the word 'should' is not only an auxiliary verb, it is also the preterite of the verb, 'shall' and has for one of its meanings as defined in the Century Dictionary: "Obliged or compelled (to); would have (to); must; ought (to); used with an infinitive (without to) to express obligation, necessity or duty in connection with some act yet to be carried out." We think it clear that it is in that sense that the word 'should' is used in this rule, not merely advisory. When the judge in charging the jury tells them that, unless they find from all the evidence, beyond a reasonable doubt, that the defendant is guilty of the offense charged, they should acquit, the word 'should' is not used in an advisory sense but has the force or meaning of 'must', or 'ought to' and carries [\*\*\*8] with it the sense of [\*313] obligation and duty equivalent to compulsion. A natural sense of sympathy for a few unfortunate claimants who have been injured while doing something in direct violation of law must not be so indulged as to fritter away, or nullify, provisions which have been enacted to safeguard and protect the welfare of thousands who are engaged in the hazardous occupation of mining.

#### ( ) Should isn’t mandatory

Words & Phrases 6

(Permanent Edition 39, p. 369)

C.A.6 (Tenn.) 2001. Word “should,” in most contexts, is precatory, not mandatory. –U.S. v. Rogers, 14 Fed.Appx. 303. –Statut 227.

#### ( ) It’s a permissive term

Words and Phrases 2

(Words and Phrases. Vol. 39, p. 370, 2002)

Cal.App. 5 Dist. 1976. Term “should,” as used in statutory provision that motion to suppress search warrant should first be heard by magistrate who issued warrant, is used in regular, persuasive sense, as recommendation, and is thus not mandatory but permissive. West’s Ann.Pen Code, § 1538.5(b).---Cuevas v. Superior Court, 130 Cal. Rptr. 238, 58 Cal.App.3d 406 ----Searches 191.

#### ( ) Should means “strong admonition”

Taylor and Howard 5

(Michael, Resources for the Future and Julie, Partnership to Cut Hunger and Poverty in Africa, “Investing in Africa's future: U.S. Agricultural development assistance for Sub-Saharan Africa”, 9-12, <http://www.sarpn.org.za/documents/d0001784/5-US-agric_Sept2005_Chap2.pdf>)

Other legislated DA earmarks in the FY2005 appropriations bill are smaller and more targeted: plant biotechnology research and development ($25 million), the American Schools and Hospitals Abroad program ($20 million), women’s leadership capacity ($15 million), the International Fertilizer Development Center ($2.3 million), and clean water treatment ($2 million). Interestingly, in the wording of the bill, Congress uses the term *shall* in connection with only two of these eight earmarks; the others say that USAID *should* make the prescribed amount available. The difference between shall and should may have legal significance—one is clearly mandatory while the other is a strong admonition—but it makes little practical difference in USAID’s need to comply with the congressional directive to the best of its ability.

# \*\*\*“Substantially” – Definitions

### Substantial / Substantially – General Definitions

#### ( ) Substantial investment” must be an increase of at least 20%

Traficant 89

(“H.R.2489 -- Foreign Subsidiary Tax Equity Act (Introduced in House - IH)”, 5-24, http://thomas.loc.gov/cgi-bin/query/z?c101:H.R.2489.IH:)

SEC. 2. INCOME FROM RUNAWAY PLANTS OR FROM MANUFACTURING OPERATIONS LOCATED IN A COUNTRY WHICH PROVIDES A TAX HOLIDAY INCLUDED IN SUBPART F INCOME. (a) FOREIGN BASE COMPANY MANUFACTURING RELATED INCOME ADDED TO CURRENTLY TAXED AMOUNTS- Subsection (a) of section 954 of the Internal Revenue Code of 1986 (defining foreign base company income) is amended by striking `and' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting `, and', and by adding at the end thereof the following new paragraph: `(6) the foreign base company manufacturing related income for the taxable year (determined under subsection (h) and reduced as provided in subsection (b)(5)).' (b) DEFINITION OF FOREIGN BASE COMPANY MANUFACTURING RELATED INCOME- Section 954 of such Code is amended by adding at the end thereof the following new subsection: `(h) FOREIGN BASE COMPANY MANUFACTURING RELATED INCOME`(1) IN GENERAL- For purposes of this section, the term `foreign base company manufacturing related income' means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with the manufacture for or sale to any person of personal property by the controlled foreign corporation where the property sold was manufactured by the controlled foreign corporation in any country other than the United States if such property or any component of such property was manufactured-`(A) in a tax holiday plant, or `(B) in a runaway plant. `(2) OTHER DEFINITIONS; SPECIAL RULES- For purposes of this subsection-`(A) TAX HOLIDAY PLANT DEFINED- The term `tax holiday plant' means any facility-`(i) operated by the controlled foreign corporation in connection with the manufacture of personal property, and `(ii) with respect to which any economic benefit under any tax law of the country in which such facility is located accrued-`(I) to such corporation, `(II) for the purpose of providing an incentive to such corporation to establish, maintain, or expand such facility, and `(III) for the taxable year of such corporation during which the personal property referred to in paragraph (1) was manufactured. `(B) RUNAWAY PLANT DEFINED- The term `runaway plant' means any facility-`(i) for the manufacture of personal property of which not less than 10 percent is used, consumed, or otherwise disposed of in the United States, and `(ii) which is established or maintained by the controlled foreign corporation in a country in which the effective tax rate imposed by such country on the corporation is less than 90 percent of the effective tax rate which would be imposed on such corporation under this title. `(C) ECONOMIC BENEFIT UNDER ANY TAX LAW DEFINED- The term `economic benefit under any tax law' includes-`(i) any exclusion or deduction of any amount from gross income derived in connection with-`(I) the operation of any manufacturing facility, or `(II) the manufacture or sale of any personal property, which would otherwise be subject to tax under the law of such country; `(ii) any reduction in the rate of any tax which would otherwise be imposed under the laws of such country with respect to any facility or property referred to in clause (i) (including any ad valorem tax or excise tax with respect to such property); `(iii) any credit against any tax which would otherwise be assessed against any such facility or property or any income derived in connection with the operation of any such facility or the manufacture or sale of any such property; and `(iv) any abatement of any amount of tax otherwise due and any other reduction in the actual amount of tax paid to such country. `(D) MANUFACTURE DEFINED- The term `manufacture' or `manufacturing' includes any production, processing, assembling, or finishing of any personal property or any component of property not yet assembled and any packaging, handling, or other activity incidental to the shipment or delivery of such property to any buyer. `(E) CORPORATION INCLUDES ANY RELATED PERSON- The term `controlled foreign corporation' includes any related person with respect to such corporation. `(F) SPECIAL RULE FOR DETERMINING WHICH TAXABLE YEAR AN ECONOMIC BENEFIT WAS OBTAINED- An economic benefit under any tax law shall be treated as having accrued in the taxable year of the controlled foreign corporation in which such corporation actually obtained the benefit, notwithstanding the fact that such benefit may have been allowable for any preceding or succeeding taxable year and was carried forward or back, for any reason, to the taxable year. `(3) LIMITATION ON APPLICATION OF PARAGRAPH (1) IN CERTAIN CASES- For purposes of this section-`(A) IN GENERAL- The term `foreign base company manufacturing related income' shall not include any income of a controlled foreign corporation from the manufacture or sale of personal property if-`(i) such corporation is not a corporation significantly engaged in manufacturing, `(ii) the investment in the expansion of an existing facility which gave rise to a tax holiday for such facility was not a substantial investment, or `(iii) the personal property was used, consumed, or otherwise disposed of in the country in which such property was manufactured. `(B) CORPORATION SIGNIFICANTLY ENGAGED IN MANUFACTURING DEFINED`(i) GENERAL RULE- A corporation shall be deemed to be significantly engaged in manufacturing if the value of real property and other capital assets owned or controlled by the corporation and dedicated to manufacturing operations is more than 10 percent of the total value of all real property and other capital assets owned or controlled by such corporation. `(ii) SPECIAL RULE FOR ASSESSING PROPERTY VALUE- The value of any property owned by the corporation is the basis of such corporation in such property. The basis of the corporation in any property which was acquired other than by purchase shall be the fair market value of such property at the time of such acquisition. Any property controlled but not owned by such corporation under any lease (or any other instrument which gives such corporation any right of use or occupancy with respect to such property) shall be treated as property acquired other than by purchase in the manner provided in the preceding sentence. `(C) SUBSTANTIAL INVESTMENT DEFINED- The term `substantial investment' means any amount which-`(i) was added to the capital account for an existing facility during the 3-year period ending on the last day of any taxable year with respect to which such facility is a tax holiday plant, and `(ii) caused the sum of all amounts added to such account during such period to exceed 20 percent of the total value of such facility (determined in the manner provided in subparagraph (B)(ii)) on the first day of such period.'

#### ( )“Substantially” means at least 90%

Words & Phrases 5

(40B, p. 329)

N.H. 1949. -The word "substantially" as used in provision of Unemployment Compensation Act that experience rating of an employer may 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.-Auclair Transp. v. Riley, 69 A.2d 861, 96 N.H. l.-Tax347.1.

#### ( ) “Substantially” is a relative term --- context key

Words and Phrases 64

(Vol. 40, p. 816)

The word “substantially” is a relative term and should be interpreted in accordance with the context of claim in which it is used. Moss v. Patterson Ballagh Corp. D.C.Cal., 80 P.Supp. C10, 637.

#### ( ) "Substantially" must be gauged in context

Words and Phrases 2

(Volume 40A, p. 464)

Cal. 1956. “Substantial” is a relative term, its measure to be gauged by all the circumstances surrounding the matter in reference to which the expression has been used

#### ( ) "Substantial" means considerable in amount or value

Words and Phrases 2

(Volume 40A) p. 453

N.D.Ala. 1957. The word “substantial” means considerable in amount, value, or the like, large, as a substantial gain

# \*\*\*“Increase” – Definitions

### “Increase” – General Definitions

#### ( ) “Increase” means to become larger or greater in quantity

Encarta 6

– Encarta Online Dictionary. 2006. ("Increase" http://encarta.msn.com/encnet/features/dictionary/DictionaryResults.aspx?refid=1861620741)

in·crease [ in krss ] transitive and intransitive verb (*past and past participle* in·creased, *present participle* in·creas·ing, *3rd person present singular* in·creas·es)Definition**:** make or become larger or greater: to become, or make something become, larger in number, quantity, or degree noun (*plural* in·creas·es)

#### ( ) Increase requires a baseline

**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.

#### ( ) “Increase” requires preexistence

Buckley ‘6

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

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).

#### ( ) “Increase” doesn’t require preexistence

**Words and Phrases 8**

(Words and Phrases Permanent Edition, “Increase,” Volume 20B, p. 263-267 March 2008, Thomson West)

Wahs. 1942. The granting of compensation to any officer after he has commenced to serve the term for which he has been chosen, when no compensation was provided by law before he assumed the duties of his office, is an “increase” in salary or compensation within the constitutional provision prohibiting an increase of the compensation of a public officer during his term of office. Const. art, 2, 25; art. 11, 8. – State ex rel. Jaspers v. West 125 P.2d 694, 13 Wash.2d 514. Offic 100(1).

#### ( ) “Increase” doesn’t require pre-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.

# \*\*\*Negative Topicality Theory

### Err Negative – 1st Line

#### You should err neg on topicality and prefer Negative strategy to Affirmative ground – the Aff has structural advantages like infinite prep time to create their Affirmative, the ability to choose a strategic area of the topic for the 1AC, and the first and last speech which already give them an advantage – they should be held to the reciprocal burden of providing an acceptable amount of predictable negative ground.

### Competing Interpretations Good – 2NC

#### Competing interpretations are good:

#### ( ) Educational – debating about different interpretations equips debaters with the ability to engage in analytical debate based on *precise standards of evaluation*. Reasonability is arbitrary and jackknifes meaningful analysis of interpretations.

#### ( ) Reasonability is arbitrary – replaces interpretation’s clash with judge-evaluated reasonability, which is subjective. Subjective interpretations are the death of debate because there’s no OBJECTIVE standard for evaluation and the debaters CANNOT REASONABLY PREDICT how to frame their arguments

#### ( ) Our interp most predictable – allowing the neg to defend an interpretation shields them from unpredictable affirmatives. This improves the quality of debate by ensuring stable negative ground and minimizes judge intervention.

#### ( ) Destroys strategic ground – the combination of all reasonable interpretations will force the topic to be as large as possible. This forces the neg to assume a massive research burden, which collapses predictable ground. Ground isn’t meaningful unless it’s predictable because all of our strategies are researched with a set case list in mind.

#### ( ) Infinitely regressive – there’s no brightline for what is and what is not reasonable. Teams will always push these limits to catch the neg unprepared – we have evidentiary support

**Stone ‘23**

[Justice in the Circuit Court of Appeals, 8th Circuit. Sussex Land & Live Stock Co v. Midwest Refining Co, 1923. Lexis]

Where the use of land affects others, the use must be "reasonable" to escape liability for resultant damage to others. What is "reasonable" depends upon a variety of considerations and circumstances. It is an elastic term which is of uncertain value in a definition. It has been well said that "reasonable," means with regard to all the interest affected, his own and his neighbor's and also having in view public policy. But, elastic as this rule is, both reason and authority have declared certain limitations beyond which it cannot extend. One of these limitations is that it is "unreasonable" and unlawful for one owner to physically invade the land of another owner. There can be no damnum absque injuria where there is such a trespass.

### Fairness 1st

#### ( ) Fairness has to come first – otherwise everyone would quit, destroying debate. It’s objectively true that despite educational merits, one of the BIGGEST reasons debaters are so dedicated to the activity is because anyone can win a given round.

#### ( ) Fairness creates equitable debate which is a pre-requisite for education. Their forms of education can be reproduced in other forums – debate is a game which necessities fair rules otherwise no one would play it.

#### ( ) Limits are good and necessary to preserve debate – otherwise people will quit

Rowland 84

(Robert C., Debate Coach – Baylor University, “Topic Selection in Debate”, American Forensics in Perspective, Ed. Parson, p. 53-54)

The first major problem identified by the work group as relating to topic selection is the decline in participation in the National Debate Tournament (NDT) policy debate. As Boman notes: There is a growing dissatisfaction with academic debate that utilizes a policy proposition. Programs which are oriented toward debating the national policy debate proposition, so-called “NDT” programs, are diminishing in scope and size.4 This decline in policy debate is tied, many in the work group believe, to excessively broad topics. The most obvious characteristic of some recent policy debate topics is extreme breath. A resolution calling for regulation of land use literally and figuratively covers a lot of ground. Naitonal debate topics have not always been so broad. Before the late 1960s the topic often specified a particular policy change.5 The move from narrow to broad topics has had, according to some, the effect of limiting the number of students who participate in policy debate. First, the breadth of the topics has all but destroyed novice debate. Paul Gaske argues that because the stock issues of policy debate are clearly defined, it is superior to value debate as a means of introducing students to the debate process.6 Despite this advantage of policy debate, Gaske belives that NDT debate is not the best vehicle for teaching beginners. The problem is that broad policy topics terrify novice debaters, especially those who lack high school debate experience. They are unable to cope with the breadth of the topic and experience “negophobia,”7 the fear of debating negative. As a consequence, the educational advantages associated with teaching novices through policy debate are lost: “Yet all of these benefits fly out the window as rookies in their formative stage quickly experience humiliation at being caugh without evidence or substantive awareness of the issues that confront them at a tournament.”8 The ultimate result is that fewer novices participate in NDT, thus lessening the educational value of the activity and limiting the number of debaters or eventually participate in more advanced divisions of policy debate. In addition to noting the effect on novices, participants argued that broad topics also discourage experienced debaters from continued participation in policy debate. Here, the claim is that it takes so much times and effort to be competitive on a broad topic that students who are concerned with doing more than just debate are forced out of the activity.9 Gaske notes, that “broad topics discourage participation because of insufficient time to do requisite research.”10 The final effect may be that entire programs either cease functioning or shift to value debate as a way to avoid unreasonable research burdens. Boman supports this point: “It is this expanding necessity of evidence, and thereby research, which has created a competitive imbalance between institutions that participate in academic debate.”11 In this view, it is the competitive imbalance resulting from the use of broad topics that has led some small schools to cancel their programs.

### Limits Good

#### Narrow interpretations are key to all negative strategy –

#### ( ) Case-specific strategies are educational core negative ground – vast literature exists for topic-specific trade-off disads, specific politics or court disad links, presidential power disads, etc. along with in-depth debates over agent, delegation, or other process counterplans. These are the only core ground because the topic is so broad – the only stable action is what relates to the plan. Core ground is key to fairness because it’s the only thing for which we can consistently prepare.

#### ( ) Their interpretation is an incentive for aff conditionality – they can re-clarify the plan to be done by an alternate actor, or the plan to take a different course of action in the 2AC to avoid our best offense and manipulate the plan to their advantage

#### ( ) Crucial to pre-round preparation – the plan text is the most mainstream form of disclosure and locus of negative strategy formulation before the round – anything else skews time allocation. Adequate pre-round preparation is key to fair debate and education.

### Ext. Limits Good

#### ( ) Limits key to clash—minimize neg research burdens that facilitate generics

Hardy ‘10

(Aaron T. Hardy, Coach at Whitman College, “CONDITIONALITY, CHEATING COUNTERPLANS, AND CRITIQUES: TOPIC CONSTRUCTION AND THE RISE OF THE “NEGATIVE CASE””, Contemporary Argumentation & Debate, 2010, pg. 44-45, [http://www.cedadebate.org/cad/index.php/CAD/article/view File/271/243](http://www.cedadebate.org/cad/index.php/CAD/article/view%20File/271/243))

First, narrow topics are most likely to encourage substantive clash. One of the primary motivations for negative teams running away from engagement with the specifics of the affirmative is fear of “falling behind” in the necessary research effort. On a topic with 200 topical affirmative plan mechanisms, it is extremely unlikely that all but the most precocious of negative teams will be prepared to debate each one, and much more likely that they will turn instead to as generic of an approach as possible. Despite sentiments from some corners that the topic writing process is already too narrow and specialized, I would submit that the debate community has not yet truly experimented with what a radically narrower topic might entail. Even the smallest topics in recent memory have afforded the affirmative an incredible amount of flexibility, usually as a compromise to the “broad topics good” camp. A quick perusal of any of the archived case lists from the past decade reveals that even the narrowest topics the community has debated have entailed dozens (if not hundreds) of discrete affirmatives. Instead, envision as a potentially hyperbolic example, a topic with truly only five topical cases. With essentially no room for maneuver, it is easier to envision negative teams feeling empowered “stale” could be replaced with “nuanced,” even if debates superficially resemble each other as the year progresses.

#### ( ) Limits ensure predictability and don’t undermine affirmative flexibility

Kupferbreg ’87

(Debate Coach at University of Kentucky) 1987 (Eric, “Limits – The Essence of Topicality”, Latin American Politics: The Calculus of Instability, http://groups.wfu.edu/debate/MiscSites/DRGArticles/Kupferberg1987LatAmer.htm) aml

If you are negative, two lines of argumentation should be advanced. First, it is necessary to explain that the affirmative interpretation unlimits the resolution. It should be explained that many cases normally thought to be outside of the resolution would become topical. Special emphasis should be placed on explaining why the affirmative definition would serve as a precedent to an undebatable topic. A premium should be placed on pointing out absurd examples that would be allowable under the broader interpretation (or, the sheer number of cases that would fall within the resolution). Second, it is the negatives responsibility to explain that their own interpretation would allow for an adequate number of cases. If the negative is able to list several fruitful case areas that would remain topical, then the negative position appears less abusive.

### Framers’ Intent Good

#### ( ) Framer’s intent matters – it’s the basis of the topic

Hutchison 8

(Cameron, Assistant Professor of Law – University of Alberta, “Which Kraft of Statutory Interpretation”, Alberta Law Review, November, 46 Alberta L. Rev. 1, Lexis)

Second, it is not possible to interpret even a single word, much less an entire text, without knowing the purpose of the statute. [123](http://www.lexis.com/research/retrieve?y=&dom1=&dom2=&dom3=&dom4=&dom5=&crnPrh=&crnSah=&crnSch=&crnLgh=&crnSumm=&crnCt=&cc=&crnCh=&crnGc=&shepSummary=&crnFmt=&shepStateKey=&pushme=1&tmpFBSel=all&totaldocs=&taggedDocs=&toggleValue=&numDocsChked=0&prefFBSel=0&delformat=XCITE&fpDocs=&fpNodeId=&fpCiteReq=&fpSetup=0&brand=&_m=bef2ae73d8968e2a7ac2c41f4058a2c3&docnum=3&_fmtstr=FULL&_startdoc=1&wchp=dGLzVtb-zSkAb&_md5=78aa7022ae9dd715e1437a81c40167d8&focBudTerms=canon+and+competing+interpretation+w%2F100+text%21&focBudSel=all" \l "n123#n123" \t "_self) To take Hart's "no vehicle in the park" example, if local patriots were to wheel a truck used in World War II on a pedestal, would this qualify as a core case? This example illustrates that meaning of language in a statute cannot be divorced from an inquiry into the purpose that a rule serves. When courts are offered competing interpretations, they must choose the one that is most sensible in connection with its legislative purpose, [124](http://www.lexis.com/research/retrieve?y=&dom1=&dom2=&dom3=&dom4=&dom5=&crnPrh=&crnSah=&crnSch=&crnLgh=&crnSumm=&crnCt=&cc=&crnCh=&crnGc=&shepSummary=&crnFmt=&shepStateKey=&pushme=1&tmpFBSel=all&totaldocs=&taggedDocs=&toggleValue=&numDocsChked=0&prefFBSel=0&delformat=XCITE&fpDocs=&fpNodeId=&fpCiteReq=&fpSetup=0&brand=&_m=bef2ae73d8968e2a7ac2c41f4058a2c3&docnum=3&_fmtstr=FULL&_startdoc=1&wchp=dGLzVtb-zSkAb&_md5=78aa7022ae9dd715e1437a81c40167d8&focBudTerms=canon+and+competing+interpretation+w%2F100+text%21&focBudSel=all#n124#n124) and makes the statute "a coherent [and] workable whole." [125](http://www.lexis.com/research/retrieve?y=&dom1=&dom2=&dom3=&dom4=&dom5=&crnPrh=&crnSah=&crnSch=&crnLgh=&crnSumm=&crnCt=&cc=&crnCh=&crnGc=&shepSummary=&crnFmt=&shepStateKey=&pushme=1&tmpFBSel=all&totaldocs=&taggedDocs=&toggleValue=&numDocsChked=0&prefFBSel=0&delformat=XCITE&fpDocs=&fpNodeId=&fpCiteReq=&fpSetup=0&brand=&_m=bef2ae73d8968e2a7ac2c41f4058a2c3&docnum=3&_fmtstr=FULL&_startdoc=1&wchp=dGLzVtb-zSkAb&_md5=78aa7022ae9dd715e1437a81c40167d8&focBudTerms=canon+and+competing+interpretation+w%2F100+text%21&focBudSel=all#n125#n125) Moreover, the purpose of a statute is not static, but through interpretation, courts engage in a process of redefining and clarifying the ends themselves. [126](http://www.lexis.com/research/retrieve?y=&dom1=&dom2=&dom3=&dom4=&dom5=&crnPrh=&crnSah=&crnSch=&crnLgh=&crnSumm=&crnCt=&cc=&crnCh=&crnGc=&shepSummary=&crnFmt=&shepStateKey=&pushme=1&tmpFBSel=all&totaldocs=&taggedDocs=&toggleValue=&numDocsChked=0&prefFBSel=0&delformat=XCITE&fpDocs=&fpNodeId=&fpCiteReq=&fpSetup=0&brand=&_m=bef2ae73d8968e2a7ac2c41f4058a2c3&docnum=3&_fmtstr=FULL&_startdoc=1&wchp=dGLzVtb-zSkAb&_md5=78aa7022ae9dd715e1437a81c40167d8&focBudTerms=canon+and+competing+interpretation+w%2F100+text%21&focBudSel=all" \l "n126#n126" \t "_self) As Fuller puts it, courts must "be sufficiently capable of putting [themselves] in the position of those who drafted the rule to know what they thought 'ought to be.' It is in the light of this 'ought' that [they] must decide what the rule 'is.'" [127](http://www.lexis.com/research/retrieve?y=&dom1=&dom2=&dom3=&dom4=&dom5=&crnPrh=&crnSah=&crnSch=&crnLgh=&crnSumm=&crnCt=&cc=&crnCh=&crnGc=&shepSummary=&crnFmt=&shepStateKey=&pushme=1&tmpFBSel=all&totaldocs=&taggedDocs=&toggleValue=&numDocsChked=0&prefFBSel=0&delformat=XCITE&fpDocs=&fpNodeId=&fpCiteReq=&fpSetup=0&brand=&_m=bef2ae73d8968e2a7ac2c41f4058a2c3&docnum=3&_fmtstr=FULL&_startdoc=1&wchp=dGLzVtb-zSkAb&_md5=78aa7022ae9dd715e1437a81c40167d8&focBudTerms=canon+and+competing+interpretation+w%2F100+text%21&focBudSel=all" \l "n127#n127" \t "_self)

#### ( ) Legislative intent of the resolution outweighs limits

Clements 5

Judge Jean Harrison Clements, Court of Appeals of Virginia, October 25, 2005, Bryan David Auer v. Commonwealth of Virginia – Court of Appeals of Virginia, <http://www.courts.state.va.us/opinions/opncavtx/0851041.txt>

Consequently, the fact that the statute does not expressly enumerate a particular item implies that the item "falls outside of the definition." Highway & City Freight Drivers, 576 F.2d at 1289; see County of Amherst Bd. of Supervisors v. Brockman, 224 Va. 391, 397, 297 S.E.2d 805, 808 (1992) (holding that the courts "may not add to a statute language" that the legislature intended not be included therein). Because the word "include" is susceptible to more than one meaning and because it is not immediately clear from the word's context which meaning is meant to apply in Code 19.2-295.1, we conclude that the statute's provision that "[p]rior convictions shall include convictions . . . under the laws of any state, the District of Columbia, the United States or its territories" is ambiguous. See Brown v. Lukhard, 229 Va. 316, 321, 330 S.E.2d 84, 87 (1985) (noting that words are ambiguous if they admit to "being understood in more than one way" or lack "clearness and definiteness"). See generally Liverpool v. Baltimore Diamond Exch., Inc., 799 A.2d 1264, 1274 (Md. Ct. Spec. App. 2002) (recognizing that "the term 'includes,' by itself, is not free from ambiguity" because it "has various shades of meaning," ranging from enlargement and expansion to limitation and restriction); Frame v. Nehls, 550 N.W.2d 739, 742 (Mich. 1996) ("When used in the text of a statute, the word 'includes' can be used as a term of enlargement or of limitation, and the word in and of itself is not determinative of how it is intended to be used."). "Therefore, we are called upon to construe this statutory language in a manner that will ascertain and give effect to the General Assembly's intent." Herndon v. St. Mary's Hosp., Inc., 266 Va. 472, 475, 587 S.E.2d 567, 569 (2003). In seeking to resolve the ambiguity in the statutory language and discern the legislature's intent, we apply established principles of statutory interpretation. See Va. Dep't of Labor & Industry v. Westmoreland Coal Co., 233 Va. 97, 101-02, 353 S.E.2d 758, 762 (1987). Consistent with such principles, we interpret the statute so as "to promote the end for which it was enacted, if such an interpretation can reasonably be made from the language used." Mayhew v. Commonwealth, 20 Va. App. 484, 489, 458 S.E.2d 305, 307 (1995). Thus, the "statute must be construed with reference to its subject matter, the object sought to be attained, and the legislative purpose in enacting it; the provisions should receive a construction that will render it harmonious with that purpose rather than one which will defeat it." Esteban v. Commonwealth, 266 Va. 605, 609, 587 S.E.2d 523, 526 (2003). Furthermore, although "[i]t is a cardinal principle of law that penal statutes are to be construed strictly against the [Commonwealth]" and "cannot be extended by implication, or be made to include cases which are not within the letter and spirit of the statute," Wade v. Commonwealth, 202 Va. 117, 122, 116 S.E.2d 99, 103 (1960), "we will not apply 'an unreasonably restrictive interpretation of the statute' that would subvert the legislative intent expressed therein," Armstrong v. Commonwealth, 263 Va. 573, 581, 562 S.E.2d 139, 144 (2002) (quoting Ansell v. Commonwealth, 219 Va. 759, 761, 250 S.E.2d 760, 761 (1979)).

#### ( ) It’s key to establish the baseline for literature

Weaver ‘7

(Aaron Weaver, Ph.D. Candidate in Politics and Society – Baylor University, “An Introduction to Original Intent”, Fall, http://www.thebigdaddyweave.com/BDWFiles/originalism.pdf)

During the Reagan presidency, Attorney General Edwin Meese, III was perhaps the most outspoken advocate of originalism. In 1985, Meese became the subject of deep controversy after calling for a “jurisprudence of original intent.” He accused the Supreme Court of straying from the original intention of the United States Constitution. Meese explained that the purpose of a jurisprudence of original intent was to: Explicate not simply what is old, but what is basic, what is true. It is a means of accommodating the political changes wrought by time within the safe framework of fundamental principles that are permanent – unchangeable. It is a jurisprudence that takes seriously the belief that the Constitution – our written Constitution – means something, something that can be and must be discerned and applied to our modern circumstances. The Framers’ object was not to keep the Constitution in tune with the times but rather to keep the times in tune with the Constitution. 7

### Grammar’s Good

#### ( ) You should prefer a grammatically correct interpretation – it determines meaning, making it a pre-requisite to predictable ground and limits

Allen 93

(Robert, Editor and Director – The Chambers Dictionary, Does Grammar Matter?)

Grammar matters, then, because it is the accepted way of using language, whatever one’s exact interpretation of the term. Incorrect grammar hampers communication, which is the whole purpose of language. The grammar of standard English matters because it is a codification of the way using English that most people will find acceptable.

#### ( ) Grammar controls the definition of a word – *context is key*

Dolley ‘84

(Steven D. Dolley, Nuclear Control Institute's research director, former Debate Coach at Bates College and the University of Vermont, where “Topicality: Is it Reasonable to be Reasonable ????”, 1984—Waging War on Poverty, [http://groups.wfu.edu/debate/MiscSites/ DRGArticles/Dolley1984Poverty.htm](http://groups.wfu.edu/debate/MiscSites/%20DRGArticles/Dolley1984Poverty.htm))

A second determinant of context in the sentence is grammar. Many **words serve different grammatical functions in different situations**, and **their meaning shifts drastically from one context to another**. The work "all" is illustrative. When used as an adjective, it means "the whole amount or Quantity of,"21 as we are well aware. When a knife-wielding felon says, "Give me all your money," you had best hand over the entirety of your cash if you wish to acknowledge the literal meaning of his statement and avoid internal bleeding. However, "all" works quite differently when it becomes an adverb, meaning in that situation "entirely; totally; altogether."22 To eat all-beef patties does not mean to gorge oneself on every burger in the world, and to be voted All-American does not transform a quarterback into every US citizen. **To define a word being used as one part of speech when it is being used as another renders the word less than useless**. Third, the syntactical structure of the sentence must be accounted for. Some words have different definitions in different types of sentences. The word "any" is one such word, as college debaters learned a few years ago. Zeno Vendler, a logician at Cornell University, used the example of a basket of apples and the statement "Take any." Here the syntactical context is permissive, and as Vendler stressed, "any" cannot mean "all": I said, 'Take any.' Do you want to suggest that short of taking all you did not accept the offer? No, I say, taking all would be an abuse of it. Your requirement of completeness clashes, once more, with the freedom of choice of 'any..'23 If the sentence were altered to make it prohibitive rather than permissive, it would read "Do not take any." Here, "any's" function would be similar to "all" i.e., all apples are denied to you. **Debaters must be cautious when dealing with these subtle but significant shifts in meaning**. Often extensive research in dictionaries, encyclopedias, compilations of legal definitions such as *Words and Phrases*, and grammar texts will be necessary. An affirmative relying on first glance impressions, or gut feelings about what the framers must have meant, will drop many topicality ballots to a team that has methodically explored the implications of the resolution's syntax.

#### ( ) Can’t define a word without analyzing the grammatical context

Shannon ‘2

[Brad. Prof Law at Idaho. 77 Wash L Rev 65. 2002. HeinOnline]

Another significant impediment to the utilization of proper procedural terminology concerns the matter of context. Words, of course, properly may have a number of meanings depending upon the context in which they are used. Thus, though the meaning of legal term might be related to the meaning of a non-legal word from which it was derived, often there are differences. Moreover, just as there can be differences in the meanings of non-legal words, there often are important differences. Moreover, just as there can be differences in the meanings of non-legal words, there often are differences in the meanings of many legal terms. Consider, for example, the term *dismissal*. Though the word *dismissal* generally (and perhaps also in some legal contexts) connotes any manner of disposition, for purposes of the Rules, this term actually denotes only one type of disposition. Thus, one might always be careful to go beyond whatever non-legal (or even non-Rules) meanings any given word might have and to educate oneself as to the scope of their stipulative Rules definitions.

#### ( ) Grammar is necessary to communicate

Shannon ‘2

[Brad. Prof Law at Idaho. 77 Wash L Rev 65. 2002. HeinOnline]

“[I]n many respects language is a fragile tool. Lazy, cavalier, careless, or arrogant performance can damage it. Especially in an era of easy mass communication, insensitive bastardizations can crush subtlety, blur valuable distinctions, make useful things difficult to say. The language simply what is written and spoken. … So the erosion of performance skills—in general, but especially among journalists—results directly in the erosion of language of itself. When headlines repeatedly use “refute’ to mean a particularly spunky denial, it blurs the worthwhile distinction between refuation and denial. When “paramaters” is used as an exotic-sounding synonym for limits” it robs us of the more subtle job “parameters” was formerly commissioned to do in nearly identical contexts. We end up with two words for the same job and make it increasingly difficult for “parameters” ever to do its earlier, distinctive job. The richness and value of a natural language in communication depend on the stability of its major components. For the subtlety and precision with which we can speak to each other is limited by our grasp of the linguistic devices and institutions required to do o. And the only plausible way to improve general level of competence in this regard—even in a relatively small linguistic community—is by mastering the currently available institutions, which have survived a touch evolutionary winnowing and by building on them where required. It is hopeless to try to rebuild basic linguistic institutions from the ground up every generation or every season or every conversation. Whenever we blunder into a discipline of even slightly unfamiliar jargon, we feel vaguely lost. It is difficult to understand anything but the broad outline of what is being said. Time and familiarity are required before the finer points may grasp. At every level, linguistic patterns take time to develop and more time to sink in; and the more refined they are the longer they take. 408.

408—WRIGHT, *supra* note 33, at 196-97

#### ( ) Grammar matters – context is key

Kupferbreg ’87

(Debate Coach at University of Kentucky) 1987 (Eric, “Limits – The Essence of Topicality”, Latin American Politics: The Calculus of Instability, http://groups.wfu.edu/debate/MiscSites/DRGArticles/Kupferberg1987LatAmer.htm) aml

It is widely held in linguistics and shared by the debate community, that a single word can have multiple meanings depending on the context in which it is used. The emergence of the "field contextual" standard for definitions recognizes this belief. However, I feel that most pleas for "contextual' definitions are misplaced. Importantly, words differ in their meanings because they are used for different purposes. 'Cold Turkey' for a Jerry's Sub Shop worker clearly conveys a different message than it might for a drug addict. The 'field context" standard suggests that we should prefer definitions taken from the field identified within the resolutional subject area. For example, during last year, an agricultural definition of 'long-term' was preferred over a legal interpretation. My contention is that participants in this activity have forgotten that they are in the context of inter-scholastic, competitive debate--though we often pretend otherwise. What might be appropriate within the subject matter field may not serve the salient interests of the debate context. A definition that produces an uneducational or unfair resolution is neither 'reasonable' nor 'best." An expert in agricultural policies does operate with the same constraints as those placed on a debater. There are, for example, no time limits for speeches, constraints on research resources or competitive incentives to define someone out of the room.

### AT//Aff Flexibility

#### ( ) Rules and boundaries facilitate innovation

Flood 10

(Scott, BS in Communication and Theatre Arts – St. Joseph’s College, School Board Member – Plainfield Community School Corporation, and Advertising Agent, “Business Innovation – Real Creativity Happens Inside the Box”, http://ezinearticles.com/?Business-Innovation---Real-Creativity-Happens-Inside-the-Box&id=4793692)

It seems that we can accomplish anything if we're brave enough to step out of that bad, bad box, and thinking "creatively" has come to be synonymous with ignoring rules and constraints or pretending they just don't exist. Nonsense. Real creativity is put to the test within the box. In fact, that's where it really shines. It might surprise you, but it's actually easier to think outside the box than within its confines. How can that be? It's simple. When you're working outside the box, you don't face rules, or boundaries, or assumptions. You create your own as you go along. If you want to throw convention aside, you can do it. If you want to throw proven practices out the window, have at it. You have the freedom to create your own world. Now, I'm not saying there's anything wrong with thinking outside the box. At times, it's absolutely essential - such as when you're facing the biggest oil spill in history in an environment in which all the known approaches are failing. But most of us don't have the luxury of being able to operate outside the box. We've been shoved into reality, facing a variety of limitations, from budgets, to supervisors' opinions and prejudices, to the nature of the marketplace. Even though the box may have been given a bad name, it's where most of us have to spend our time. And no matter how much we may fret about those limits, inside that box is where we need to prove ourselves. If you'll pardon the inevitable sports analogy, consider a baseball player who belts ball after ball over 450 feet. Unfortunately, he has a wee problem: he can't place those hits between the foul lines, so they're harmful strikes instead of game-winning home runs. To the out-of-the-box advocates, he's a mighty slugger who deserves admiration, but to his teammates and the fans, he's a loser who just can't get on base. He may not like the fact that he has to limit his hits to between the foul poles, but that's one of the realities of the game he chose to play. The same is true of ideas and approaches. The most dazzling and impressive tactic is essentially useless if it doesn't offer a practical, realistic way to address the need or application. Like the baseball player, we may not like the realities, but we have to operate within their limits. Often, I've seen people blame the box for their inability or unwillingness to create something workable. For example, back in my ad agency days, I remember fellow writers and designers complaining about the limitations of projects. If it was a half-page ad, they didn't feel they could truly be creative unless the space was expanded to a full page. If they were given a full page, they demanded a spread. Handed a spread, they'd fret because it wasn't a TV commercial. If the project became a TV commercial with a $25,000 budget, they'd grouse about not having a $50,000 budget. Yet the greatest artists of all time didn't complain about what they didn't have; they worked their magic using what they did. Monet captured the grace and beauty of France astonishingly well within the bounds of a canvas. Donatello exposed the breathtaking emotion that lurked within ordinary chunks of marble. And I doubt that Beethoven ever whined because there were only 88 keys on the piano. Similarly, I've watched the best of my peers do amazing things in less-than-favorable circumstances. There were brilliant commercials developed with minimal budgets and hand-held cameras. Black-and-white ads that outperformed their colorful competitors. Simple postcards that grabbed the attention of (and business from) jaded consumers. You see, real creativity isn't hampered or blocked by limits. It actually flowers in response to challenges. Even though it may be forced to remain inside the box, it leverages everything it can find in that box and makes the most of every bit of it. Real creativity is driven by a need to create. When Monet approached a blank canvas, it's safe to say that he didn't agonize over its size. He wanted to capture something he'd seen and share how it looked through his eyes. The size of the canvas was incidental to his talent and desire. Think about the Apollo 13 mission. NASA didn't have the luxury of flying supplies or extra tools to the crew. They couldn't rewrite the laws of physics. Plus, they faced a rapidly shrinking timeline, so their box kept getting smaller and less forgiving. And yet they arrived upon a solution that was creative; more important, that was successful. The next time someone tells you that the real solution involves stepping outside the box, challenge him or her to think and work harder. After all, the best solution may very well be lurking in a corner of that familiar box.

### AT//Breadth > Depth

#### ( ) Studies prove that deep education on a few issues outweighs the decision to exclude some topics in their entirety

WP 9

(Washington Post, “Will Depth Replace Breadth in Schools?” http://voices.washingtonpost.com/class-struggle/2009/02/will\_depth\_replace\_breadth\_in.html)

The truth, of course, is that students need both. Teachers try to mix the two in ways that make sense to them and their students. But a surprising study — certain to be a hot topic in teacher lounges and education schools — is providing new data that suggest educators should spend much more time on a few issues and let some topics slide. Based on a sample of 8,310 undergraduates, the national study says that students who spend at least a month on just one topic in a high school science course get better grades in a freshman college course in that subject than students whose high school courses were more balanced. The study, appearing in the July issue of the journal Science Education, is “Depth Versus Breadth: How Content Coverage in High School Science Courses Relates to Later Success in College Science Coursework.” The authors are Marc S. Schwartz of the University of Texas at Arlington, Philip M. Sadler and Gerhard Sonnert of the Harvard-Smithsonian Center for Astrophysics and Robert H. Tai of the University of Virginia. This is more rich ore from a goldmine of a survey Sadler and Tai helped organize called “Factors Influencing College Science Success.” It involved 18,000 undergraduates, plus their professors, in 67 colleges in 31 states. The study weighs in on one side of a contentious issue that will be getting national attention this September when the College Board’s Advanced Placement program unveils its major overhaul of its college-level science exams for high school students. AP is following a direction taken by its smaller counterpart, the International Baccalaureate program. IB teachers already are allowed to focus on topics of their choice. Their students can deal with just a few topics on exams, because they have a wide choice of questions. AP’s exact approach is not clear yet, but College Board officials said they too will embrace depth. They have been getting much praise for this from the National Science Foundation, which funded the new study. Sadler and Tai have previously hinted at where this was going. In 2001 they reported that students who did not use a textbook in high school physics—an indication that their teachers disdained hitting every topic — achieved higher college grades than those who used a textbook. Some educators, pundits, parents and students will object, I suspect, to sidelining their favorite subjects and spending more time on what they consider trivial or dangerous topics. Some will fret over the possibility that teachers might abandon breadth altogether and wallow in their specialties. Even non-science courses could be affected. Imagine a U.S. history course that is nothing but lives of generals, or a required English course that assigns only Jane Austen. “Depth Versus Breadth” analyzes undergraduate answers to detailed questions about their high school study of physics, chemistry and biology, and the grades they received in freshman college science courses. The college grades of students who had studied at least one topic for at least a month in a high school science course were compared to those of students who did not experience such depth. The study acknowledges that the pro-breadth forces have been in retreat. Several national commissions have called for more depth in science teaching and other subjects. A 2005 study of 46 countries found that those whose schools had the best science test scores covered far fewer topics than U.S. schools.

### AT//Literature Checks Abuse

#### Literature does not check abuse:

#### ( ) There’s no limit – Literature exists about everything and the resolution serves to limit teams’ research burdens down to specific subsets of that literature. Their argument’s ONLY LIMIT is “that for which literature exists” – which could be anything.

#### ( ) Predictability is the filter through which you should evaluate literature – means that in THIS INSTANCE, lit does not check abuse because we had no way of knowing to research literature about their aff.

#### ( ) Determining the meaning of the resolution is key --There is extensive literature about baseball, and we could have an outstanding debate about that topic, but that’s not the resolution. Determining what the resolution means is a prerequisite to debating about its merits – their argument justifies debating last year’s Mars affirmative because “everyone has a space backfile".

### AT//Clash Checks Abuse

#### Clash doesn’t check abuse

#### ( ) Clash is inevitable – we can always go for Consult NATO or the Heidegger critique – both are arguments that we have and they probably have answers to. That doesn’t prove their model of debate is fair.

#### ( ) No link – their argument presupposes that the clash allowed by their affirmative is GOOD clash; the negative is at a MASSIVE strategic disadvantage when their only 2NR options are T and the K.

#### ( ) Don’t punish us for having ev -- Preparation is about more than just having some cards – otherwise the “disband America” aff would be topical because every team carries “hegemony good” evidence. Their vision of the topic explodes the negative’s preparation burden making it impossible for us to effectively research in-depth positions drawn from the topic literature. If we win that our interpretation is superior then we internal link turn their clash arguments because our vision of the topic would better enable the negative to meet their burden of rejoinder.

### AT//Disclosure Checks Abuse

#### Disclosure doesn’t check:

#### ( ) Destroys strategic ground -- There would be as many affirmatives as there are teams and there would be no predictable negative ground. The reason we have a resolution is to provide the negative with a core set of arguments that dispute the desirability for change – their argument would force the neg to have a case neg to every affirmative on the wiki even if it isn’t close to topical.

#### ( ) Doesn’t prove they’re topical – literature exists about everything, but we shouldn’t have to prepare for arguments outside the resolution. Determining what the topic means is a prerequisite to debating its desirability.

#### ( ) Devastates small schools – it’s not reasonable to expect small schools with only a few debaters and a coach to keep up with the hundreds of affirmatives that would exist under their interpretation. The impact is participation in debate, which proves all our fairness arguments and internal-link turns all your ground/limits/education claims.

### AT//Not a Voting Issue

#### ( ) Jurisdiction -- Before determining whether or not the plan is desirable one must determine whether or not the plan is within the bounds of one’s jurisdictional authority – if the affirmative is not an example of the resolution, then they have not provided a justification for voting affirmative.

#### ( ) Relevant education – we expect to use debate rounds as a vehicle to learn about the resolution. Affirmatives reading untopical plans prevents this by taking the discussion away from the topic. Predictable education is the ONLY MEANINGFUL form of education because we need to engage in BASELINE LEARNING before the round in order to master the topic.

#### ( ) Fairness – if the aff isn’t confined to the resolution, affirmatives would have NO INCENTIVE to read topical affirmatives. Rather, they would eliminate all negative ground with plan texts like “do not kill innocent children”. This destroys competitive equity, explodes affirmative side bias, and collapses predictable ground. We have evidentiary support

Speice and Lyle ‘3

[Patrick (Wake Forest Debater) and Jim (Director of Debate @ Clarion). “Traditional Policy Debate: Now More than Ever”. The Debater’s Research Guide, 2003. groups.wfu.edu/debate ]

The plan is a necessary convention in debate because it is a specific statement of topical advocacy that the affirmative is bound to defend, and all negative ground comes from attacks on the plan and it’s justifications. If the affirmative team argues for the judge to vote for them based on statements not related to the plan, it is likely that these portions of the 1AC will not be topical. Allowing teams to advocate non-topical statements as a reason to vote for them makes it impossible for the negative to debate. The affirmative could simply defend a statement such a “racism is bad” or “2 + 2 = 4.” Such non-falsifiable statements make going negative immensely unattractive, as the affirmative would win virtually every debate. Teams that run such affirmatives, or that justify such affirmatives by divorcing the judge’s decision from a topical plan-focus, skew the debate in such a way that it becomes a “rigged game” in favor of the affirmative.

#### ( ) The punishment paradigm is best – if they broke the rules, you should vote negative to deter future bad practices

Sigel **85**

(Doug Sigel, Northwestern debate, Wake Forest University, 1985, Punishment: Does It Fit the Crime? The Debaters’ Research Guide, groups.wfu.edu/debate)

The punishment paradigm boils down to the argument that abusive debate practices should be punished with a loss. If a team employs strategies which are unfair to their opponents or which harm the debate process, the penalty should be a loss--even if they win the substantive policy issues in the debate. For example, a negative team who runs conditional counterplans would lose a debate in which the punishment paradigm was successfully argued even if they were able to refute all other affirmative arguments--like competition, topicality, and disadvantages--against those policies. In short, the punishment approach makes the legitimacy of the debate practices of both teams a prior issue to the substantive policy concerns that normally form the basis for judges' decisions. There are three major justifications for punishment. First, voting against bad debate practices deters their future use. Second, the unfair burdens created by tactics like conditional counterplans and incomprehensible delivery requires the judge to restore competitive equity by punishing the team employing those tactics in a round. Third, the judge is an educator and should teach proper academic conduct by nullifying all arguments made by students who abuse the debate process. These three justifications are the most common reasons advanced for punishment but there are probably others.

### AT//Reasonability

#### ( ) If we win our interpretation establishes a superior topic, then theirs should be considered unreasonable

Mancuso ‘82

(Steve Manusco, Debater for University of Kentucky, Wake Forest University, 1982, Topicality: In Search of Reason. The Debaters’ Research Guide, groups.wfu.edu/debate)

In recognition of the many possible definitions of a word, the debate community has adopted (original mother and father unknown) the convention that the affirmative definition only needs to be "reasonable." This burden traditionally stands opposed to the notion that the affirmative must have the best definition of a word, or even necessarily a better definition than the negative. While the initial theoretical underpinnings for such a convention are far from clear, it must certainly be justified on the grounds that it promotes the objective of quality debating. Such a convention recognizes that a definition is not right or wrong, but merely acceptable or unacceptable in a given situation. In situations where broad interpretations of a topic are desirable, a broader-than usual definition may be reasonable, and where a narrow interpretation is desirable, narrow definitions may be reasonable. Such a simplified view of reasonability is not justified in the face of the recent uses and abuses of such a convention. The relevant question is: What does it mean to be reasonable? Again, courts and legislators may have their own definitions of "reasonable," but they may not be at all useful for the functioning of the term in debate. To state that a court has been unable to define the word "reasonable" only means that in that particular context it was difficult, not that such a finding should be accepted as proof that we cannot come up with a workable concept of reasonability for our purposes. Of course, someone who has listened to a few debates concerning "reasonability" may find great sympathy with such a court the concept has taken on very diverse forms, to say the least, in its varied uses. On one extreme, teams have argued that as long as they were not "absurd" in defining their terms, they were reasonable, and some teams have argued that because their definition exists they are some how reasonable. On the other end of the definitional continuum, some interpretations of reasonability have been very restrictive. Some teams have argued that only the best definition is reasonable--that it shows little reason to accept an inferior definition. Clearly there has been quite a bit of disagreement as to what is entailed by a "reasonable" definition. Some debate critics have responded to this dispute by throwing up their arms and calling for the abandonment of the concept of reasonability as a topicality convention altogether. While it is very easy to respect and have empathy with such sentiment, it seems prudent to attempt a less radical solution by constructing a more useful and practical convention of reasonability without ""piffing" the concept in its entirety. I would suggest two steps in construction of a workable reasonability convention. First, we must agree upon what makes a definition acceptable. Keeping in mind the goal of high quality debating, two criteria necessary for an acceptable definition should be (1) Does it tend toward focusing debates on timely and relevant policy advocacy? and (2) does it allow the negative sufficient ability to be prepared in both analysis and research? A definition which failed to meet either of these goals would not seem to be an acceptable approach to interpretation. Secondly, the actual debate over topicality should center on the question of whether or not the affirmative interpretation actually did meet both of these criteria. In this sense, the "threshold" for when a definition became "reasonable" would be raised well above the currently less rigorous approaches, yet not overly restrict the affirmative initial and presumptive right to define its terms. The burden would be on the affirmative to explain, wren challenged, the implications of its definition, thus reviving the concept of an affirmative burden on topicality, without making the burden prohibitively heavy by making them refute any conceivable negative alternative definition. In an effort to supplement the convention of "reasonability," "standards" of definition have been offered which the affirmative should meet in order to be considered reasonable. These standards could potentially be used to discern whether or not the affirmative approach met the above two criteria.

### AT//Critiques of Topicality

#### Topicality isn’t violent/genocidal/whatever they said it is:

#### ( ) We don’t limit out your discussion—our argument is that you must tie your discussion to the topic. This is best:

#### a. Strategic Ground—your interpretation effectively prevents the negative from garnering any reasonable offense; makes it impossible for us to generate any reasonable response, especially in critical rounds in which the affirmative just critiques all attempts to achieve fairness.

#### b. Predictable Limits—education and philosophical growth can only be achieved if the merits of an advocacy are evaluated; those merits are only debatable if we can PREDICT the topic prior to the start of the debate. The alternative is anti-education because we’re taught to accept things without question.

#### ( ) Refusal to allow a coherent, planned response to your argument results in an essentialized and romantic understanding of the thesis of the 1ac.

**Waterstone 2k**

[Bonnie. PhD in Gender Studies @ Simon Fraser University. The Feminist Struggle, Pg 49. 2000]

The power to select and authorize certain voices can also be read in the paternalistic concern, in critical pedagogy as well as in research, to give "voice to the voiceless" (Visweswaran, 1994, p.9). This construction of 'voice' against a background of silence tends to result in a romanticized and essentialized version, singular and representative, obscuring dissonance and multiplicity. This use of 'voice' also reinforces an unproblematic speech/silence binary. In this binary, speech is (necessarily) beneficial, and silence a sign of repression. Speech is positively loaded with assumptions of agency, and silence negatively loaded with passivity. Not only is this a very Western view of the practices of speech and silence, it also elides the conditions of reception and production that make some voices and not others intelligible. As Gayatri Spivak (1994) asserts, the subaltern can speak--but can she be heard? Who will listen?

#### ( ) We don’t silence voices – the aff gets 32 minutes to talk about whatever they want. Voting negative doesn’t prevent them from speaking, only from winning. It’s another double bind: EITHER they value their project more than winning, which proves there’s no impact to voting negative because they don’t have an “ballot key” warrant. OR they just want to win, the impact to their argument is overstated.

#### ( ) Fairness first – it’s a pre-requisite to maintaining debate as an open marketplace of ideas for your project to flourish.

**Speice and Lyle ‘3**

[Patrick (Wake Forest Debater) and Jim (Director of Debate @ Clarion). “Traditional Policy Debate: Now More than Ever”. The Debater’s Research Guide, 2003. groups.wfu.edu/debate ]

As with any game or sport, creating a level playing field that affords each competitor a fair chance of victory is integral to the continued existence of debate as an activity. If the game is slanted toward one particular competitor, the other participants are likely to pack up their tubs and go home, as they don’t have a realistic shot of winning such a “rigged game.” Debate simply wouldn’t be fun if the outcome was pre-determined and certain teams knew that they would always win or lose. The incentive to work hard to develop new and innovative arguments would be non-existent because wins and losses would not relate to how much research a particular team did. TPD, as defined above, offers the best hope for a level playing field that makes the game of debate fun and educational for all participants.

# \*\*\*Affirmative Topicality Theory

### Err Affirmative – 1st Line

#### Err affirmative in topicality debates –

#### ( ) Negative side bias – there’s no check on cheating critique alternatives, disads don’t really need links anymore, the standard for a competitive counterplan is at an all-time low, and there are only like 4 affs that can beat the States counterplan. Reading affirmatives that lie at the margins of the topic is the only way to restore competitive equity.

#### ( ) Innovation overwhelms – excluding our aff from the topic discourages innovative research and argument development. Our affirmative is the REASON that the debate community chose the transportation topic – it forces students to cope with a constantly changing political and socioeconomic controversies. This is the BEST framework for education – bolsters critical thinking and ensures that students are able to take old forms of knowledge and apply it to new contexts.

#### ( ) Literature checks – Our affirmative is both predictable and supported by the literature about transportation. The only function of topicality is to ensure that the negative can prepare for the plan – they shouldn’t win because they haven’t prepared. Make them prove our interpretation has prevented them from fairly competing.

### Competing Interpretations Bad / Reasonability Good 2AC

#### Competing interpretations is an undesirable framework:

#### ( ) Education DA – Competing Interpretations provides an incentive for the neg to avoid clash and case-specific research– they’ll just manufacture a contrived interpretation that excludes the plan.

#### ( ) No logical basis – there’s no logical reason the aff should lose because a superior interpretation exists. That’s absurd and creates an infinitely regressive race to the bottom.

#### ( ) C/I – reasonability – If we win that our interpretation is predictable and allow the negative to compete fairly, then topicality has SERVED ITS FUNCTION. Our interpretation solves all of your reasons topicality is good and doesn’t link to the education DA.

#### ( ) Reasonability is best – competing interpretations is a bad model for debate and overwhelms the affirmative’s burden

Ryan ‘4

(Andrew B. Ryan, college debater, Wake Forest University, 2004, Reviving Reasonability. The Debaters’ Research Guide, 2004. groups.wfu.edu/debate)

So what’s reasonable? Finding the right topicality interpretation is not an exact science, but neither is judging. Teams should persuade judges that the simplicity of negative arguments avoids the educational complexity that predictable interpretations of the resolution are written to generate. The negative will always be able to outfox the affirmative on topicality: with the negative block and some ingenuity, they can make affirmative interpretations seem absurd. But utilize your defensive arguments to minimize the absurdity and then capitalize on the strength of affirmative interpretations. This normally means talking about the quality of debate rather than the quantity of cases. How should the affirmative initiate a discussion about the quality of debate? First, start by defending your own ground. The resolution gives both teams a reasonable expectation of what is topical and affirmatives choose their plan accordingly. The affirmative has a qualified right to their reasonable expectation of the topic: how can affirmatives choose plans if they cannot rely on definitions they have researched that support its topicality? This right isn’t unlimited, however, because the negative is encouraged to debate the affirmative on whether their interpretation of words is supported by grammar, common usage, field context, etc. But, the negative’s right to re-interpret the topic should be limited to consistent and predictable interpretations. Resorting to arbitrary interpretations based on illogical catchphrases unfairly allows the negative to pull the rug out from under the affirmative.  Second, affirmatives should talk about what makes a good definition. Are dictionary definitions best? Possibly, as long as you are not dealing with a term of art, such as peacekeeping. What about field context? Shouldn’t a definition of peacekeeping by the head of U.N. Peacekeeping Operations be given more weight than a dictionary definition? Lastly, defining a word in a certain way may be the only way to maintain the grammatical integrity of the resolution. Take the discussion of definitions to another level: move past superficial quantitative discussions of limits and speak directly to the educational benefits and disadvantages of each side’s definition. Third, don’t be afraid to talk about debate’s purpose. It is a competitive game, but one that should always be based on reason and logic. If what a team does enables illogical arguments to determine the outcome of the debate, then regardless of what unlimited topic the affirmative may allow, it is still better to vote affirmative than eschew reason. Reasonability is important because strict adherence to comparing competing interpretations based on offense/defense types of theories allows the negative to the make the perfect the enemy of the good.  Fourth, a reasonability paradigm would help affirmatives to redefine the role of the judge. One of the central negative objections to reasonability interpretations is that they encourage judge intervention because the judge is left without a coherent standard to determine which interpretations are best. Affirmatives can flip this argument on the negative, however, by arguing that the offense/defense and competing interpretations paradigm exceeds the jurisdictional role of the judge. Traditionally, negatives argued that jurisdiction was a voting issue because judges could not vote to endorse a non-topical affirmative. The negative age calls for a judge to act as an arbiter of competing interpretations. That exceeds the role of the judge, however, because the negative is no longer demonstrating the affirmative is non-topical; rather they are only demonstrating that an interpretation that excludes the affirmative is comparatively better for debate. Topicality is a gateway issue which is meant to ensure that both sides have adequate ground for debate: if both interpretations provide similar quantity and quality of ground, then judges should dispense with topicality and allow the policy debate to begin.  The affirmative is topical if they meet a reasonable interpretation of the resolution. When affirmatives have strong support for their definition, based on traditional notions of limits, predictability, and field context, then judges should prefer that reasonable interpretation. In a legal context, when the words of a contract are ambiguous, a judge is required to interpret the term either by its ordinary meaning or its meaning as a term of art. Judges are not allowed to accept attorneys’ strained interpretations of what the words in a contract mean. When you think about this, the reason is very simple: each party has a vested interest in defining the words in the manner most beneficial to their case. The same is true in a debate. Topicality is a legal action of sorts to enforce the resolutional contract made between the parties, except in debate the parties have agreed that the words already have a somewhat ambiguous meaning. Each party has an incentive to define the words to best suit their particular interest, be it excluding or including the affirmative.  The judge in a debate sits in the role of either the affirmative’s savior or executioner. Topicality is a jurisdictional death penalty for the affirmative. Such punishment is not justified when an affirmative can craft an interpretation of the topic that preserves equitable ground for both sides and fosters the kind of policy discussion the resolution was written to induce. At a minimum, all of these arguments demonstrate that judges should hold negative interpretations to a much higher standard when affirmatives offer reasonable counter-interpretations.

### Competing Interpretations Bad / Reasonability Good 1AR

#### Extend competing interpretations is a bad standard for debate, it’s infinitely regressive– creates a race to the bottom and makes every debate a fight over who can limit the topic the most – decreases clash which is the crucial internal to in-round education. Literature & clash in this round check back their predictability claims, our interpretation is reasonable and does not prevent the negative from meaningfully competing – don’t vote on potential abuse, if they can’t prove our interpretation is bad for debate then it’s not voting issue.

### Competing Interpretations Bad / Reasonability Good 2AR

#### This debate is one of education; reasonability is the best model for topic-specific knowledge. Competing interpretations is an anti-educational model. If we win this argument, you should reject their topicality arguments. .

#### **( ) First, err affirmative. There are four warrants that the negative has failed to answer:**

#### **-- Negative side bias – things like floating PIKs, counterplans that compete on the certainty of the plan, and absurd risk calculus has made winning affirmative rounds extremely difficult. If the negative gets all of these structural advantages, the aff should get read plans that are at the margins of the topic so that they can compete.**

#### **-- Literature checks – even if we don’t meet their precise interpretation, the literature necessary to answer our case is still core negative literature. This proves that there’s no abuse AND that we have met our counter-interpretation – we have not prevented the negative from competing fairly.**

#### **--Affirmative innovation is good – it forces negative innovation Their interpretation is an incentive to avoid clash and only fosters the same stale education that most debaters learn in their first dozen debates. Our interpretation is the ONLY one that reflects the constantly-changing nature of federal poverty policy. This form of education is superior because it provides NEW educational ground and forces all debaters to update and re-package their arguments relative to changes in the topic.**

#### **( ) Now, competing interpretations is anti-educational – several arguments:**

#### **-- First, it encourages arbitrary interpretations not drawn from the literature – the quest for “the best interpretation” incentivizes self-serving interpretations that are only strategic because they generate uniqueness for a nonsensical limits DA. This undermines predictability infinitely more than our reasonability model. Even if they didn’t read an arbitrary interpretation in this debate, their model of topicality encourages it.**

#### **-- Second, it elevates the status of procedural arguments – that causes a zero-sum tradeoff with substantive and topic-specific arguments. You should prefer topic education germane to this topic as opposed to the “analytical knowledge” gained through topicality debates – that education can be achieved from ANY debate round and should be reserved for unreasonable affirmatives.**

#### **-- Third, it fosters a “T hack” culture that encourages teams to use topicality as their “A” strategy. The impact is education – none of their ground arguments can access this because the culture their model creates encourages debaters not to research the topic. Even if their model increases predictability, debaters will just go for T.**

#### **( ) There is NO LOGICAL BASIS for competing interpretations. Just like affirmative teams win all the time with bad plans, it’s ABSURD to argue that the affirmative should lose because some superior interpretation exists in the abstract. This PROVES that THEIR interpretation is considerably more arbitrary than our counter-interpretation.**

#### **( ) We’ll win this debate on our counter-interpretation – you CANNOT VOTE NEGATIVE unless you think we have prevented the negative from competing fairly. Our interpretation SOLVES all their offense – the negative still gets topicality as a check against GENUINELY UNPREDICTABLE affirmatives, but they DON’T get to use it as a cheap shot to screw the 1AR. Reasonability allows the negative to compete fairly, upholds predictable limits and ground, and encourages continual topic-specific education.**

### AT//Reasonability is Arbitrary

#### Reasonability is not arbitrary and they link to this argument, too:

#### ( ) Competing interpretations is arbitrary – there’s no logical basis for their argument. The aff shouldn’t lose just because a technically more limiting interpretation exists in the abstract. Determining which interpretation is “better” is just as arbitrary as determining if an affirmative interpretation is reasonable because there’s no argumentative brightline.

#### ( ) We’re less arbitrary – reasonability frames the debate into a simple “yes/no” question. If the Affirmative has NOT prevented the negative from competing fairly, we SHOULD NOT LOSE. Our model is superior because it maintains topicality as its intended function – a check against abusive affirmatives. Their interpretation mandates the subjective comparison of multiple interpretations and standards – that EXPLODES the amount of judge intervention necessary to resolve topicality debates under their interpretation.

#### ( ) Arbitrary decisions are inevitable – debate is about PERSUADING the judge that your arguments are correct – at the end of a close round, decisions are still rendered through the subjective way a judge responds to your arguments or interprets your evidence.

#### ( ) Competing interpretations is a more arbitrary framework

Dolley ‘84

(Steven D. Dolley, Nuclear Control Institute's research director, former Debate Coach at Bates College and the University of Vermont, where “Topicality: Is it Reasonable to be Reasonable ????”, 1984—Waging War on Poverty, [http://groups.wfu.edu/debate/MiscSites/ DRGArticles/Dolley1984Poverty.htm](http://groups.wfu.edu/debate/MiscSites/%20DRGArticles/Dolley1984Poverty.htm))

Many **debaters** and debate scholars **have suggested that** affirmative and negative **definitions should be compared. and the** ***better definition*** **employed**. Recently this standard has gained rather wide acceptance as an alternative to the murkiness perceived in reasonableness. and the 1984 National Debate Tournament went so far as to require that judges use "that definition which obtains (enjoys) superior analytical and evidential support drawn from the (relevant) subject matter area(s) introduced in the round of debate."10 While considerable more strict than its predecessor it in fact seems to be an abandonment of the traditional affirmative right to **define the better definition standard does not answer the more fundamental question of what we should demand of definitions. To be "better" is to possess "good qualities in a greater degree than another."11 but exactly what good qualities are seeking to maximize? Back to square one!** Better definition is in fact a *supra*standard. that is, a way of assessing definitions vis-a-vis one another once *and only once* the qualities sought in a definition have been firmly identified.

#### ( ) Reasonability isn’t arbitrary—grammar is the standard

Dolley ‘84

(Steven D. Dolley, Nuclear Control Institute's research director, former Debate Coach at Bates College and the University of Vermont, where “Topicality: Is it Reasonable to be Reasonable ????”, 1984—Waging War on Poverty, [http://groups.wfu.edu/debate/MiscSites/ DRGArticles/Dolley1984Poverty.htm](http://groups.wfu.edu/debate/MiscSites/%20DRGArticles/Dolley1984Poverty.htm))

**It cannot be denied that what is reasonable is inherently a judgment call. However. the term does not allow** such **judgment to be arbitrary** and here the chain of argument against reasonableness begins to snap. Contrary to what some assert. "reasonableness is not what extremists upon the one side or the other would deem fit and fair ..."12 Rather. "conduct is reasonable if it is consistent with that of the prudent man in like circumstances." 13 Thus. **prudence and consideration of the given circumstances of word usage are inextricably part of any reasonable process of definition**. A definition must be appropriate to the situation at hand to be accepted under this refinement of reasonableness. We might call the criterion *circumstantial suitability*, and operationalize it in the form of a three-part question: **Is the given definition an appropriate one for this word, in this sentence, in this situation** (i.e., a competitive academic debate)? Each part of this criterion will now be considered in turn.

### AT//Potential Abuse / It’s What They Justify

#### ( ) Potential abuse is not a voter – arbitrary standard

Solt ‘2

(Roger E. Solt, Debate Coach at the University of Kentucky, “[Theory as a Voting Issue: The Crime of Punishment](http://groups.wfu.edu/debate/MiscSites/DRGArticles/THEORY%20AS%20A%20VOTING%20ISSUE.doc)”, 2002 - Mental Health Policies: Escape from Bedlam?, 2002,

[http://groups.wfu.edu/debate/MiscSites/](http://groups.wfu.edu/debate/MiscSites/ DRGArticles/DRGArtiarticlesIndex.htm)

[DRGArticles/DRGArtiarticlesIndex.htm](http://groups.wfu.edu/debate/MiscSites/ DRGArticles/DRGArtiarticlesIndex.htm))

Pro-punishment debaters frequently appeal to potential for abuse as sufficient grounds for voting against the team which employs a particular practice. This logic is also questionable. First, almost all theory constructs have potential for abuse. Plans can clearly be insufficiently specific, but negative debaters can always call for an ever-greater degree of specificity. Plan inclusive counterplans can focus on such small distinctions that they trivialize the debate. But rejecting all forms of inclusiveness, including either the same agent or the same action would gut the counterplan as a negative strategy. Unconstrained conditionality can be abusive, but strict non-conditionality could be interpreted as disallowing permutations. Most theories become unacceptable if pushed to either extreme, suggesting that it is the practice, not the potential, which is key. Second, potential for abuse may justify rejecting a particular practice but it does not justify making the use of that practice a voting issue. The point of the potential for abuse position is that there has not really been tangible damage done in this round. In that case, just rejecting the theory rather than voting against the team seems sufficient. Third, analogies seem to support this conclusion. Drunk driving is illegal because it can potentially lead to death. But we do not treat everyone stopped for drunk driving as a murderer because of that.

#### ( ) Their interpretation is anti-educational – establishes an incentive to *exaggerate the importance* of theory at *the expensive of substance*

Solt ‘2

(Roger E. Solt, Debate Coach at the University of Kentucky, “[Theory as a Voting Issue: The Crime of Punishment](http://groups.wfu.edu/debate/MiscSites/DRGArticles/THEORY%20AS%20A%20VOTING%20ISSUE.doc)”, 2002 - Mental Health Policies: Escape from Bedlam?, 2002,

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The first main argument I would make against punishment is that it exaggerates theory. One view of debate is that it is just a game and that theory is as worthwhile to debate as anything else. In contrast is the view that I would defend: that debate has a substantive intellectual content which it is far more worthwhile to learn about than it is to learn about debate theory. Debate teaches us a great deal about current events and principles of policy analysis, about political theory, political philosophy, and practical politics, about medicine and law, ethics and epistemology. It teaches both problem solving and the criticism of underlying assumptions. And it teaches many other things as well. People disagree about which of these areas of inquiry is most important, but any and all of these subjects are of more intrinsic significance than debate theory. I write this as someone who finds debate theory interesting. Nor do I think that we can get along without debate theory. Nor should we. Theory is basically a set of meta-arguments, arguments about arguments and about the standards for argument. We could set these standards by authoritative edict (a rulebook) or by convention. But on many theory questions there is widespread disagreement and hence no dominant convention. And in the absence of a prevailing convention there is unlikely to be an authoritative rulebook which could be adopted or accepted. We have come, over the past quarter of a century, to think that these are things which debaters can and should argue about. And I accept this general outlook. But even if we neither want to nor can entirely avoid theory argument, it should not be a central focus of the activity. Yet this is precisely what punishment argument makes it. Rather than the criteria for the evaluation of arguments, theories come to be ends in themselves, the pivotal issues on which the debate centrally turns. This seems misguided. The knowledge gained in debate has many uses in later life, but surely the least useful body of knowledge which debate teaches is debate theory. For those of us who stay in the activity for a long time, it is interesting. We want to sort out in a consistent and satisfying way the principles of our activity. But that still does not make it a very intrinsically important body of knowledge.

#### ( ) Reject the argument, not the team—it’s the only way to stop judge intervention

Solt ‘2

(Roger E. Solt, Debate Coach at the University of Kentucky, “[Theory as a Voting Issue: The Crime of Punishment](http://groups.wfu.edu/debate/MiscSites/DRGArticles/THEORY%20AS%20A%20VOTING%20ISSUE.doc)”, 2002 - Mental Health Policies: Escape from Bedlam?, 2002,

[http://groups.wfu.edu/debate/MiscSites/](http://groups.wfu.edu/debate/MiscSites/ DRGArticles/DRGArtiarticlesIndex.htm)

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My fourth major argument against punishment is that it is intolerant. All judges have biases which they are only partially successful at screening out. And perhaps oddly, judges often seem less able to set aside their theory biases than their biases on substantive issues. As I noted above, judges can generally justify voting either way on a given theory argument in most rounds. At least if both sides are putting up a decent fight, this is the case. If a position is conceded, most judges will behave accordingly, though even here there are exceptions. And sometimes there will be such a clear preponderance of argument that judges are unable to find their way back to their own theory predispositions. But with two reasonably skilled teams, it is generally possible to resolve a given theory issue either way, so most judges, most of the time, end up endorsing the theory position which they prefer. This may be an unfortunate fact about judges, and it certainly applies to some judges more than to others, but it is a real tendency. It is hardly controversial to say that judges have biases. But the problem with punishment, in light of this fact, is that voting on theory empowers those biases. Instead of creating a strategic slant, the bias becomes all-decisive. What we should recognize, I think, is that different people can and do legitimately hold different concepts of what debate should be about. If one side appeals to our theory preferences and the other side does not, it is not unreasonable to expect that the side whose views we embrace will win the debate over a particular issue more often. But it is intolerant to rule the other side completely out of order, to decide the whole debate based on this one issue, just because they have gotten on the wrong side of one of our theoretical predispositions.

#### ( ) Have a high threshold for potential abuse—punishments are disproportionate

Solt ‘2

(Roger E. Solt, Debate Coach at the University of Kentucky, “[Theory as a Voting Issue: The Crime of Punishment](http://groups.wfu.edu/debate/MiscSites/DRGArticles/THEORY%20AS%20A%20VOTING%20ISSUE.doc)”, 2002 - Mental Health Policies: Escape from Bedlam?, 2002,

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[DRGArticles/DRGArtiarticlesIndex.htm](http://groups.wfu.edu/debate/MiscSites/ DRGArticles/DRGArtiarticlesIndex.htm))

My third argument is that the punishment of voting on theory is almost always disproportionate. To me this seems almost true by definition. Someone advances a “bad” argument. They lose that argument. It is not a decisive argument in terms of the substantive logic of the debate, be that a policy logic, a discursive logic, or a critical logic. But instead of just losing that argument, with whatever logical, limited impact that may have in the round, the team which advanced the “bad” argument suddenly is supposed to lose the whole debate. In other words, every other issue in the round, all of the policy arguments, all of the critical arguments, all of the discursive arguments become moot. They no longer matter and they need not be resolved because one theory argument has been lost. Beyond my intuitive sense that this is disproportionate, I have two other arguments for why voting on theory is excessive. First, the theories debaters most want to punish are not really that egregious. Punishment claims are most commonly raised against the following practices: conditional counterplans, partially plan inclusive counterplans, permutations against kritiks, extra-topical plan planks, non-specification of agent by the affirmative, and a range of affirmative and negative fiat issues. I personally favor some of these positions, and I oppose others. But I recognize that there are “pretty good” arguments in favor of both sides with regard to all of these issues. In other words, they are all, relatively speaking, “close calls.” Or, to put it still another way, there are thoughtful members of the competitive debate activity for whom each of these practices makes sense and others for which they do not. On none of these issues is there a theoretical consensus. And all have been widely employed without “destroying debate.” This is not to say that these practices are not fair game for argument. They are. But none is so abusive within the context and conventions of debate as we know it that it needs to be an automatic voting issue. Losing the argument ought to be punishment enough. Nor do we need punishment to deal with theories which the consensus of the activity rejects. The difficulty of winning on counterwarrants or alternative justifications or plan/plan has easily been enough to discourage these practices.

#### ( ) Have a high threshold for abuse—punishment arguments lead to bad debates

Solt ‘2

(Roger E. Solt, Debate Coach at the University of Kentucky, “[Theory as a Voting Issue: The Crime of Punishment](http://groups.wfu.edu/debate/MiscSites/DRGArticles/THEORY%20AS%20A%20VOTING%20ISSUE.doc)”, 2002 - Mental Health Policies: Escape from Bedlam?, 2002,

[http://groups.wfu.edu/debate/MiscSites/](http://groups.wfu.edu/debate/MiscSites/ DRGArticles/DRGArtiarticlesIndex.htm)

[DRGArticles/DRGArtiarticlesIndex.htm](http://groups.wfu.edu/debate/MiscSites/ DRGArticles/DRGArtiarticlesIndex.htm))

My second main argument is that, empirically, punishment arguments produce bad, anti-educational debate. Punishment arguments are almost always made badly. They are simply tag lines, especially at the impact level. (“This is a voting issue for reasons of fairness and education.”) There are two dominant incentives for labeling an objection to a given theory or practice a voting issue. The first is the “cheap shot” motive. The “independent voter” may get lost in the shuffle, and you may come out with an easy win. I doubt that anyone really thinks that this process of learning to “out tech” your opponent is an important part of debate’s educational mission. Second, by labeling an argument a voting issue, debaters hope of secure a favorable time tradeoff. If an argument is a voting issue, it has to be taken more seriously, even if it is not intrinsically of much substantive importance. Again, in this instance, the punishment argument serves as an element in the tactics of time tradeoff. This is part of the debate game, but it is not a very important part of what debate should teach. As extended, punishment arguments again tend to be a series of tag lines. This is generally true in the negative block, and it is almost always true (because of intense time pressures) in the 1AR and 2NR. If the 2AR chooses to go for a punishment argument, s/he may be more articulate and explanatory. But this generally means that a lot of new arguments are being made, or at least being given flesh from the bare skeleton of assertion, and this raises fairness concerns of its own. Of course, some theory debates are better than others. And I can imagine a world in which theory is debated more clearly and coherently than it generally is in the world of contemporary debate. But the experience of a quarter century of theory debates does not encourage me to think that we will enter that Promised Land any time soon. And “better” theory debates would have to occur in a more thorough and time-consuming fashion than those which occur today. And this would exaggerate the problem of diverting time from more substantive intellectual concerns.

#### ( ) Punishment is subjective, leads to irrational judging, and shifts the focus of the debate away from more important issues

Sigel ‘85

(Doug Sigel, Northwestern debate, Wake Forest University, 1985, Punishment: Does It Fit the Crime? The Debaters’ Research Guide, 1985. Groups.wfu.edu/debate)

Punishment Leads to Irrational Judging In practice, punishment debates are incredibly difficult to judge in any systematic manner. At the end of nearly all punishment debates most judges confront the impossible task of sorting through dozens of ad hominem arguments which are little more than unexplained whines. Many judges come away from the experience feeling like both teams are guilty and that it would be desirable to vote against both teams. There are three reasons why the largely rational process of debate judging breaks down under the punishment paradigm. First, it is very difficult to decide when a practice does and does not deserve punishment. Cindy Leiferman pointed to this problem when she noted that "since Sigel's essay on punishment, nearly every issue is a 'voter.'" 3 The punishment tag-line has been thrown out in more and more rounds against the most harmless practices. There is no logical way for a judge to decide whether a tactic is bad enough to cross a threshold which requires punishment. The problem really is that there is only one punishment --a loss--that a judge can impose. Many practices may be questionable but it is difficult to tell when the "death penalty" for the round is warranted. Second, conflicting punishment charges are impossible to resolve. A typical response to punishment arguments will be to charge your accuser with bad practices too. The affirmative may argue for punishing the negative who runs conditional counterplans. One response by the negative may be to indict the affirmative on the grounds that the plan is vague and/ or contains severability provisions. At this point the judge has two guilty parties and has to decide who to punish. There is no logical process to sort out the conflicting whines about who destroyed the debate first. Judges quickly become tired of having to decide rounds like this. No one wants to be in the position of debate disciplinarian. Third, punishment arguments tend to be made without adequate depth. Too often the punishment label is thrown out in the last few seconds of a debater's speech. When punishment arguments are not well developed an intolerable ambiguity results. This author's experience has been that punishment positions are never explicitly developed in a coherent manner. The punishment label has become an annoying time waster rather than an in-depth attempt to clean up debate. Judges are very reluctant to vote on punishment unless it is clearly and persuasively explained and that never seems to happen. Overall, the subjectivity involved in judging punishment debates has made the punishment approach unpopular with judges. A typical reaction was expressed by David Cheshier in his statement that "voting on punishment is always excessive, and my observational experience is that punishment arguments necessarily devolve into rude ad hominem battles." 4 Debaters ought to appeal to this reaction when arguing against punishment arguments. Pure ridicule may be the most effective tactic when your opponent uses the punishment label to impact arguments.

#### ( ) Punishment destroys the goal of debate which is substantive debate, not theoretical

Sigel ‘85

(Doug Sigel, Northwestern debate, Wake Forest University, 1985, Punishment: Does It Fit the Crime? The Debaters’ Research Guide, 1985. Groups.wfu.edu/debate)

Punishment Destroys the Goal of Debate Most judges view the goal of debate as intellectual clash on policy issues. When theoretical concerns become the focus of debates this goal goes unmet. According to this position, a serious disadvantage of the punishment paradigm is that a plethora of theory discussions have occurred, hurting the focus on public policy discussion. The policy oriented judge tends to believe that their commitment to voting on public policy concerns is more important than their commitment to punish bad debate. Arnie Madsen's comments sum up this reaction to punishment: I think that punishing a team solely for making an argument is counter to all justifications for this activity. Why should a team lose the round because they run a conditional argument or drop topicality? Aren't we here to learn how to argue? I am willing to drop arguments out of the round and not consider them in my decision, but I will not vote to punish a team for their arguments. 5 By expressing a willingness to vote on punishment, judges encourage theory debate at the expense of policy discussion. It is true that abusive debate practices have been a problem. The punishment solution, however, is counterproductive. When one team runs anything slightly creative their opponent immediately whines that it is unfair and uneducational and forces the entire debate away from substance. It seems obvious that a successful strategy against punishment is to argue that voting against bad theory encourages excessive theoretical discussion. If punishment becomes an accepted tactic, teams will nit-pick about violations of fairness and education instead of trying to clash on the issues. The advantages of punishment in terms of stopping bad debate are simply outweighed by the alarming focus away from the policy goals of the activity.

#### ( ) Punishment promotes bad arguments and deters creativity in argumentation

Sigel ‘85

(Doug Sigel, Northwestern debate, Wake Forest University, 1985, Punishment: Does It Fit the Crime? The Debaters’ Research Guide, 1985. Groups.wfu.edu/debate)

Punishment Chills Innovative Argument One result of the increasing use of punishment arguments has been a chilling of innovative arguments. Bad arguments will lose; there seems to be no reason to go further than that. When the punishment threat hangs over the activity, debaters become unwilling to try new arguments. This argument seems on its face to grant the position that punishment has a deterrent effect on debate. Actually the reverse is true. Teams that run "junk" arguments like world government simply develop elaborate reverse-punishment arguments that allow them to turn punishment attempts. It is this author's experience that teams who are determined' to avoid discussing the merits of the topic are not deterred by punishment at all. In fact, they thrive on it because punishment arguments simply expand the arsenal of "junk" arguments that are available to the non-researched debater. In an age when the activity lacks a coherent theory which is generally accepted, it seems especially unfortunate that we are punishing those who propose innovative theories. Debate ought to serve as a forum for experimenting with sophisticated decision-making models. Instead, too many debates consist of an incomprehensible exchange over who destroyed, the activity first. What the debate activity really needs, this author believes, is a fresh approach to public argument which will excite students and interest them again in substantive discussion of significant policy disputes. As we divert our preparation time and debate speeches to destructive battles over punishment we move further and further away from the theoretical reinvigoration that academic debate needs to survive.

#### ( ) Punishment doesn’t solve deterrence, won’t prevent a team from reading a bad argument, kills education, and cannot solve fairness because debate is inherently unfair in some way every round

Sigel ‘85

(Doug Sigel, Northwestern debate, Wake Forest University, 1985, Punishment: Does It Fit the Crime? The Debaters’ Research Guide, 1985. Groups.wfu.edu/debate)

THE FALSE ASSUMPTIONS MADE BY PUNISHMENT ARGUMENTS The above arguments outline a good case for consigning punishment to the dustbin of debate theory. In addition, however, it seems important to debate the punishment arguments on their own ground. Are the assumptions behind the punishment theory really valid? This section will refute the three major justifications--deterrence, fairness, education-offered in favor of punishment. Deterrence Advocates of punishment may argue that voting against a bad debate tactic in one round deters its future use in other rounds. There are two reasons why this argument is wrong. First, punishment arguments do not deter bad debate. It has already been argued that sophisticated debaters who run "junk" arguments " will eagerly latch onto punishment as another way to avoid research. Some elaboration seems in order. Suppose you and your partner plan on running a world government counterplan nearly every round. Your response to the threat of punishment will be to write detailed briefs ) defending the legitimacy of your counterplan. When another team initiates a punishment argument you will "turn" the argument and make it a reverse voting issue. When the 1AR drops numbers 11, 21 and 26 because of time pressure you will likely win the debate. It seems clear that for teams that systematically abuse the activity punishment isn't really a problem. At worst they can muddle up the issue and at best they can win on reverse-punishment. Second, losing bad arguments is normally: an adequate disincentive. Most competitive debaters stop using arguments that don't win. It is not at all clear that a ridiculous hypothetical counterplan, for example, deserves more than a few intelligent presses to be defeated. Why should this be a reason to give up " the discussion of policy issues and devolve the round into punishment? Punishing a team for running a bad argument seems to be overkill. Demonstrating argumentative stupidity through excellence of rebuttal is a far more constructive and efficient time investment than arguing, punishment." Fairness Fairness concerns can frequently be cited to justify punishment. The introduction of a particular strategy into a particular debate is so unfair to one team that the only remedy can be punishment. There are two problems with the fairness rationale for punishment. First, fairness is almost entirely situational. The fairness argument in debate is always made when a team can't think of anything better to say. A new case is going to place an unfair burden on any negative team. If the affirmative can talk faster than the negative an unfair situation exists. If the negative has four really good counterplans against a case an unfair situation exists. In debate there is no objective way to tell what is and isn't fair because the activity by nature favors those participants who stay one step ahead of anyone else. It is time that debaters attack arguments on a substantive level. If this year's water topic is too broad then the negative has no right to whine about fairness when affirmatives take advantage of that breadth in case selection. If the negative has the technical skill to extend a plethora of arguments then the affirmative has no right to whine that there is an unfair proliferation of issues. Almost any argument or tactic that is unfair in one round when a team lacks preparation for it becomes fair once opponents have devised substantive responses. Second, there is no good reason why fairness itself is a voting issue. If a tactic is unfair it perhaps should not be allowed. To punish a team for employing that tactic independent of the outcome of other issues seems excessive. If it is unfair to amend the affirmative plan the judge should reject plan amendments and evaluate the debate based on the plan originally presented in the 1AC. All debaters seek to get the most favorable set of theoretical decision rules possible. If the judge rejects one team's decision rules s/he must impose another set of procedures to decide the round's outcome. There is no reason to punish the team for trying to maximize their own advantages. Education Another argument for punishment is grounded in educational concerns the judge might have. The role of the judge is to educate students about proper conduct in debate rounds and this requires punishment when abuses occur. There are three ways to refute this type of claim. First, the practical impact of punishment arguments is to destroy education. The punish tactic is so subjective and open to abuse, as we have seen earlier, that it hurts the activity. The advocate of punishment isn't really concerned about education anyway. S/he is just whining about arguments s/he can't answer. Second, punishment arguments confuse the role of a debate judge. The debate judge is evaluating public policy argument. S/he is not an umpire who hands out penalties for rule violators. The arguments in a debate about theory are important because they tell the judge how to evaluate the policy arguments. The theoretical concerns have no independent value. If hypothesis testing is bad then a judge shouldn't decide based on that paradigm, To punish a team for advocating hypothesis testing is to turn a debate judge into an umpire. The notion that the debate process is a forum for punishment has crept into the activity with little critical scrutiny. It is ridiculous that a team is able to win a debate by whining about the practices of their opponents. Debate is educational because it trains students in oral argument and it is the job of the judge to evaluate who better argues the policy issues in a debate. Third, punishment arguments create an esoteric activity with little real world applicability. Debate is already charged with being too remote and elitist. The kinds of theory debates that will probably evolve if punishment arguments continue to be accepted are mind boggling. Why not turn the impacts of punishment arguments? Why is destroying debate bad? Why is education good? Why is fairness ethically justified? We may see the day when a team argues that the destruction of debate is good because it hurts democracy. And democracy is bad because it hurts the transition to a new form of ecological organization. Or maybe we will see debaters arguing studies that deterrence is counterproductive. This means that the way to stop bad debate is to vote for the team that runs the worst arguments. These examples seem absurd. However, the "good is bad" arguments that are common today-that individual rights are bad, that nuclear war is good, that starvation is good--appear equally absurd to anyone not involved in debate. The recent development of arguments that topicality is not a voting issue empirically proves that stupid theory arguments can get totally out of control.

### AT//Offense-Defense

#### ( ) Don’t disregard our interpretation because we “lack offense” – if we win that our interpretation is “pretty good”, that should be enough

Ryan ‘4

(Andrew B. Ryan, college debater, Wake Forest University, 2004, Reviving Reasonability. The Debaters’ Research Guide, 2004. groups.wfu.edu/debate)

The first time I heard an offense-defense paradigm presented in a debate, a debater famous for his smart and persuasive style said: “Defense may win Super Bowls, but it won’t win a topicality debate.” This is a very catchy aphorism, but an intellectually bankrupt one. First, the strongest defensive arguments reduce the strength of your opponent’s claim to zero. Why would any judge vote for zero? An offense-defense paradigm encourages a judge to ignore that the argument they vote for is logically incoherent. It is equivalent to saying “sure, we don’t do any good but we don’t do any bad either.” This theory has been roundly rejected by negative presumption, where we presume that endorsing change without any justification is not worth the risks inherent to change. This is certainly true with topicality. Because there is no stable interpretation of the resolution, every topicality interpretation amounts to some degree of change. If defensive arguments demonstrate this change has no benefit, then no judge should endorse it. Second, debaters use the offense-defense paradigm to mischaracterize each other’s arguments. For example, is a “we meet your topicality violation” argument offensive or defensive? It doesn’t prove that the negative’s interpretation is bad, but it does prove that the affirmative is topical. A we meet argument is the best form of defense to a topicality violation: it ensures that the violation is not a voting issue. Similarly, negatives often characterize affirmative arguments that their interpretation is not grammatical or realistic as defensive because they do not directly answer the limits standard. Yet, proving that the negative’s topicality violation is ignorant of the English language and/or reality should be sufficient to prevent judges from voting for it. Fundamentally, the problem with the offense-defense paradigm is that it is too simplistic. It’s catchy and easy to understand, but it is a disaster for preserving a well-balanced topic when placed in the hands of misguided youth. Affirmative teams should always make arguments that must be characterized as offensive, such as counter-interpretations or reasons why the negative’s interpretation is detrimental to its own standards. However, the line between offense and defense is thin, and affirmatives should not allow the negative to mischaracterize their arguments. In topicality as well as basketball, the best offense is a great defense. AT//Framers’ Intent

#### ( ) Framer’s intent is arbitrary and should be considered secondary to the best interpretation

**Weaver 7**

(Aaron, Ph.D. Candidate in Politics and Society – Baylor University, “An Introduction to Original Intent”, Fall, <http://www.thebigdaddyweave.com/BDWFiles/originalism.pdf>)

Discovering the “original intent” behind the religion clauses of the First Amendment is much more difficult than Edwin Meese, Antonin Scalia or any other 21 Ibid, originalist wants to admit. Contrary to the revisionist history being pushed by originalists who desire extensive government accommodation of religion, the founders did not always agree with one another. We simply can not determine with sufficient accuracy the collective intent of the Founding Fathers and the Framers of the Free Exercise Clause and the Establishment Clause of the First Amendment. Those scholars in search of “original intent” have returned with strikingly inconsistent accounts of original intent. Thus, the originalism of Scalia, Meese, and Rehnquist is ambiguous at best and downright dishonest at worst. We do not know nor can we be expected to accurately determine the intent or understanding of what the First Amendment meant to each person who cast their vote. After all, delegates to the Constitutional Convention were voting on the text of the First Amendment, not Madison’s writings or the private correspondence of the Framers. The text of the First Amendment reigns supreme. Authorial intent must take a backseat to the actual text. Justices should examine the text first and scour it for as much meaning as it will generate before turning to extrinsic evidence of intent. However, original intent is hardly irrelevant but simply subordinate to the text. Extrinsic evidence does not control the text. The text controls the text.

#### ( ) The framer’s knowledge was far more limited than the community’s after months of research. Their standard is outdated and prevents informed and progressive understanding.

Moore 85

(Michael, Professor of Law – University of Southern California Law Center, “Interpretation Symposium: Philosophy of Language and Legal Interpretation: Article: A Natural Law Theory of Interpretation”, University of Southern California, 58 S. Cal. L. Rev. 279, January, Lexis)

My conclusion is that the text has a better claim to being called the "choice of the legislature" than do any legislative materials. The political ideals of democracy and of institutional competence are thus better served by a court working from the text alone and not from some "second text" unofficially adopted by some supposed, silent consensus of legislators. That being so, and liberty and fairness also being better served by looking to the other ingredients in the theory of interpretation, I conclude that legislative intent has no role to play in interpretation. This conclusion has been defended solely by using the rule of law virtues as our normative guidelines. This conclusion is supported by the other set of considerations relevant here, namely, the kinds of effects an intent-oriented theory of interpretation produces. Such a theory produces worse effects than its competitors because it imposes old ideals upon us. In constitutional law this consideration is so compelling that it swamps all the others in importance. Better that we fill out the grand clauses of the Constitution by our notions of meaning (evolving, as we have seen, in light of our developing theories about the world), by our notions of morals, and by two hundred years of precedent. What the founders intended by their language should be of relevance to us only as a heuristic device to enable us to think more clearly about our own ideals. The dead hand of the past ought not to govern, for example, our treatment of the liberty of free speech, and any theory of interpretation that demands that it does is a bad theory. This argument applies to statutory interpretation as well, although with somewhat diminished force. For guiding one's statutory interpretations by legislative materials will be to judge by ideals as old as those [\*358] materials. In the Keeler case, for example, a 1970 decision was predicated on an 1850 statute, recodified in 1872. Using nineteenth-century ideas of personhood to decide whether a fetus is a person is not a good idea in the twentieth century. We have thought more about the problem, and we know more factually and morally than those who drafted the commission report concluding that fetuses were not human beings. And even if we do not know more than they, we are as entitled to live under our ideals of personhood as we are to live under our ideals of free speech. For old statutes, thus, the consequentialist arguments against looking to framers' intent are as strong as they are for the Constitution. The meanings of words, the direction of precedent, and the nature of goodness are all items about which we can have developing theories. Our admittedly imperfect knowledge of each of these things can get better. A theory of interpretation built out of these materials thus can accommodate change and development in our law by court interpretation. A theory emphasizing the enacting body's intention, on the other hand, is glued to the past10

#### ( ) Even historians and the Supreme Court agree it’s a terrible standard

Austin citing Scalia 11

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\*Antonin Scalia, "On Interpreting the Constitution," http://www.manhattan-institute.org/html/wl1997.htm.

I believe that “original intent” is a spectacularly bad standard for interpreting the supreme law of the land. I do not say this as an America-hating liberal who sees the Constitution as a “living, breathing document” that can mean anything that we want it to mean. I believe that we must interpret the Constitution according to the meaning of its words, with careful attention to how those words were used in their historical context. Words mean things, and those meanings matter. Where the Constitution is concerned, meanings matter very much; if the Constitution does not have fixed meanings, we do not live under the rule of law. But interpreting the Constitution according to the meaning of its words—the jurisprudential standard known as “originalism”—is very different than interpreting it according to the intentions of its authors. Nobody has drawn this distinction more clearly than Supreme Court Justice Antonin Scalia, who, though often cited as an exemplar of the Framer’s intent standard of interpretation, rejects that standard in no uncertain terms: It is simply incompatible with democratic government, or indeed, even with fair government, to have the meaning of a law determined by what the lawgiver meant, rather than by what the lawgiver promulgated. That seems to me one step worse than the trick the emperor Nero was said to engage in: posting edicts high up on the pillars, so they could not be easily read. Government by unexpressed intent is similarly tyrannical. It is the law that governs, not the intent of the lawgiver.”[2] The view of original intent propounded by the fringe conservatives is directly at odds with the democratic principles they espouse, the common sense they advocate, and even the Supreme Court Justice they revere. This difference between “original meaning” and “original intent” may seem slight, but it separates Scalia’s mainstream conservatism from that of the right-wing fringe. Scalia himself alluded to this distinction in a 1997 lecture at the Manhattan Institute for Policy Research. When asked whether or not he would consider scaling back the application of the Bill of Rights to the states through an originalist reading of the Fourteenth Amendment, he replied, “I am an originalist. I am a textualist. I am not a nut.”[3]

### AT//Limits

#### 1. Overlimiting Worse –

a) guts in-round education – debating the same rounds all year means neg just has to learn the best argument against a couple affs

b) out-of-round education – limiting the topic to a few cases means we never learn about smaller policies or marginalized voices

#### 2. Ground Outweighs Limits – increases education, both teams learn about more policies and increases clash by forcing case-specific answers

#### 3. Limits Are Arbitrary – neg will just find a new definition to limit out any case they don’t want to answer

#### 4. Doesn’t Increase Education – small topic doesn’t stop teams from relying on generics

#### 5. Don’t vote on limits – letting them win just because our case is unconventional sets a bad precedent that encourages neg to avoid substantive debate

#### ( ) Limits are only good if they’re not arbitrary – “limits for limits sake” is equally as unpredictable and hinders education

Kupferbreg ’87

(Debate Coach at University of Kentucky) 1987 (Eric, “Limits – The Essence of Topicality”, Latin American Politics: The Calculus of Instability, http://groups.wfu.edu/debate/MiscSites/DRGArticles/Kupferberg1987LatAmer.htm) aml

I am not suggesting that limits should be the only test for topicality. If this were sole criteria, teams could argue that inherently limited topics are superior, hence, negatives win because their definition excludes the affirmative (there's always a competitive incentive to limit the affirmative out of the round). Obviously, limits for limits sake is arbitrary as well as abusive. However, debatable limits are clearly desirable. What are these 'debatable limits'? Here are some relevant questions that if answered carefully might help to create criteria for debatable limits: 1) Are there fair number of cases that would be topical? An interpretation that overlimited the resolution would be as inappropriate as one which unlimited the topic. An entire year of debating a single case or 300 cases would be neither educational or enjoyable. An interpretation that allowed somewhere between 20 and 40 cases might be acceptable to most participants in the activity. 2) Is the interpretation open to innovation? Part of the intrigue of debating the same topic year round is the competitive incentive for affirmatives to seek new slants. A debatable interpretation should allow for new cases--although they would be chosen from a predictable range of areas. A debatable limit should not force an overly static topic. 3) Does the interpretation fit within some scope of the field context?While not suggesting that we should rely on field contextual definitions alone, an interpretation of the topic should bear some resemblance to the topic area. It would be almost axiomatic to suggest that a definition of 'agricultural' last year should lend itself to cases that are relevant to real world agricultural issues. 4) Does the interpretation allow for some degree of prior notice*?*A debatable limit is one where a large number of topical cases are to be anticipated by the general debate community. This is not to imply that surprise 'squirrels' should be prohibited, only that definitions should encompass what a large portion of the debate circuit is running.

### AT//Grammar

#### 1. Bad Standard – spending time debating modifiers instead of the topic promotes argument avoidance and decreases education

#### 2. Grammar is confining and elitist

Weisberg 94

(Robert, Professor of Law, Stanford University, 15 Cardozo L.. Rev. 1103, January 1994 // Lexis)

Superficially but powerfully, literature is a trope for our apprehension of a condition of bareness, a thinness of social and cultural circumstance, which we (often sentimentally) imagine leads to truth and redemption. If this approach suggests literature as an instrument of radical originalism, literature also serves a conservative role, to promote order precisely because it can resolve the tensions that threaten to disrupt it and which are instead resolved within it. Either way, conservative or radical, involves nostalgia, which is forever bringing its problems to the reading of literature, as if they could thereby find compensations for the relevant present degeneracy. The irony, as Poirier notes, is that what the nostalgic yearning soul finds is literature itself manifesting the same sort of nostalgia. n4 As wordy, encrusted, corrupt institutions turn to literature for renewal, they find writing which is itself committed to conventions, usages, grammars, structures, and rhetorics viewed with dismay as the products of inappropriate systems which often seem artificial or inappropriate. Literature is not the natural language we seek. Indeed, notes Poirier, there is no such thing. If anything, modernist literature prevents spontaneous reading. It is a very privileged form of discourse, painfully aware of itself as a form of technology.

#### 3. Arbitrary – language can be interpreted in countless ways, as long as our interpretation of the resolution makes grammatical sense we shouldn’t lose

#### 4. Grammar becomes elitist unless multiple interpretations are allowed

Roy 95

(Alice, Associate Professor of English at California State University, “The Grammar and Rhetoric of Inclusion,” College English , Vol. 57, No. 2 (Feb., 1995), pp. 182-195, National Council of Teachers of English, [http://www.jstor.org/stable/378809 //](http://www.jstor.org/stable/378809%20//) JSTOR)

These simultaneous contradictory forces, which are at work in the disciplines at all times (the need to solve a real problem versus the need to appear so independent of that problem as to seem to be self-sufficient), provide many of the interesting paradoxes that ultimately embarrass the various fields. The field of linguistics has been embarrassed, for example, many times in recent years. It was embarrassed in the late fifties to be caught with a rather superficial theoretical base, with a focus entirely on phonology rather than grammar and, believe it or not, with such a naive view of research design that it was actually believed that by interviewing in depth ONE native speaker of a foreign language one could actually write a grammar that would describe the speech of ALL the native speakers of that language. More recently linguistics has been embarrassed by accusations of elitism. One healthy sign in the academic world is seen when the practitioners in a field are able to admit that what they said last year may be wrong. To be sure, this is frustrating, for it leads to the kinds of problems discussed at a recent conference on teacher training in which the participants agreed that 90% of what they studied in graduate school was either wrong or irrelevant for the work they were doing. This is a reasonable percentage also for the hard and social sciences and, indeed, for most of what is happening in the majority of college courses today. But the academic world is not predisposed to admitting false starts, wrong-headedness, or incompleteness, for its elitism frequently prevents any such self-effacement. The name of the game is to be right as often as possible, wrong as seldom as possible, and to ridicule one's colleague when he is wrong, establishing in the process one's own sense of superiority. One of the more exciting things that is happening in the academic world today is the small steps we are beginning to make toward destroying this elitism. Although the trend for many years was toward ever-increasing degrees of specialization with concomitant scorn for all that was not so specialized, such a position is less well received in today's world. In the January, 1971 issue of The Journal of Internal Medicine, for example, C.P. Kimball editorialized that the field of medicine has too long lived in isolation from the lower socioeconomic bracketed patient. He urged medical training of a sort that starts with the culture and language of a patient where HE is, not where the physician is. He urged that the medical profession abandon its elitist, witch-doctor status if it is serious about its lofty aims of doing good for people who are unlike themselves. Equally encouraging is the recent information that several medical schools have requested funds from the National Endowment for the Humanities to broaden the training of physicians in the areas of human and social studies. A perhaps even more elitist branch of medicine, psychiatry, has at last evidenced some notion of its almost total lack of concern for the disadvantaged, for minorities, and for the uneducated in particular. It has been estimated, for example, that 95 % of the assumed successes in psychiatric treatment have involved middle class patients. Part of this is because the middle classes tend to avail themselves of these services more than the working classes, but the percentage is said to obtain even after this discrepancy is accounted for. In the field of linguistics, this newer trend away from isolated elitism can be found in a relatively recent predisposition for interdisciplinarity. While some linguistic theorists continue to move more and more away from real language to theories and to theories about theories, others have responded to some of the more immediate demands of today's world. Some, for example, have begun to ask what usefulness their field might have to the pressing problems of education today. They see reading, speaking and writing as heavily involved in linguistic processes of several types. They see social inequality as frequently manifested by the use of and reaction to one's native language. They see much research in the areas of early-childhood education, psychology, and education as heavily reliant upon language analysis for their conclusions.

#### 5. Not Real World – no one uses perfect English, even in academic circles – topic specific education is more important