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Note\*\*\* Many of these Cards came from the Georgetown Pre-Camp Topicality file.

### Topicality: Port Security 1NC (TI)

#### Interpretation: Transportation infrastructure is the underlying structure that allows for the movement of goods and people.

Trimbath 9 (Dr. Susanne, Senior Research Economist in Capital Market Studies at Milken Institute, Senior Advisor – United States Chamber of Commerce, and Professor of Economics and Accounting – Bellvue University, “Transportation Infrastructure: Paving the Way”, <http://www.uschamber.com/sites/default/files/issues/infrastructur> e/files/2009TPI\_Update\_Economics\_White\_Paper\_110712.pdf)

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

#### Violation: Plan is monitoring transportation infrastructure, not infrastructure itself.

USDOT RITA 2012 (US Department of Transportation Research and Innovative Technology Administration, March 28 EM05-Transportation Infrastructure Protection http://www.iteris.com/itsarch/html/mp/mpem05.htm)

This service package includes the monitoring of transportation infrastructure (e.g., bridges, tunnels and management centers) for potential threats using sensors and surveillance equipment and barrier and safeguard systems to control access, preclude an incident, and mitigate the impact of an incident if it occurs. Threats can result from acts of nature (e.g., hurricanes, earthquakes), terrorist attacks or other incidents causing damage to the infrastructure (e.g., stray barge hitting a bridge support). Infrastructure may be monitored with acoustic, environmental threat (such as nuclear, biological, chemical, and explosives), infrastructure condition and integrity, motion and object sensors and video and audio surveillance equipment. Data from such sensors and surveillance equipment may be processed in the field or sent to a center for processing. The data enables operators at the center to detect and verify threats. When a threat is detected, agencies are notified. Detected threats or advisories received from other agencies result in an increased level of system preparedness. In response to threats, barrier and safeguard systems may be activated by Traffic Management Subsystems to deter an incident, control access to an area or mitigate the impact of an incident. Barrier systems include gates, barriers and other automated and remotely controlled systems that manage entry to transportation infrastructure. Safeguard systems include blast shields, exhaust systems and other automated and remotely controlled systems that mitigate impact of an incident.

#### Standards:

#### 1) Limits: Allowing security measures unpredictably unlimits the topic, making an untenable research burden for the neg and destroying clash based education.

#### 2) Ground: Security affs skew negative ground and destroys links based on infrastructure creation and modernization, giving the aff an unfair advantage in advantage development and impact comparison.

#### T is a voting issue for Fairness and Education.

### 2NC: Port Security

#### “Transportation” must have the primary purpose of moving people or goods

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).

#### “Transportation infrastructure” is facilities designed for transport

Delaney 11 (George, Manager of Public Works – City of Denver, “Complete Streets”, 5-17, http://www.completestreets.org/webdocs/policy/cs-co-denver-policy.pdf)

DEFINITIONS

Complete Streets is defined as a practice to promote safe and convenient access for all users along and across travel ways in the context of the overall transportation network, land use patterns, and community needs.

Transportation infrastructure is defined as any facility designed for transporting people and goods including, but not limited to, sidewalks, trails, bike lanes, highways, streets, bridges, tunnels, railroads, mass transportation, and parking systems.

### Topicality: Buses 1NC (Infrastructure)

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Trimbath 9 (Dr. Susanne, Senior Research Economist in Capital Market Studies at Milken Institute, Senior Advisor – United States Chamber of Commerce, and Professor of Economics and Accounting – Bellvue University, “Transportation Infrastructure: Paving the Way”, <http://www.uschamber.com/sites/default/files/issues/infrastructur> e/files/2009TPI\_Update\_Economics\_White\_Paper\_110712.pdf)

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- Transit - Highways - Airports - Railways - Waterways (Ports) - Intermodal Links

**Violation: Vehicles are a distinct field. “Infrastructure” is exclusively transportation networks.**

**CSFT 6** (“Aboard Transportation”, http://www.cfst.org/transportation.html)

Transportation

Transportation or transport is the carrying of people and goods from one destination to another. The term comes from the Latin trans meaning “across” and portare meaning “to carry”.

Transportation can be *divided* into three *distinct fields*:

1. *Infrastructure* - When we refer to infrastructure it includes our transport networks such as roads, railways, airways, canals, and pipeline. This also includes the terminals or nodes such as airports, railway stations, bus stations, and seaports.

2. *Vehicle* – These comprises of the vehicles that we regularly ride in the networks for instance automobiles (buses, cars, taxis, and etc.), trains and airplanes.

3. Operations – They are the control of the whole transport system including traffic lights/signals on roads, ramp meters, railroad switches, air traffic control, and etc.

#### Standards:

#### Limits: Allowing vehicles unlimits the topic to any minor change in vehicle type or manufacturer, encouraging advantages of the week and destroys all predictable research.

#### 2) Ground: Their plan destroys all links based on construction and private counterplan competition, because the government must be the end user, creating and unfair advantage for the aff.

#### T is a voting issue for Fairness and Education.

### Buses 2NC

#### Consensus of best definitions agree --- “transportation infrastructure” must be a fixed physical asset

Orr 8 (Dr. Ryan J., Ph.D. in Engineering and Executive Director – Collaboratory for Research on Global Projects and Gregory Keever, LLM in Taxation – George Washington University and JD – University of Virginia School of Law, “Enabling User-Fee Backed Transportation Finance in California”, Working Paper #41, http://crgp.stanford.edu/publications/working\_papers/Orr\_Keever\_Enabling\_User\_Fee\_Backed\_Transportation\_Finance\_wp0041.pdf)

In arriving at these conclusions, this paper examines data from recognized think tanks, the state budget, published articles and commentary specific to California, international studies on user-fee backed finance, and comments and views articulated by state senior government officials.

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.

#### Vehicles are a distinct field. “Infrastructure” is exclusively transportation networks.

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Transportation

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#### “Infrastructure” and “vehicles” are distinct --- their interpretation unlimits

Array 12 (Array Systems Computing Inc., “Array's World-Class Transportation Expertise”, http://www.array.ca/applications/its/)

On today's crowded roadways, traffic congestion is a fact of life. Congestion results in extended travel times, increased air pollution and additional fuel consumption. Information technology may be employed in order to better manage the highway infrastructure and reduce the adverse effects of congestion. Intelligent Transportation Systems (ITS) refers to the application of communications and information technology to transport infrastructure and / or to vehicles to improve the efficiency of transportation networks. In a typical ITS application, software is employed for traffic simulation, for real-time control and for communications. Transportation Systems projects may be broadly divided into infrastructure projects and vehicle-orientated applications. Typical infrastructure projects include the installation of Dynamic Message Sign (DMS) along a freeway or the implementation of intelligent traffic light control for city streets. Vehicle-orientated projects include applications such as as automated vehicle location and scheduling. Vehicular ITS applications are frequently applied to transit vehicles and corporate fleets. Intelligent Transportation Infrastructure Traffic Signal Sequencing and Control Vehicle Detection and Monitoring Dynamic Message Signs Ramp Metering Systems Queue-End Warning Systems Intelligent Transit Systems / Vehicle Fleet Management Computer Aided Dispatch Automated Vehicle Location Automatic Voice Annunciation Automatic Passenger Counting Navigation Systems Fare Payment Systems

### Topicality: Transit Apartheid 1NC (Investment)

#### Interpretation: Investment requires new capital expenditures in physical infrastructure, not incentives through penalties

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)

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).

#### Violation: The affirmative uses parking pricing to incentivize users to switch to public transit.

#### Standards:

1. **Limits: Allowing inventive and penalties to change user behavior unlimits the topic. There are over 40 incentive mechanisms, which makes the aff impossible to research.**

**Moran, 86** (Theodore, Investing in Development: New Roles for Private Capital?, p. 28)

Guisinger finds that if “incentives”are broadly defined to include tariffs and trade controls along with tax holidays, subsidized loans, cash grants, and other fiscal measures, they comprise more than forty separate kinds of measures. Moreover, the author emphasizes, the value of an incentive package is just one of several means that governments use to lure foreign investors. Other methods—for example, promotional activities (advertising, representative offices) and subsidized government services—also influence investors’ location decisions. The author points out that empirical research so far has been unable to distinguish the relative importance of fundamental economic factors and of government policies in decisions concerning the location of foreign investment—let alone to determine the effectiveness of individual government instrucments.

1. **Ground: We can’t engage in solvency or counterplan debates over investments, which is core education on the topic.**
2. **Extra Topicality: Allowing the aff to specify additional measures gives them unpredictable add-on ground that we can’t predict, destroying fairness. Extra Topicality is an independent voting issue for fairness and education.**
3. **Mixing burdens: Either everyone chooses to stop driving, which means there’s no money for the plan, or no one switches, and the aff can’t solve. Allowing aff to rely on solvency to be topical skews negative ground and makes the 2AC conditional, which is a voting issue for fairness because the plan is the only stable position in the debate.**

**Topicality is a voter for Fairness and education.**

### Transit Apartheid 2NC

#### “Substantially” means the increase must be definite --- potential future increases are not topical

Words and Phrases 64 (40W&P 759)

The words" outward, open, actual, visible, substantial, and exclusive," in connection with a change of possession, mean substantially the same thing. They mean not concealed; not hidden; exposed to view; free from concealment, dissimulation, reserve, or disguise; in full existence; denoting that which not merely can be, but is opposed to potential, apparent, constructive, and imaginary; veritable; genuine; certain: absolute: real at present time, as a matter of fact, not merely nominal; opposed to form; actually existing; true; not including, admitting, or pertaining to any others; undivided; sole; opposed to inclusive.

#### “Increase” means a net increase

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

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

### Topicality: Inland Waterways 1NC (substantial)

**Interpretation: Substantially should be defined by context**

**Devinsky, 2** (Paul, IP UPDATE, VOLUME 5, NO. 11, NOVEMBER 2002, “Is Claim "Substantially" Definite?  Ask Person of Skill in the Art”, http://www.mwe.com/index.cfm/fuseaction/publications.nldetail/object\_id/c2c73bdb-9b1a-42bf-a2b7-075812dc0e2d.cfm)

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

#### Transportation infrastructure investment is $225 billion.

**Future**, American Association of State Highway and Transportation Officials, 20**09**, [“Creating America's Future Transportation System” Publisher, <http://www.transportation1.org/policy\_future/PageII.html>]

Surface transportation infrastructure investment must be substantially increased. According to the National Surface Transportation Policy and Revenue Study Commission 2008 Report, Transportation for Tomorrow, today the country is investing at less than 40 percent of what is needed. That report estimates that an investment of at least $225 billion per year is required for the next four decades in highways, transit, and rail to meet our national needs

####  Violation: plan costs 125 Billion dollars

Wasik 2009 [John finance columnist for Bloomberg News, Reuters, and author of 13 books. *The Audacity of Help: Obama's Economic Plan and the Remaking of America* pg. 47]

Brownfield Reclamation. Places where former landowners have left toxic waste can be reclaimed for future use, but taxpayers have to pay to clean them up. There are about 24,000 of these sites in 188 cities, covering more than 96,000 acres. Redeveloping these waste sites has resulted in more than $400 million in annual revenue since 2003. Dams and Levees. Approximately $100 billion is needed to maintain these water-retention structures. More than 4,000 "unsafe or deficient clams" and 150 levees are in danger of breaking. Wafer Systems. Some $400 billion is needed to maintain drinking and wastewater systems.

Inland Waterways. By the year 2020, almost 80 percent of the 257 locks in the country's 12,000-mile system will be "functionally obsolete." The cost to repair or replace the locks is $125 billion.

#### Standards:

#### Limits: Allowing small affs unlimits the topic, making it impossible to research the improvement of the week.

#### Ground: Small affs destroy link ground, because no one writes about minor improvements or they will win perception arguments.

#### Topicality is a voting issue for Education and Fairness.

### Inland Waterways 2NC

#### Make the best determination available. Substantially must be given meaning

Words and Phrases 60 (Vol. 40, State – Subway, p. 762)

“Substantial” is a relative word, which, while it must be used with care and discrimination, must nevertheless be given effect, and in a claim of patent allowed considerable latitude of meaning where it is applied to such subject as thickness, as by requiring two parts of a device to be substantially the same thickness, and cannot be held to require them to be of exactly the same thickness. Todd. V. Sears Roebuck & Co., D.C.N.C., 199 F.Supp. 38, 41.

#### Using context removes the arbitrariness of assigning a fixed percentage to “substantial”

Viscasillas 4 – professor at the Universidad Carlos III de Madrid, (Pilar, “Contracts for the Sale of Goods to Be Manufactured or Produced and Mixed Contracts (Article 3 CISG)”, CISG Advisory Council Opinion No. 4, 10-24, <http://cisgac.com/default.php?ipkCat=128&ifkCat=146&sid=146>)

2.8. Legal writers who follow the economic value criterion have generally quantified the term "substantial part" by comparing Article 3(1) CISG (substantial) with Article 3(2) CISG (preponderant): substantial being less than preponderant. In this way, legal writers have used the following percentages to quantify substantial: 15%,[[14]](http://cisgac.com/default.php?ipkCat=128&ifkCat=146&sid=146#14) between 40% and 50%,[[15]](http://cisgac.com/default.php?ipkCat=128&ifkCat=146&sid=146#15) or more generally 50%.[[16]](http://cisgac.com/default.php?ipkCat=128&ifkCat=146&sid=146#16) At the same time, other authors, although they have not fixed any numbers in regard to the quantification of the term "substantial" have declared that "preponderant" means "considerably more than 50% of the price" or "clearly in excess of 50%".[[17]](http://cisgac.com/default.php?ipkCat=128&ifkCat=146&sid=146#17) Thus it seems that for the latter authors, the quantification of the term "substantial" is placed above the 50% figure. Also, some Courts have followed this approach.[[18]](http://cisgac.com/default.php?ipkCat=128&ifkCat=146&sid=146#18)

2.9. To consider a fixed percentage might be arbitrary due to the fact that the particularities of each case ought to be taken into account; that the scholars are in disagreement; and that the origin of those figures is not clear.[[19]](http://cisgac.com/default.php?ipkCat=128&ifkCat=146&sid=146#19)

Therefore, it does not seem to be advisable to quantify the word "substantial" *a priori* in percentages. A case-by-case analysis is preferable and thus it should be determined on the basis of an overall assessment.

### Topicality: High Speed Rails (Investment Spec)

#### Interpretation: Affs must specify the type of transportation infrastructure investment they mandate.

#### Violation: The aff does not specify.

#### Standards:

#### 1) Ground: counterplan competition and specific links arguments are all based on specification of investment mechanisms.

#### 2) 2AC conditionality: Allowing the aff to specify in the 2AC destroys 1NC strategy and destroys any clash based education.

#### 3) Education: Funding mechanisms affect implementation as well as political perception – key to topical education and negative ground

Gamkhar and Ali 2008 [Shama Assistant Professor in the LBJ School of Public Affairs at the University of Texas at Austin, Hamid Hamid Ali is assistant professor of public policy in the Department of Public Policy and Administration at The American University in Cairo and former GAO researcher .| “Political Economy of Grant Allocations: The Case of Federal Highway Demonstration Grants” *Publius* (2008) 38 (1): 1-21]

Intergovernmental grants that are targeted as the demonstration highway grants, to benefit some groups at the expense of the general public, are referred to by critics of the political process with epithets such as “pork barrel” projects, exclusive benefits, and distributive benefits.1 However, there is disagreement on the motivations to pursue such individualized benefits with public funds—explanations in the existing literature focus largely on political and economic arguments. The political motivation for these grants, including re-election bids of presidents and congressional candidates or the election success of a political party (Wallis 1998), creates avenues for states and special interests to lobby for federal funds and direct disproportionate amounts of federal expenditure in their favor (Alvarez and Saving 1997). Some researchers argue that such projects allow legislators to risk taking broader political actions for the sake of the general public good and yet protect their electoral interests by giving their constituents special benefits (Ellwood and Patashnik 1993; Evans 1994; Dilger 1998). Other researchers contend that institutional structures, such as apportionments of per capita representation in both chambers of Congress, are key determinants of how much federal spending per capita is secured by a state (Atlas et al. 1995). Due to this factor, states with relatively smaller populations receive larger federal funds per capita. However, it remains to be tested whether this applies to earmarked grants. Federal aid flows are also explained by economic factors such as a subsidy to a state for any spillover of its highway benefits to a neighboring state, or a cost imposed by its neighboring state in the form of environmental pollution and as a countercyclical measure. Furthermore, in the absence of direct user fees for road services, gas taxes are levied by the federal government on motorists and then disbursed as federal aid to states with the objective of creating a user fee structure of funding.

#### Topicality is a voter for fairness and education.

### 2NC: Funding Specification

#### Funding debates are key to education about policies that overlap state and federal jurisdiction

Gamkhar and Pickerill 2011 [Shama Assistant Professor in the LBJ School of Public Affairs at the University of Texas at Austin, J. Mitchell Associate Professor in the Department of Political Science Washington State University | “The State of American Federalism 2010–2011: The Economy, Healthcare Reform and Midterm Elections Shape the Intergovernmental Agenda” *Publius* (2011) 41 (3): 361-394]

Cost Shifting by Federal Government and Unfunded Mandates

Cost shifting from federal government to state and local governments, in programs where these governments have joint responsibilities, needs to be examined against the backdrop of the budgetary situation at all levels of government. The recent expansions of some federal programs to unprecedented levels, as well as the failure to adequately fund other existing federal programs and the growing political momentum behind the federal deficit reduction measures could transform the cost sharing in public programs and tax bases that has prevailed over the last couple of decades—and in some cases for even longer. We examine whether and how cost shifting from federal to state and local governments takes place—in Medicaid, transportation, and federal tax expenditures.

#### Funding specification key: central issue of modern transportation debate.

Metropolitan Planning Council 2011 (http://www.metroplanning.org/news-events/event/137)

Fifty-five years after President Eisenhower signed the first federal transportation bill into law, our nation is investing two percent of gross domestic product (GDP) on infrastructure, far less than the five percent of GDP Europe spends or China’s nine percent. Even worse, what we do spend is based on arbitrary formulas that isolate funding for road, highway, transit, rail, bike, and pedestrian projects rather than target investments based on their value. Meanwhile, the outlook for transportation funding is grim. As consumers continue to choose fuel-efficient vehicles over gas guzzlers, less frequent trips to the pump will mean even fewer dollars going into the nation’s bankrupt Highway Trust Fund. Here in Illinois, the state capital bill, Illinois Jobs Now!, stands in revenue limbo: More than 50 communities have “opted out” of video poker, which was anticipated as its main source of funding, and there is no consensus on a plan to replace that revenue. To fight gridlock and keep our cities and regions competitive, the U.S. needs a new approach to transportation planning and investment, one that maximizes the use of existing infrastructure, documents the value of new investments, and taps creative financing tools. Join MPC for a roundtable to explore new options for financing transportation infrastructure, including congestion pricing, a federal infrastructure bank, motor fuel tax, public-private partnerships, and vehicle miles traveled charge.

#### Current rates of investment differ between categories.

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)

Figure 1.3 reveals the pattern we noted earlier—rates of public investment in all categories dropped off beginning in the late 1960s and early 1970s. Lower rates of investment prevailed during much of the 1980s and into the early 1990s. However, in recent years, the trends begin to differ between the distinct categories of infrastructure investment. Specifically, investment in roads and public education began to recover in the 1990s. However, as we will see later in the report, this turn-around has not been sufficient to address the infrastructure deficit created by the drop-off in public investment which occurred in the 1970s and 1980s.

### AFF – Port Security

#### Transportation infrastructure investment includes public transit, travel programs, road projects, programs that reduce environmental impacts, and disaster resilience projects

Arup, 2/9/9, multidisciplinary organization, independent firm of designers, planners, engineers, consultants and technical specialists, “New Arup paper says ‘transformational’ infrastructure a key to economic turnaround,” <http://www.arup.com/News/2009-02%20February/09-02-2009-New_Arup_paper_says_transformational_infrastructure_key_to_economic_turnaround.aspx>

Arup’s choices for transportation infrastructure projects that would meet the transformational criteria include:  Public transit projects that are properly located and have adequately funded operations, that offer convenience, that support urban revitalization, and reduce per-capita carbon emissions.  Projects providing for walking and bicycle use that support compact development and non-polluting travel modes.  Roadway projects that increase ‘location efficiency’, an emerging concept that recognizes the benefits of better connecting people and goods to their destinations.  Sustainable project components and operational practices that reduce adverse impacts to air quality, water quality, and provide ecological value and energy savings.  Corridor efficiencies that convert single-use facilities to multi-use corridors for transporting people, goods, services, utilities and waste.  Disaster resilience projects that would harden our transportation systems against threats of all kinds.

#### Enhancement is topical

DeLauro 11 (U.S. Representative, Legislation to Create a National Infrastructure Development Bank, H.R. 402, 1-24, http://www2.apwa.net//Documents/Advocacy/HR%20402.pdf)

(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.

### Aff – Modernization

#### “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.'

#### That means the plan must spend 9 billion dollars

¾ of 60 billion = 45; 20% of that = 9 billion

CBO 8 (Congressional Budgeting Office, “Issues and Options in Infrastructure Investment”, May, http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/91xx/doc9135/05-16-infrastructure.pdf)

Federal spending on infrastructure is dominated by transportation, which accounted for nearly three-quarters of the roughly $60 billion total federal investment in infrastructure in 2004. Highways alone accounted for nearly half of the total. Spending by state and local governments that year was primarily for schools, highways, and water systems. Together, those categories accounted for about $135 billion in state and local government spending, which is about 80 percent of the $170 billion spent on infrastructure by state and local governments.

#### Modenrization is a nearly 700% increase.

ASCE 12 (http://www.infrastructurereportcard.org/fact-sheet/inland-waterways)

The average tow barge can carry the equivalent of 870 tractor trailer loads. Of the 257 locks still in use on the nation's inland waterways, 30 were built in the 1800s and another 92 are more than 60 years old. The average age of all federally owned or operated locks is nearly 60 years, well past their planned design life of 50 years. The cost to replace the present system of locks is estimated at more than $125 billion. 2 Establish a program to improve and maintain ports, harbors, and waterways; Create a predictable and reliable source of maintenance funding with a dedicated source of revenue, such as a portion of U.S. Customs receipts; Deepen and widen ship channels to accommodate the world fleet’s new, larger ships; Continue maintenance dredging of ship channels for the efficient handling of maritime commerce; Limit erosion and sedimentation in ports, harbors, and waterways; Continue the development of the navigation engineering specialty within the engineering profession. Conditions Because of their ability to move large amounts of cargo, the nation’s inland waterways are a strategic economic and military resource. A recent analysis by the U.S. Army War College concluded that "the strategic contributions of these inland waterways are not well understood. The lack of adequate understanding impacts decisions contributing to efficient management, adequate funding, and effective integration with other modes of transportation at the national level. Recommendations demonstrate that leveraging the strategic value of U.S. inland waterways will contribute to building an effective and reliable national transportation network for the 21st century." 1 Forty-one states, including all states east of the Mississippi River and 16 state capitals, are served by commercially navigable waterways. The U.S. inland waterway system consists of 12,000 miles of navigable waterways in four systems—the Mississippi River, the Ohio River Basin, the Gulf Intercoastal Waterway, and the Pacific Coast systems—that connect with most states in the U.S. The system comprises 257 locks, which raise and lower river traffic between stretches of water of different levels. Three-quarters of the nation's inland waterways, or approximately 9,000 miles, are within the Mississippi River system. The next largest segment is the Ohio River system with 2,800 miles. The Gulf Coast Intercoastal Waterway system comprises 1,109 miles and the Columbia River system, the shortest of the four major systems, is only 596 miles long. The nationwide network includes nearly 11,000 miles of federal user fees through an excise tax on fuel. Commercial waterway operators on these designated waterways pay a fuel tax of 20 cents per gallon, which is deposited in the Inland Waterways Trust Fund (IWTF). The IWTF, which was created in 1978, funds half the cost of new construction and major rehabilitation of the inland waterway infrastructure. Forty-seven percent of all locks maintained by the U.S. Army Corps of Engineers were classified as functionally obsolete in 2006. Assuming that no new locks are built within the next 20 years, by 2020, another 93 existing locks will be obsolete—rendering more than 8 out of every 10 locks now in service outdated. 2 Currently, the Corps has $180 million per year available for lock repairs—half comes from the IWTF revenues and half comes from congressional appropriations. With an average rehabilitation cost of $50 million per lock, the current level allows the Corps to fully fund only two or three lock projects each year.

### AFF—Transportation Apartheid

#### Investment includes tax expenditures

CBO 8 (Congressional Budget Office, “Issues and Options in Infrastructure Investment”, http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/91xx/doc9135/05-16-infrastructure.pdf)

2. The federal government also funds investments in infrastructure through “tax expenditures,” which represent the cost of tax receipts that are forgone because of the exclusion of interest on tax-exempt municipal bonds from personal and corporate gross income and certain other tax preferences. In 2006, tax expenditures for transportation, water resources, and water supply and wastewater treatment systems totaled about $8 billion.

#### Parking subsidies are more than the value of roads and cars. Drivers only pay 4 percent of the cost of parking, and eliminating subsidies will results in over 200 billion dollars per year in new funding.

Donald Shoup, professor of urban planning, UCLA 2005 (The High Cost of Free Parking)

We can now put the cost of parking in perspective by comparing it with other costs of the transportation system. These comparisons show that "free" parking greatly reduces the driver's cost of vehicle travel and therefore seriously distorts individual travel choices toward cars. TOTAL SUBSIDY FOR PARKING For many land uses, the area devoted to parking exceeds the floor area of the building it serves. We have no trouble understanding that office buildings cost a lot of money, so it should not surprise anyone that the parking lots or structures (often bigger than the buildings they serve) also cost a lot. Furthermore, curb parking spaces usually line both sides of the adjacent streets. When we consider both curb spaces and off-street spaces in cities, the land and capital devoted to parking probably exceed that devoted to travel. Mark Delucchi of the University of California, Davis, conducted what is by far the most comprehensive evaluation of the total cost of motor vehicle use in the U.S. He estimated both monetary costs (such as for vehicles, fuel, roads, and parking) and nonmonetary costs (such as for air and water pollution). Because inputs and assumptions for the estimates are uncertain, he presented both low and high estimates for each value. For the years 1990-1991, he estimated the annualized capital and operating cost of off-street parking at between $79 billion and $226 billion a year (see Table 7-1).1 Delucchi points out that most parking is not priced separately but is instead bundled with other goods and priced as a package. He estimated that drivers paid only $3 billion a year for parking, while the rest of the cost was bundled into the prices for goods, services, and housing. As a result, drivers paid somewhere between 4 percent ($3 billion -7- $79 billion) and 1 percent ($3 billion -7- $226 billion) of the total cost of parking. The other 96 to 99 percent of the cost of parking was hidden in higher prices for everything else. Delucchi also estimated the annualized capital and operating cost of public roads (including the curb parking spaces) at between $98 billion and $177 billion, close to the estimated cost of parking spaces. If drivers paid only 4 percent of the cost of roads, most people would condemn this as outrageously unfair, but drivers pay at most 4 percent of the cost of offstreet parking, and they complain loudly whenever its price increases. Because Delucchi included the cost of curb parking in the cost of roads, the total cost of the parking supply (both off-street and on-street) is underestimated. Consider a 36-foot-wide residential street, with two lO-footwide travel lanes and two 8-foot-wide parking lanes: curb parking takes up 44 percent of the road space. Clearly, curb parking spaces account for a significant share of the total cost of roads, and an accurate estimate of the total subsidy for parking would take curb parking into accounU The U.S. Department of Commerce estimates that the total value of roads is 36 percent of the value of all state and local public infrastructure (which also includes schools, sewers, water supply, residential buildings, equipment, hospitals, and parks). Because curb parking occupies a substantial share of road space, it must be a substantial share of all state and local public infrastructure as well. Since drivers do pay gasoline taxes while they are driving, but do not pay gasoline taxes while their cars are parked, curb spaces are subsidized far more than the travel lanes. Free curb parking may be the most costly subsidy American cities provide for most of their citizens. Since drivers paid only $3 billion a year for parking in 1990-1991, the subsidy for off-street parking was between $76 billion and $223 billion a year. Because the U.S. gross domestic product was $6 trillion in 1991, the subsidy for off-street parking amounted to between 1.2 percent and 3.7 percent of the nation's economic output.4 American cars and light trucks logged 2 trillion miles in 1990, so the off-street parking subsidy amounted to between 4¢ a mile (if the subsidy was $76 billion) and 11¢ a mile (if it was $223 billion).5 In comparison, the average variable cost for gasoline, oil, maintenance, and tires for cars in 1990 was 8A¢ a mile.6 The subsidy for off-street parking was therefore somewhere between 48 percent and 131 percent of the drivers' cost for gasoline, oil, maintenance, and tires. Delucchi's estimate refers to 1990-1991. Adjusted for inflation and the increase in the number of vehicles and off-street parking spaces since then, the total subsidy for off-street parking in 2002 was between $127 billion and $374 billion.7 Because the U.S. gross domestic product had grown to $10.5 trillion in 2002, the subsidy for off-street parking as a share of the economy amounted to between 1.2 percent and 3.6 percent, almost exactly the same as in 1991. This subsidy is huge by any comparison. In 2002, the federal government spent $231 billion for Medicare and $349 billion for national defense.s National defense!! Can the subsidy for off-street parking be that big??? Well, why not? Since the 1950s, most American cities have required every new building to provide ample off-street parking. American households now have more cars than drivers, and their cars are parked 95 percent of the time. Because motorists rarely pay anything for parking, their cars live almost rent free. American cars and light trucks logged 2.6 trillion vehicle miles of travel in 2002, so the subsidy for off-street parking ranged between 5¢ a mile (if the subsidy was $127 billion) and 1M a mile (if it was $374 billion).9 If we use the rule of thumb that increasing the gasoline tax by 1¢ a gallon increases gasoline tax revenues by about $1 billion a year, it would take an increase in the gasoline tax of between $1.27 and $3.74 a gallon to offset the subsidy for off-street parking.lo Removing the subsidies for off-street parking would thus produce the same effect on travel as increasing the gasoline tax by between $1.27 and $3.74 a gallon. Because parking costs so much and motorists pay so little for it, the hidden subsidy is truly gigantic. CAPITAL COST OF THE PARKING SUPPLY The previous estimate referred to the annual cost of the parking supply. We can also estimate the capital cost of the parking supply, and the surprising result is that the cost of all parking spaces in the U.S. exceeds the value of all cars and may even exceed the value of all roads.

### AFF: Buses

#### “Transportation” must have the primary purpose of moving people or goods

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).

#### “Transportation infrastructure” includes vehicles

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)

### AFF: High Speed Rail

#### “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.

#### “Infrastructure investment” requires spending

CBO 8 (Congressional Budget Office, “Issues and Options in Infrastructure Investment”, http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/91xx/doc9135/05-16-infrastructure.pdf)

Current Spending on Infrastructure

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

## Other Defs:

Its – Possessive

#### “Its” refers to the United States Federal Government and is possessive

Updegrave 91 (W.C., “Explanation of ZIP Code Address Purpose”, 8-19, <http://www.supremelaw.org/ref/zipcode/updegrav.htm>)

More specifically, looking at the map on page 11 of the National ZIP Code Directory, e.g. at a local post office, one will see that the first digit of a ZIP Code defines an area that includes more than one State. The first sentence of the explanatory paragraph begins: "A ZIP Code is a numerical code that identifies areas within the United States and its territories for purposes of ..." [cf. 26 CFR 1.1-1(c)]. Note the singular possessive pronoun "its", not "their", therefore carrying the implication that it relates to the "United States" as a corporation domiciled in the District of Columbia (in the singular sense), not in the sense of being the 50 States of the Union (in the plural sense). The map shows all the States of the Union, but it also shows D.C., Puerto Rico and the Virgin Islands, making the explanatory statement literally correct.

#### “Should” means “must” and requires immediate legal effect

Summers 94 (Justice – Oklahoma Supreme Court, “Kelsey v. Dollarsaver Food Warehouse of Durant”, 1994 OK 123, 11-8, http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn13)

¶4 The legal question to be resolved by the court is whether the word "should"[13](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287" \l "marker3fn13) in the May 18 order connotes futurity or may be deemed a ruling *in praesenti*.[14](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287" \l "marker3fn14) The answer to this query is not to be divined from rules of grammar;[15](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287" \l "marker3fn15) it must be governed by the age-old practice culture of legal professionals and its immemorial language usage. To determine if the omission (from the critical May 18 entry) of the turgid phrase, "and the same hereby is", (1) makes it an in futuro ruling - i.e., an expression of what the judge will or would do at a later stage - or (2) constitutes an in in praesenti resolution of a disputed law issue, the trial judge's intent must be garnered from the four corners of the entire record.[16](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287" \l "marker3fn16)

[CONTINUES – TO FOOTNOTE]

[13](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker2fn13) "*Should*" not only is used as a "present indicative" synonymous with *ought* but also is the past tense of "shall" with various shades of meaning not always easy to analyze. See 57 C.J. Shall § 9, Judgments § 121 (1932). O. JESPERSEN, GROWTH AND STRUCTURE OF THE ENGLISH LANGUAGE (1984); St. Louis & S.F.R. Co. v. Brown, 45 Okl. 143, 144 P. 1075, 1080-81 (1914). For a more detailed explanation, see the Partridge quotation infra note 15. Certain contexts mandate a construction of the term "should" as more than merely indicating preference or desirability. Brown, supra at 1080-81 (jury instructions stating that jurors "should" reduce the amount of damages in proportion to the amount of contributory negligence of the plaintiff was held to imply an *obligation* *and to be more than advisory*); Carrigan v. California Horse Racing Board, 60 Wash. App. 79, [802 P.2d 813](http://www.oscn.net/applications/oscn/deliverdocument.asp?box1=802&box2=P.2D&box3=813) (1990) (one of the Rules of Appellate Procedure requiring that a party "should devote a section of the brief to the request for the fee or expenses" was interpreted to mean that a party is under an *obligation* to include the requested segment); State v. Rack, 318 S.W.2d 211, 215 (Mo. 1958) ("should" would mean the same as "shall" or "must" when used in an instruction to the jury which tells the triers they "should disregard false testimony"). [14](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker2fn14) *In praesenti* means literally "at the present time." BLACK'S LAW DICTIONARY 792 (6th Ed. 1990). In legal parlance the phrase denotes that which in law is *presently* or *immediately effective*, as opposed to something that *will* or *would* become effective *in the future [in futurol*]. See Van Wyck v. Knevals, [106 U.S. 360](http://www.oscn.net/applications/oscn/deliverdocument.asp?box1=106&box2=U.S.&box3=360), 365, 1 S.Ct. 336, 337, 27 L.Ed. 201 (1882).